

**PACKET**

**June 3**

**2019**



LOUISE L. E. MILLER  
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  
THOMAS FAY  
CHERRY C. KARLSON  
DOUGLAS A. LEVINE

**REVISED III**  
**BOARD OF SELECTMEN**  
**Monday, June 3, 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. Vote to approve award of \$258,909 Bond Anticipatory Note to Monson Savings Bank at a rate of 2.14%, zero premium
- 7:15 pm 4. Discussion with Recreation Commission: Loker Field
- 7:45 pm 5. 2019 Special Town Meeting: Review schedule
- 7:50 pm 6. 2020 Annual Town Meeting: Discuss potential dates
- 8:05 pm 7. Annual Budget Policy: Review and vote policy
- 8:10 pm 8. Vote to sign agreement between Public Employee Committee (PEC) and Town of Wayland
- 8:15 pm 9. Plastic Checkout Bag Reduction Bylaw: Review and discuss compostable bag question
- 8:20 pm 10. Civility Policy: Review and discuss Personnel Policy and Board of Selectmen guidelines; possibly vote to revise and/or approve policy

RECEIVED  
TOWN OF WAYLAND  
TOWN CLERK  
2019 MAY 31 AM 11:56

**BOARD OF SELECTMEN**  
**Monday, June 3, 2019**  
**7:00 p.m.**  
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**Selectmen's Meeting Room**  
**41 Cochituate Road, Wayland, MA**

**Proposed Agenda – Page Two**

- 8:35 pm **11.** Town Manager Special Act: Review most recent draft; discuss presentation; schedule outreach
- 9:05 pm **12.** Town Administrator's Report
1. School Bus Parking
  2. Permitting Software Update
  3. Verizon Cell Tower Update
  4. Committee Appointments: Status
  5. PEC (Public Employee Contract) Agreement Update
  6. Wayland Meadows, LLC's cost examination under Chapter 40B
- 9:15 pm **13.** Minutes: Vote to approve Board of Selectmen minutes of May 13, 2019; May 20, 2019 and May 29, 2019
- 9:20 pm **14.** Consent Calendar: Review and vote to approve (see separate sheet)
- 9:25 pm **15.** Correspondence Review
- 9:35 pm **16.** Selectmen's reports and concerns
- 9:40 pm **17.** Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 9:45 pm **18.** Enter into Executive Session
- I. Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (6) to discuss the purchase, exchange, lease or value of real estate with respect to the Town's agreement with Twenty Wayland, LLC, relative to property and development located off 400-440 Boston Post Road and,
  - II. Pursuant to Massachusetts General Laws Chapter 30A, Section 21(a) (6), to discuss the purchase, exchange, lease or value of real estate with respect to the River's Edge Project at 484-490 Boston Post Road and,
  - III. Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to litigation Ordway v. Town of Wayland pending with the Massachusetts Commission Against Discrimination and,

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**Proposed Agenda – Page Three**

- IV. Pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to collective bargaining with Wayland Firefighters Local 1978, International Association of Firefighters, AFL-CIO, and,
- V. Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to review and approve the executive session minutes of May 20, 2019

APPROVE AND HOLD: Executive Session minutes of May 20, 2019

10:15 pm **19.** Adjourn

3.) Bond Note

Town of Wayland  
Massachusetts

\$258,909.00

Bond Anticipation Note  
Municipal Purpose Loan

Dated: June 17, 2019

Due: February 18, 2020

\*\*\*\*\*

**Certificate and Covenant as to Tax-exempt Status of Notes**

We, the Treasurer and Selectmen of the Town of Wayland, Massachusetts (the "Issuer"), certify and covenant on behalf of the Issuer as follows in connection with the issuance of its Notes described above and the exclusion of interest thereon from gross income for federal income tax purposes under the Internal Revenue Code of 1986 as amended (the "Code"):

1. The Issuer will take all lawful action necessary to comply with requirements of the Code that must be satisfied subsequent to the issuance of the Notes in order that interest on the Notes be or continue to be excluded from gross income for federal income tax purposes.

Dated: June 17, 2019

I, the undersigned Treasurer hereby certify that, as required by the Code, I have this day filed Form 8038G, a copy of which is attached, with the Internal Revenue Service.

  
Treasurer

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Selectmen

**Information Return for Tax-Exempt Governmental Obligations**

► Under Internal Revenue Code section 149(e)  
 ► See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name <b>Town of Wayland, Massachusetts</b>		2 Issuer's employer identification number (EIN) <b>046001341</b>	
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a	
4 Number and street (or P.O. box if mail is not delivered to street address) <b>41 Cochituate Road</b>	Room/suite	5 Report number (For IRS Use Only) <b>3</b>	
6 City, town, or post office, state, and ZIP code <b>Wayland, MA 01778</b>		7 Date of Issue <b>06/17/2019</b>	
8 Name of Issue <b>\$258,909.00 Bond Anticipation Note</b>		9 CUSIP number	
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) <b>Maura O'Connor, Treasurer</b>		10b Telephone number of officer or other employee shown on 10a <b>(508) 358-3633</b>	

**Part II Type of Issue (enter the issue price). See the instructions and attach schedule.**

11 Education . . . . .	11		
12 Health and hospital . . . . .	12		
13 Transportation . . . . .	13		
14 Public safety . . . . .	14		
15 Environment (including sewage bonds) . . . . .	15		
16 Housing . . . . .	16		
17 Utilities . . . . .	17		
18 Other. Describe ► <b>Municipal Purpose Loan</b>	18	<b>258,909</b>	<b>00</b>
19 If obligations are TANs or RANs, check only box 19a . . . . .			<input type="checkbox"/>
If obligations are BANs, check only box 19b . . . . .			<input checked="" type="checkbox"/>
20 If obligations are in the form of a lease or installment sale, check box . . . . .			<input type="checkbox"/>

**Part III Description of Obligations. Complete for the entire issue for which this form is being filed.**

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	02/18/2020	\$ 258,909.00	\$ 258,909.00	0.669 years	2.140 %

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

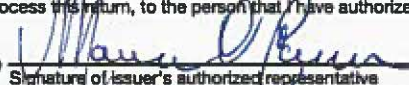
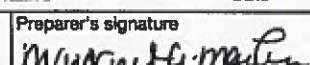
22 Proceeds used for accrued interest . . . . .	22		
23 Issue price of entire issue (enter amount from line 21, column (b)) . . . . .	23	<b>258,909</b>	<b>00</b>
24 Proceeds used for bond issuance costs (including underwriters' discount) . . . . .	24		
25 Proceeds used for credit enhancement . . . . .	25		
26 Proceeds allocated to reasonably required reserve or replacement fund . . . . .	26		
27 Proceeds used to currently refund prior issues . . . . .	27		
28 Proceeds used to advance refund prior issues . . . . .	28		
29 Total (add lines 24 through 28) . . . . .	29	<b>0</b>	<b>00</b>
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) . . . . .	30	<b>258,909</b>	<b>00</b>

**Part V Description of Refunded Bonds. Complete this part only for refunding bonds.**

31 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . . .	►	n/a	years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . . .	►	n/a	years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) . . . . .	►		
34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)			

**Part VI Miscellaneous**

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .	35		
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . .	36a		
b	Enter the final maturity date of the GIC ▶ _____			
c	Enter the name of the GIC provider ▶ _____			
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .	37		
38a	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:			
b	Enter the date of the master pool obligation ▶ _____			
c	Enter the EIN of the issuer of the master pool obligation ▶ _____			
d	Enter the name of the issuer of the master pool obligation ▶ _____			
39	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . .			<input type="checkbox"/>
40	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . .			<input type="checkbox"/>
41a	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:			
b	Name of hedge provider ▶ _____			
c	Type of hedge ▶ _____			
d	Term of hedge ▶ _____			
42	If the issuer has superintegrated the hedge, check box . . . . .			<input type="checkbox"/>
43	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . .			<input type="checkbox"/>
44	If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . .			<input type="checkbox"/>
45a	If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____			
b	Enter the date the official intent was adopted ▶ _____			

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.				
		5/23/2019	Maura O'Connor, Treasurer		
	Signature of issuer's authorized representative	Date	Type or print name and title		
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Margaret A. MacLean		5/23/19		
	Firm's name ▶ UniBank Fiscal Advisory Services, Inc.	Firm's EIN ▶ 04-3477364			
Firm's address ▶ 49 Church Street, Whitinsville, MA 01588	Phone no. (508) 234-8112				

Town of Wayland  
Massachusetts

Town Copy

\$258,909.00

Bond Anticipation Note  
Municipal Purpose Loan

Dated: June 17, 2019

Due: February 18, 2020

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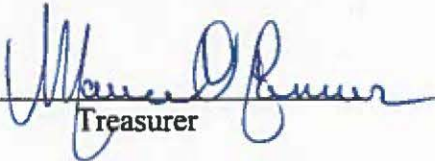
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Dated: June 17, 2019

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Treasurer

Selectmen



**Information Return for Tax-Exempt Governmental Obligations**

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 ► See separate instructions.

OMB No. 1545-0720

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6 City, town, or post office, state, and ZIP code <b>Wayland, MA 01778</b>		7 Date of Issue <b>06/17/2019</b>	
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10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) <b>Maura O'Connor, Treasurer</b>		10b Telephone number of officer or other employee shown on 10a <b>(508) 358-3633</b>	

<b>Part II Type of Issue (enter the issue price). See the instructions and attach schedule.</b>			
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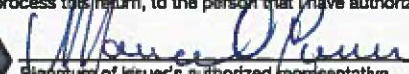
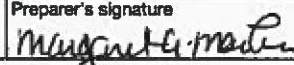
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**Part VI Miscellaneous**

- |     |  |  |
|-----|--|--|
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| 36a |  |  |
| 37  |  |  |
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	 Signature of issuer's authorized representative	5/23/2019 Date	Maura O'Connor, Treasurer Type or print name and title	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Margaret A. MacLean		5/23/19	PTIN
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Manson Savings Copy

Town of Wayland  
Massachusetts

\$258,909.00

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Municipal Purpose Loan

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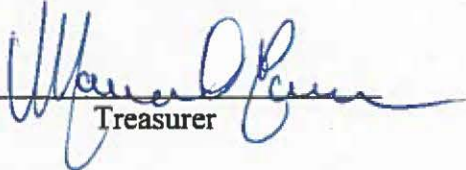
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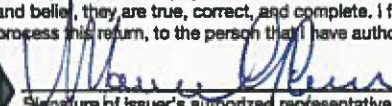
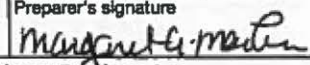
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- 36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . .
- b Enter the final maturity date of the GIC ▶ \_\_\_\_\_
- c Enter the name of the GIC provider ▶ \_\_\_\_\_
- 37 Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .
- 38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box  and enter the following information:
- b Enter the date of the master pool obligation ▶ \_\_\_\_\_
- c Enter the EIN of the issuer of the master pool obligation ▶ \_\_\_\_\_
- d Enter the name of the issuer of the master pool obligation ▶ \_\_\_\_\_
- 39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . . ▶
- 40 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . . ▶
- 41a If the issuer has identified a hedge, check here  and enter the following information:
- b Name of hedge provider ▶ \_\_\_\_\_
- c Type of hedge ▶ \_\_\_\_\_
- d Term of hedge ▶ \_\_\_\_\_
- 42 If the issuer has superintegrated the hedge, check box . . . . . ▶
- 43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . . ▶
- 44 If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . . ▶
- 45a If some portion of the proceeds was used to reimburse expenditures, check here  and enter the amount of reimbursement . . . . . ▶ \_\_\_\_\_
- b Enter the date the official intent was adopted ▶ \_\_\_\_\_

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	 Signature of issuer's authorized representative	5/23/2019 Date	Maura O'Connor, Treasurer Type or print name and title	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Margaret A. MacLean		5/23/19	
	Firm's name ▶ UniBank Fiscal Advisory Services, Inc.	Firm's EIN ▶ 04-3477364		
	Firm's address ▶ 49 Church Street, Whitinsville, MA 01588	Phone no. (508) 234-8112		

**Information Return for Tax-Exempt Governmental Obligations**

► Under Internal Revenue Code section 149(e)  
► See separate instructions.

Department of the Treasury  
Internal Revenue Service

Caution: If the issue price is under \$100,000, use Form 8038-GC.

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>
1 Issuer's name <b>Town of Wayland, Massachusetts</b>		2 Issuer's employer identification number (EIN) <b>046001341</b>
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) <b>41 Cochituate Road</b>	Room/suite	5 Report number (For IRS Use Only) <b>3</b>
6 City, town, or post office, state, and ZIP code <b>Wayland, MA 01778</b>		7 Date of issue <b>06/17/2019</b>
8 Name of issue <b>\$258,909.00 Bond Anticipation Note</b>		9 CUSIP number
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) <b>Maura O'Connor, Treasurer</b>		10b Telephone number of officer or other employee shown on 10a <b>(508) 358-3633</b>

<b>Part II Type of Issue (enter the issue price). See the instructions and attach schedule.</b>		
11 Education . . . . .		11
12 Health and hospital . . . . .		12
13 Transportation . . . . .		13
14 Public safety . . . . .		14
15 Environment (including sewage bonds) . . . . .		15
16 Housing . . . . .		16
17 Utilities . . . . .		17
18 Other. Describe ► <b>Municipal Purpose Loan</b>		18
19 If obligations are TANs or RANs, check only box 19a . . . . .	<input type="checkbox"/>	
If obligations are BANs, check only box 19b . . . . .	<input checked="" type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box . . . . .	<input type="checkbox"/>	
		<b>258,909 00</b>

<b>Part III Description of Obligations. Complete for the entire issue for which this form is being filed.</b>				
(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21 <b>02/18/2020</b>	<b>\$ 258,909.00</b>	<b>\$ 258,909.00</b>	<b>0.669 years</b>	<b>2.140 %</b>

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>				
22 Proceeds used for accrued interest . . . . .		22		
23 Issue price of entire issue (enter amount from line 21, column (b)) . . . . .		23	<b>258,909</b>	<b>00</b>
24 Proceeds used for bond issuance costs (including underwriters' discount) . . . . .	24			
25 Proceeds used for credit enhancement . . . . .	25			
26 Proceeds allocated to reasonably required reserve or replacement fund . . . . .	26			
27 Proceeds used to currently refund prior issues . . . . .	27			
28 Proceeds used to advance refund prior issues . . . . .	28			
29 Total (add lines 24 through 28) . . . . .		29	<b>0</b>	<b>00</b>
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) . . . . .		30	<b>258,909</b>	<b>00</b>

<b>Part V Description of Refunded Bonds. Complete this part only for refunding bonds.</b>		
31 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . . .	►	<b>n/a years</b>
32 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . . .	►	<b>n/a years</b>
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) . . . . .	►	
34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)		

**Part VI Miscellaneous**

- 35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . . 

35		
----	--	--
- 36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . . 

36a		
-----	--	--

  - b Enter the final maturity date of the GIC ▶ \_\_\_\_\_
  - c Enter the name of the GIC provider ▶ \_\_\_\_\_
- 37 Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . . 

37		
----	--	--
- 38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box  and enter the following information:
  - b Enter the date of the master pool obligation ▶ \_\_\_\_\_
  - c Enter the EIN of the issuer of the master pool obligation ▶ \_\_\_\_\_
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- 39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . . ▶
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- 41a If the issuer has identified a hedge, check here  and enter the following information:
  - b Name of hedge provider ▶ \_\_\_\_\_
  - c Type of hedge ▶ \_\_\_\_\_
  - d Term of hedge ▶ \_\_\_\_\_
- 42 If the issuer has superintegrated the hedge, check box . . . . . ▶
- 43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . . ▶
- 44 If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . . ▶
- 45a If some portion of the proceeds was used to reimburse expenditures, check here  and enter the amount of reimbursement . . . . . ▶ \_\_\_\_\_
  - b Enter the date the official intent was adopted ▶ \_\_\_\_\_

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.				
	Signature of issuer's authorized representative	5/23/2019 Date	Maura O'Connor, Treasurer Type or print name and title		
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Margaret A. MacLean		5/23/19		
	Firm's name ▶ UniBank Fiscal Advisory Services, Inc.			Firm's EIN ▶ 04-3477364	
Firm's address ▶ 49 Church Street, Whitinsville, MA 01588			Phone no. (508) 234-8112		

UNIBANK 258,909.00

**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF WAYLAND  
ANTICIPATION SERIAL LOAN  
Municipal Purpose Loan**

No. 1102-1

\$258,909.00

Date of Issue: June 17, 2019

This Note is exempt from Taxation in Massachusetts

For Value Received, the inhabitants of the Town of Wayland by their Treasurer hereto duly authorized by votes of said Town passed on April 2, 2018 and Chapter 44, Section 7(1) of the General Laws promise to pay to Monson Savings Bank or order upon presentation and surrender thereof at UniBank For Savings, 49 Church Street, Whitinsville, MA 01588, the sum of

TWO HUNDRED FIFTY EIGHT THOUSAND NINE HUNDRED NINE DOLLARS (\$258,909.00)

on February 18, 2020, with interest at the rate of 2.14 percent per annum, payable at maturity calculated on the basis of a numerator using 30 days and a denominator using a 360 day year (30/360).

Countersigned and approved:

By: *Maria O'Connor*  
Treasurer

( Town Seal )  
( to be )  
( Affixed Here )

I certify that this note was countersigned and approved by the Selectmen in my presence.

May 23, 2019

*Don M. Ludy*  
Town Clerk

\_\_\_\_\_  
Selectmen and a majority thereof

THE COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF REVENUE, BOSTON

I hereby certify that this note appears to have been duly issued in accordance with the provisions of Chapter 44 of the General Laws and that there are on file in this office, where they may be inspected, certifications by the Town Clerk of a true copy of the Town Treasurer's record of the issue of this note and, where applicable, of a true copy of the vote of the duly warned town meeting authorizing the loan, together with certifications that the signatures appearing upon said note are those of the duly qualified Treasurer and the majority of the Selectmen of said Town.

\_\_\_\_\_

\_\_\_\_\_  
Director of Accounts



# The Commonwealth of Massachusetts Certificate of Town Clerk

Note Number(s): 1102-1

**Town** Attach certified copy of 4/2/18 **Town Treasurer's Record**

1. Date Article #9 **ing Loan** April 2, 2018

2. Pur. note **unicipal Purpose Loan**

*Note: Attach a Municipal Purpose Loan Form for lines 1 to 7 for all multiple purpose loans.*

3. Total Amount of Loan Authorized \$626,909.00

4. Amount of Previous New Issues of this Loan \$0.00

5. Paydowns on this Issue (if required) \$0.00

6. Amount of this Issue \$258,909.00

7. Balance of this Loan Unissued \$368,000.00

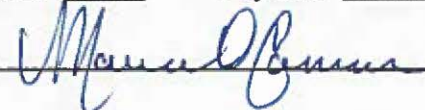
*Note: Amount Authorized minus Previous New Issues minus This Issue (New Money) equals Unissued Balance.*

8. Issue Date June 17, 2019 Date Due February 18, 2020

9. Payable to Monson Savings Bank

10. Payable at UniBank For Savings

11. Rate of Interest 2.14% Payable At Maturity (Annually, semi-annually or at maturity)

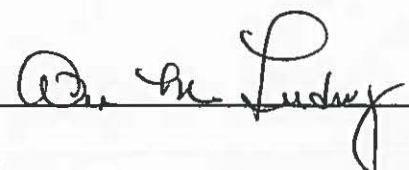

12. Signed by , Town Treasurer

**TO THE DIRECTOR OF ACCOUNTS: THIS CONSTITUTES OUR AUTHORIZATION TO DELIVER THE NOTE(S), WHEN CERTIFIED, TO THE PURCHASER(S) SPECIFIED ON LINE 9 ABOVE.**

COUNTERSIGNED AND APPROVED BY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Selectmen  
and a  
majority  
thereof

In the presence of: , Town Clerk  (complete right side)

# The Commonwealth of Massachusetts

## Certificate of Town Clerk

Only one Certificate is needed to cover all notes issued on the same date for the same purpose. The Town Clerk will furnish below an exact copy of the vote authorizing the loan, as appearing in the Clerk's records, showing how the vote was passed including a copy of the article in the warrant upon which the vote was based. The completed certificate is to be signed by the Clerk and given to the Treasurer, who must transmit the same, with the note or notes, to the Director of Accounts, Department of Revenue, Boston. General Laws Chapter 44, Sections 23-27.

### Copy of Vote Authorizing Loan

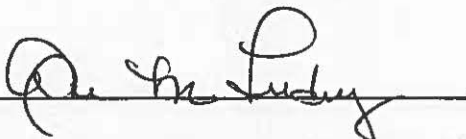
*(Attach a certified copy of the vote and warrant article for each authorization included in this borrowing.)*



Seal

I CERTIFY that this is a true copy of the Town Treasurer's Record of the issue of notes and a true copy of the vote passed at a meeting of the voters of the Town of Wayland, duly warned as required by law, which authorized borrowing as stated, as appears on the records of the town; that said vote is in full force and effect and has not been repealed or modified in any way by subsequent vote of the town. I FURTHER CERTIFY that the person whose signature appears on the note as treasurer of the Town of Wayland was the duly authorized treasurer on the date when said signature was made; and that the persons whose signatures appear upon the note as those of a majority of the selectmen were duly qualified selectmen on the date when such signatures were made. I ALSO CERTIFY that the copy of the warrant article is a true copy of the same; that it was duly served and certified by the constable as required by the General Laws and by-laws or vote of the town or both.

Date May 23, 2019



Town Clerk

*(Revised: December 2003)*



# TOWN OF WAYLAND

MASSACHUSETTS

01778

TOWN CLERK

Beth R. Klein

[Bklein@wayland.ma.us](mailto:Bklein@wayland.ma.us)

ASSISTANT TOWN CLERK

Diane M. Gorham

[dgorham@wayland.ma.us](mailto:dgorham@wayland.ma.us)

TOWN BUILDING  
41 COCHITUATE ROAD

TEL: 508-358-3630

508-358-3631

[www.wayland.ma.us](http://www.wayland.ma.us)

## ANNUAL TOWN MEETING VOTE CERTIFICATE

At a legal meeting of the qualified voters of the TOWN OF WAYLAND, held on April 2, 2018, the following business was transacted under Article 9:

### **ARTICLE 9: FY 2019 CAPITAL BUDGET – MOTION NO. 2**

MOVED:

that each and every numbered item set forth in the Finance Committee's capital budget of Fiscal Year 2019 listed on Pages 50-59 of the Warrant for the 2018 Annual Town Meeting in the total amount of \$5,182,000 be appropriated for equipment and vehicle acquisitions and projects for the listed departments, each of which shall be a separate appropriation, and, of the total sum so appropriated, \$600,000 shall be raised from taxation, \$1,126,720 shall be provided by transfer from the General Fund - Unreserved Fund Balance, \$190,000 shall be provided from water surplus, \$55,000 shall be provided from Ambulance receipts, and \$828,434 shall be provided by transfer from the following surplus capital closeouts:

- \$28.00 from FY 17 Heavy Equipment
- \$4,900 from FY 17 Swap Loader
- \$117,521 from Cochituate Apartments fire suppression
- \$42,156 from Claypit Doors/Windows ATM 2014
- \$25,414 from Middle School Windows ATM 2014
- \$219,000 from Wastewater
- \$218,174 from High School 2008
- \$125,981 from Happy Hollow 2008
- \$65,063 from Tank Cleaning 2008
- \$7,427 from FY 17 Happy Hollow Phone
- \$2,332 from FY 17 Happy Hollow Furniture
- \$438 from FY 17 Custodial Equipment

and, further, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$2,381,846 pursuant to the provisions of Massachusetts General Laws Chapter 44, Sections 7 and 8, or any other enabling legislation, for the purposes of funding network wiring improvements to the Middle School, replacing the kitchen at the Loker School, for the purchase and replacement of water meters, and for PLC upgrades within the Water Division, and for the purchase and replacement of new water mains for the Water Division, and to issue bonds or notes of the Town therefore, and further, that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of

costs approved by this vote in accordance with G.L. c.44, §20, thereby reducing by a like amount the amount authorized to be borrowed to pay such costs.

**VOTED ON MOTION No. 2 UNDER ARTICLE 9:**

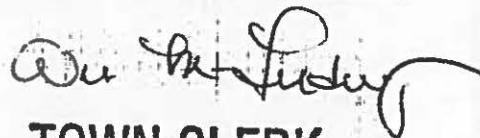
**IN FAVOR: 197**  
**OPPOSED: 62 MOTION PASSED BY 2/3 VOTE**

A true copy, Attest:



Beth R. Klein  
Town Clerk

**A TRUE COPY ATTEST**



**TOWN CLERK**  
**TOWN OF WAYLAND**

## Municipal Purpose Loan

### Town of Wayland

This attachment must be included with all Municipal Purpose Loans issued through the State House Note Program.  
*(A municipal purpose loan is one which combines two or more authorizations for different purposes in one loan.)*

Date	Article #	Purpose	Amount Authorized	Previous New Issues	Paydowns This Issue	This Issue New	This Issue Renewal	Unissued Balance
4/2/2018	9	Middle School Wiring	\$386,000.00	\$0.00	\$0.00	\$18,000.00	\$0.00	\$368,000.00
4/2/2018	9	Loker Kitchen	\$240,909.00	\$0.00	\$0.00	\$240,909.00	\$0.00	\$0.00

<b>Totals</b>			\$626,909.00	\$0.00	\$0.00	\$258,909.00	\$0.00	\$368,000.00
Carry these figures over to the Clerk/Secretary's Certificate			Must Equal Line 3	Must Equal Line 4	Must Equal Line 5	Total of these columns must equal line 6		Must equal Line 7

*Note: Amount Authorized minus Previous New Issues minus This Issue New will equal Unissued Balance.*

*(Revised: May 1997)*

send to  
DOR

2019 SPECIAL TOWN MEETING SCHEDULE

Schedule for fall STM to begin on TUESDAY, NOVEMBER 12, 2019

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August 12 VOTE TO CALL SPECIAL TOWN MEETING AND OPEN WARRANT: The Board of Selectmen will vote on Monday August 12 to call a Special Town Meeting for Tuesday November 12, 2019 and to open the warrant for at least seven days beginning Wednesday, August 21, 2019 at 8:30 am.

August 13 NOTICE: Notice of the Board’s action will be sent to all Town boards and committees. Per Town Code Chapter 36: 1) Within 48 hours of calling a Special Town Meeting, notice of the closing date of the warrant shall be posted at the Town Building, at the public library in Wayland Center, at the Cochituate Fire Station or Cochituate Post Office and at the Happy Hollow School; and 2) Prior to the closing of the warrant, notice of the time and place of the Special Town Meeting shall be published in the Wayland Town Crier and will also be posted at the above locations.

August 19 PETITIONERS’ WORKSHOP: The Board of Selectmen will conduct an information session for individuals considering submission of petitioned articles. Please see separate information sheet on the warrant article process for petitioners.

August 12 PLANNING BOARD: The Planning Board meets with the Board of Selectmen on zoning articles and provides the timeline for the Planning Board’s hearings and provides the date by which the Board of Selectmen must vote to refer articles back to the Planning Board.

August 21 WARRANT OPENING: Warrant opens Wednesday, August 21, 2019 at 8:30 a.m. and closes Thursday August 29, 2019 at 4:30 p.m. Articles must be submitted in complete form with all exhibits to the Office of the Board of Selectmen and will be stamped with the date and time received. Articles must be signed by the chair of the sponsoring board or committee or its designee, as authorized by a vote of each public body. (Please refer to additional information for submission and preparation of articles by public bodies of the town and by petitioners.)

August 26 BOARD VOTE ON ARTICLES: Date by which the Board of Selectmen will vote to approve and submit any articles it wishes to sponsor.

August 29 WARRANT CLOSING: Last day at 4:30 pm for article sponsors and petitioners to submit articles to the Board of Selectmen’s Office for Special Town Meeting.

September 4 TBD FINANCE COMMITTEE SPECIAL TOWN MEETING ARTICLE WORKSHOP: Per Town Code, Chapter 19 – 3, the Finance Committee meets with all parties proposing or commenting on all Special Town Meeting articles. The Chair of the Finance Committee will contact the Board of Selectmen’s Office to arrange for public notice of this meeting.

September 9 SELECTMEN BEGIN ARTICLE REVIEW AND VOTE TO INCLUDE ARTICLES IN WARRANT: Through October 18<sup>th</sup>, the Board of Selectmen will: 1) include discussion about proposed articles on every agenda, 2) vote on whether to include articles in the warrant, 3) vote on the order the articles will appear in the Warrant, and 4) consider a vote on the Board’s position on each article.

**DRAFT v3**

September 13

**TOWN COUNSEL REVIEW OF ARTICLE TEXT:** Approximate date by which Town Counsel completes review of submitted articles and any re-drafting of the text of each article, providing the article text in final form. Article text is then transmitted in PDF by the Town Administrator to each Article Sponsor and to the Chairs of the Board of Selectmen and Finance Committee for distribution as appropriate.

September 13

**SPONSOR'S REPORT DEADLINE (12:30PM, close of business):** Date by which any governmental body or lead petitioner sponsoring an article may submit to the Office of the Board of Selectmen a 150-word report which will be included in the Warrant only if the Finance Committee also provides comment.

October 1

**PERMANENT MUNICIPAL BUILDING COMMITTEE REPORT:** Date by which requested reports are due to the Board of Selectmen from the PMBC about the status of any capital projects assigned to the PMBC.

October 8

**PLANNING BOARD REPORT:** Deadline by which the Planning Board must vote to approve and submit to the Board of Selectmen's Office the Planning Board's approved report on zoning articles.

October 11

**FINANCE COMMITTEE DEADLINE (12:30 pm, close of business) FOR SUBMISSION, THROUGH ITS CHAIR, TO THE BOARD OF SELECTMEN'S OFFICE ALL FINANCE COMMITTEE REPORTS ON SPECIAL TOWN MEETING ARTICLES - No changes will be made after this date.**

October 11

**MODERATOR'S RULES:** All changes are due from Moderator by this date.

October 18

**WARRANT COMPLETED:** Date by which the compilation of the warrant is completed. The final Warrant is scanned, posted on the website and delivered to the members of the Board of Selectmen, the Moderator, the Chair of the Finance Committee, the Town Clerk, Town Counsel and the Finance Director. Warrant sent to printer.

October 25

**MOTIONS COMPLETED AND POSTED:** A motion on each article is drafted by the Town Administrator and reviewed and finalized by this date by Town Counsel and provided to the Chair of the Board of Selectmen who will distribute to the Town Clerk, Moderator, Finance Committee Chair and article sponsors. Draft motions provided by Town Counsel must be posted on the website for public review and marked with the date of the draft.

October 28

**WARRANT SIGNED:** The Board of Selectmen will meet to vote to sign the Warrant.

October 29

**WARRANT POSTED:** Date by which the Warrant will be posted at locations listed above and deadline for mailing of the Warrants to all households. (Town Code 36-2A, MGL c. 39, s. 10 - No later than 14 days before STM)

October 30

**PRE-HEARING PLANNING:** On or about this date, the Chair of the Board of Selectmen meets with Town Counsel, the Town Administrator, the Moderator, and the Town Clerk to review motions on each article before the 11/4/19 Warrant hearing.

**TBD**

**LEAGUE OF WOMEN VOTERS ISSUES FORM ON SPECIAL TOWN MEETING**

**TBD by 8:00 p.m.**

**VOTER REGISTRATION DEADLINE:** Last day before Town Meeting to register to vote. (This date is scheduled no earlier than 10 days before STM).

**DRAFT v3**

November 4                    WARRANT HEARING: The Board of Selectmen will convene a hearing to review the Warrant and each article. In addition to the general public, Article Sponsors, the Moderator, Town Counsel and the Town Clerk are invited to participate. The Board of Selectmen will also review motions on each article. The Office of the Board of Selectmen will provide at least 10 days advance notice of the Warrant Hearing to the public.

November 6                    DEADLINE FOR SUBMISSION OF SLIDES: Any illustrative slides will be submitted to the Assistant Town Administrator who will submit them to the Moderator for approval to show at Town Meeting. (See Town Moderator's requirements for slides)

November 12                    FINAL PREPARATIONS: Moderator's instructions to tellers and list of non-resident employees provided to Moderator and Town Clerk. Warrants, final errata sheets and supplemental material prepared, printed and delivered to Town Meeting site for distribution.

November 12                    SPECIAL TOWN MEETING, TUESDAY 7:00 PM WAYLAND HIGH SCHOOL

TBD                                MODERATOR'S FEEDBACK SESSION: *if held:*

OTHER IMPORTANT DATES:

Monday 9/2/19	LABOR DAY
None	STATE PRIMARY
Sunday 9/29/19	ROSH HASHANAH
Monday 9/30/19	ROSH HASHANAH
Wednesday 10/9/19	YOM KIPPUR (from Tuesday 10/8 sundown)
Monday 10/14/19	COLUMBUS DAY
None	GENERAL ELECTION
Monday 11/11/19	VETERANS DAY (CLOSED MONDAY 11/11/19)

OTHER DATES THAT MAY BE SET BY THE BOARD OF SELECTMEN:

Dates for Board of Selectmen to schedule any additional Special Town Meetings.

MEETINGS AND OFFICIAL ACTIONS WHICH REQUIRE SPECIAL NOTICE TO THE PUBLIC INCLUDING BUT MAY NOT BE LIMITED TO FOLLOWING:

*Petitioners Workshop, Date of Town Meeting, Opening and Closing of the Warrant, Finance Committee Article Workshop, Board of Selectmen Warrant Article Hearing, Special Election, Planning Board Hearings on zoning articles, and budget presentations by Town Administrator and Finance Committee, Moderator's Feedback Session*



6.) 2020 ATM  
Potential Dates

**DRAFT**

June 3, 2019

**DISCUSSION ON SPRING 2020 ANNUAL TOWN MEETING DATE**

Data has been gathered from the Moderator, Town Clerk, ELVIS Committee, Facilities, Assessors, Finance Director, and School Department (HS, Fine Arts, Athletics). Information is pending from the local Interfaith Leaders Association and Finance Committee chair/vice chair.

Current Constraints on Setting the First Day of 2020 Annual Town Meeting \*

By Town Code: Warrant closes on January 15<sup>th</sup>

Town Meeting must start between April 1 – May 15<sup>th</sup>

Annual town election is held 2-7 days before the start of ATM

Wednesday, April 8; Thursday, April 9	1 <sup>st</sup> and 2 <sup>nd</sup> Nights of Passover
Friday, April 10	Good Friday (no school)
Sunday, April 12	Easter
Sunday, April 19	Greek Orthodox and Coptic Easters
Saturday, April 18 – Sunday, April 26	School April Vacation Week
Monday, May 4 – Monday, May 11	HS AP Exams in the Field House**
Sunday, May 10	Mother's Day

Fine Arts Events Calendar – not held in the Field House, but community wide events; with advance notice can be rescheduled

Monday, April 6	HS Orchestra Concert
Tuesday, April 7	HS Choral Concert
Thursday, April 16	Claypit Hill Art Show
Thursday, April 30	HS Band Concert
Wed, May 6 – Sat, May 9	HS Spring Play

Staff requests

The Town Clerk requests the election be held on a Tuesday and scheduling 7 days between the annual election and Town Meeting.

ELVIS handbook: Avoid starting Town Meeting within 2 days after a holiday weekend including religious holidays.

*\*The local Interfaith Leaders Association will respond as soon as possible to confirm other religious holidays.*

*\*\*When the Field House is set up for ATM capacity of 1800, there is not room for AP exam administration. Daily set-up/take down of chairs will need to occur.*

**DRAFT**

**Possible 2020 Annual Town Meeting Schedules**

1. Election: Tuesday March 31  
Town Meeting begins: Sunday April 5 OR Monday April 6;  
Town meeting needs to conclude on Tuesday night as  
Passover starts the evening of Wed May 8
  
2. Election: Tuesday April 7  
Town Meeting begins: Monday April 13, continues that week
  
3. Election: Tuesday April 28  
Town Meeting begins: Thursday, April 30 OR Sunday May 3 OR Monday May 4;  
working around Field House AP exam usage
  
4. Election: Tuesday May 5  
Town Meeting begins: Monday, May 11<sup>th</sup> with same day set up of Field House chairs,  
continuing that week

**DRAFT**

**BOARD OF SELECTMEN'S POLICY ON THE ANNUAL BUDGET PROCESS**

**I. PURPOSE**

The purpose of the Annual Budget Process Policy is to establish, under existing local and state authority, the roles and responsibilities of the Board of Selectmen, Finance Committee, Town Administrator, and Finance Director in the preparation of the annual operating and capital budgets. The Board of Selectmen's goal is to create an efficient, effective and fiscally responsible budget process that meets the planned needs and goals of Wayland and is accountable to the taxpayer.

**II. AUTHORITY**

Authority to prepare the Annual Budget under the process described below is based on:

1. The authority as the chief executive and chief policy making body of the Town is provided to the Board of Selectmen under Massachusetts General Law and the authority under Chapters 60 and 19 of the Town Code to: 1) employ a Town Administrator, 2) ratify the appointment of the Finance Director and 3) appoint a Finance Committee. As the chief executive for the Town, the Board of Selectmen will play a major role in formulating financial policy, will participate directly in the Town's financial planning and budget process, will provide leadership in the development of the capital improvement plan, and will provide oversight and monitoring of the Town's financial performance.
2. The authority under Chapter 60, Section 2 of the Wayland Town Code provides the Town Administrator as the chief operating and administrative officer of the Town under the policy direction of the Board of Selectmen, with the broad authority to manage the Town's financial, personnel and legal activities and to appoint a Finance Director. Chapter 60, Section 2, outlines the Town Administrator's responsibilities for developing long term financial strategy, for review of all town departmental budgets and for overall financial management for the Town and its departments. This work is to be performed under the policy supervision of the Board of Selectmen and in conjunction with the Finance Committee and the Finance Director.
3. The Finance Director, under the direction of the Town Administrator, develops a budget schedule, provides financial projections, prepares the draft budget, prepares the debt management plan with the Treasurer, advises the Town Administrator on the proposed budget guideline and acts as Town Accountant under Massachusetts General Law.
4. The authority under Chapter 19 of the Town Code provides the Finance Committee with the responsibility to prepare and submit the annual Omnibus Budget to Town Meeting which includes the personnel and expense operating budgets and capital

budgets for each Town department and the School Department. The Finance Committee works in cooperation with the Town Administrator, with the Finance Director acting as the Finance Committee's liaison to the Town Administrator and the Board of Selectmen.

### **III. INTEGRATION OF ROLES AND RESPONSIBILITIES IN THE BUDGET PROCESS**

A responsible local government budget process is based on the Board of Selectmen, its appointed senior staff, all departments and the Finance Committee each playing distinct and important roles in the budget process in a logical sequence. Each of these parties has specific legal responsibility and a distinct perspective. The Board of Selectmen's appointed Town Administrator and the Finance Director (who is appointed by the Town Administrator subject to ratification by majority vote of the full membership of the Board of Selectmen), as the professional staff managing the Town's day to day operations, are best positioned to prepare the five-year budget plan, draft the annual budget guideline and the capital and operating budgets and present these to the Board of Selectmen. The Board of Selectmen, as the chief executive elected by Wayland's residents, is best positioned to consider the overall priorities of the Town. The Board-appointed Finance Committee provides a second and independent review of the draft guidelines and budgets, primarily from the standpoint of Wayland taxpayers, after the Board of Selectmen has established priorities, and prepares the final departmental operating and capital expense budgets and presents them to Town Meeting. In Wayland, the Finance Committee is also responsible for providing comment to the voters on warrant articles. Other finance duties remain with the Board of Selectmen and its administrators.

This policy shall be applied in a manner consistent with the provisions of Chapter 19, Section 4 of the Wayland Town Code, as amended from time to time.

### **IV. ANNUAL BUDGET: PROCEDURAL STEPS**

1. The Board of Selectmen adopts this policy on the preparation of the Annual Budget which will be transmitted to the Town Administrator, the Finance Committee and the Town and School Departments Heads. From time to time, the Board of Selectmen will also present financial policies for public review and comment.
2. The Town Administrator and Finance Director will convene a meeting with the School Superintendent and School Business Manager to discuss preliminary budget needs, the treatment of shared Town / School expenses and preliminary revenue projections.
3. The Finance Director will develop and present to the Town Administrator a five-year revenue and expense budget plan showing all assumptions and identifying proposed budget policies, and suggesting a draft annual budget guideline, based on appropriate percentage increases in Town and School budgets and also showing an

appropriate dollar amount for budget growth for the Town, School and shared Town/School expenses.

4. The draft budget plan and guideline will be reviewed by the Assistant Town Administrator, Treasurer, Assessor, and School Superintendent and School Business Manager whose input will be included or noted in a second draft.
5. The Board of Selectmen will convene a public Budget Summit in mid-September at which the Finance Director and Town Administrator will present the five year financial plan and at which the Board will hear comment from departments, committees, and the public on budget priorities, the Budget Guideline, and any draft financial policies.
6. After a public presentation by the Town Administrator, the Board of Selectmen and Finance Committee will review the budget documents and the Board of Selectmen will provide comment about budget priorities. The Board of Selectmen and Finance Committee will adopt an agreed upon budget guideline which will be included or noted in a new draft budget plan and transmitted to Department Heads and all elected boards.
7. The Finance Director, under the direction and with approval of the Town Administrator will develop and manage the Budget Schedule and provide the schedule and the final budget guideline to Town and School departments by early October. All detailed non-school departmental budgets will be received by the Town Administrator who will note any recommended changes to each departmental budget.
8. The Finance Director and Town Administrator will receive the School Department budget from the School Superintendent and will include the School Budget unchanged but with comment in a consolidated budget plan.
9. The Finance Committee will receive from the Town Administrator complete and detailed Town and School budgets with all prior comments from the Board of Selectmen.
10. Following its review and compilation of the final budget, the Finance Committee will present a draft budget to the Board of Selectmen, School Committee, staff, boards and public. This public meeting is anticipated to occur in early February.
11. The Finance Committee will develop a final budget for inclusion in the Annual Town Meeting warrant.

## BOARD OF SELECTMEN'S POLICY ON THE ~~FY-2020~~ANNUAL BUDGET PROCESS

### I. PURPOSE

The purpose of the ~~FY-2020~~Annual Budget Process Policy is to establish, under existing local and state authority, the roles and responsibilities of the Board of Selectmen, Finance Committee, Town Administrator, and Finance Director in the preparation of the annual~~FY-2020~~ operating and capital budgets. The Board of Selectmen's goal is to create an efficient, effective and fiscally responsible ~~FY-2020~~ budget process that meets the planned needs and goals of Wayland and is accountable to the taxpayer.

### II. AUTHORITY

Authority to prepare the ~~FY-20~~Annual Budget under the process described below is based on:

1. The authority as the chief executive and chief policy making body of the Town is provided to the Board of Selectmen under Massachusetts General Law and the authority under Chapters 60 and 19 of the Town Code to: 1) employ a Town Administrator, 2) ratify the appointment of the Finance Director and 3) appoint a Finance Committee. As the chief executive for the Town, the Board of Selectmen will play a major role in formulating financial policy, will participate directly in the Town's financial planning and budget process, will provide leadership in the development of the capital improvement plan, and will provide oversight and monitoring of the Town's financial performance.
2. The authority under Chapter 60, Section 2 of the Wayland Town Code provides the Town Administrator as the chief operating and administrative officer of the Town under the policy direction of the Board of Selectmen, with the broad authority to manage the Town's financial, personnel and legal activities and to appoint a Finance Director. Chapter 60, Section 2, outlines the Town Administrator's responsibilities for developing long term financial strategy, for review of all town departmental budgets and for overall financial management for the Town and its departments. This work is to be performed under the policy supervision of the Board of Selectmen and in conjunction with the Finance Committee and the Finance Director.
3. The Finance Director, under the direction of the Town Administrator, develops a budget schedule, provides financial projections, prepares the draft budget, prepares the debt management plan with the Treasurer, advises the Town Administrator on the proposed budget guideline and acts as Town Accountant under Massachusetts General Law.
4. The authority under Chapter 19 of the Town Code provides the Finance Committee with the responsibility to prepare and submit the annual Omnibus Budget to Town Meeting which includes the personnel and expense operating budgets and capital

budgets for each Town department and the School Department. The Finance Committee works in cooperation with the Town Administrator, with the Finance Director acting as the Finance ~~Committee's liaison~~Committee's liaison to the Town Administrator and the Board of Selectmen.

### III. INTEGRATION OF ROLES AND RESPONSIBILITIES IN THE BUDGET PROCESS

A responsible local government budget process is based on the Board of Selectmen, its appointed senior staff, all departments and the Finance Committee each playing distinct and important roles in the budget process in a logical sequence. Each of these parties has specific legal responsibility and a distinct perspective. The Board of Selectmen's appointed Town Administrator and the Finance Director (who is appointed by the Town Administrator subject to ratification by majority vote of the full membership of the Board of Selectmen), as the professional staff managing the Town's day to day operations, are best positioned to prepare the five-year budget plan, draft the annual budget guideline and the capital and operating budgets and present these to the Board of Selectmen. The Board of Selectmen, as the chief executive elected by Wayland's residents, is best positioned to consider the overall priorities of the Town. The Board-appointed Finance Committee provides a second and independent review of the draft guidelines and budgets, primarily from the standpoint of Wayland taxpayers, after the Board of Selectmen has established priorities, and prepares the final departmental operating and capital expense budgets and presents them to Town Meeting. In Wayland, the Finance Committee is also responsible for providing comment to the voters on warrant articles. Other finance duties remain with the Board of Selectmen and its administrators.

This policy shall be applied in a manner consistent with the provisions of Chapter 19, Section 4 of the Wayland Town Code, as amended from time to time.

### IV. ~~FY-2020~~ANNUAL BUDGET: PROCEDURAL STEPS

1. The Board of Selectmen adopts this policy on the preparation of the ~~FY-2020~~Annual Budget which will be transmitted to the Town Administrator, the Finance Committee and the Town and School Departments Heads. From time to time, ~~t~~The Board of Selectmen will also present ~~draft~~ financial policies for public review and comment.
2. The Town Administrator and Finance Director will convene a meeting with the School Superintendent and School Business Manager to discuss preliminary ~~b~~FY 2020-8 budget needs, the treatment of shared Town / School expenses and preliminary revenue projections.
3. The Finance Director will develop and present to the Town Administrator a five-year revenue and expense budget plan showing all assumptions and identifying proposed budget policies, and suggesting a draft annual~~FY-2020~~ budget guideline, based on appropriate percentage increases in Town and School budgets and also showing an

appropriate dollar amount for budget growth for the Town, School and shared Town/School expenses.

4. The draft budget plan and guideline will be reviewed by the Assistant Town Administrator, Treasurer, Assessor, and School Superintendent and School Business Manager whose input will be included or noted in a second draft.
5. The Board of Selectmen will convene a public Budget Summit in mid-September at which the Finance Director and Town Administrator will present the five year financial plan and at which the Board will hear comment from departments, committees, and the public on budget priorities, the Budget Guideline, and any draft financial policies.
- ~~5.6.~~ After a public presentation by the Town Administrator, the Board of Selectmen and Finance Committee will review the budget documents and the Board of Selectmen will provide comment about ~~FY 2020~~ budget priorities. The Board of Selectmen and Finance Committee will adopt an agreed upon ~~FY 2020~~ budget guideline which will be included or noted in a new draft budget plan and transmitted to Department Heads and all elected boards.
- ~~6. The Board of Selectmen will convene a public FY 2020 Budget Summit in mid-September at which the Finance Director and Town Administrator will present the five year financial plan and at which the Board will hear comment on FY 2020 budget priorities, the FY 2020 Budget Guideline and draft financial policies from departments, committees, and the public.~~
7. The Finance Director, under the direction and with approval of the Town Administrator will develop and manage the ~~FY 2020~~ Budget Schedule and provide the schedule and the final budget guideline to Town and School departments by early October. All detailed non-school departmental budgets will be received by the Town Administrator who will note any recommended changes to each departmental budget.
8. The Finance Director and Town Administrator will receive the School Department budget from the School Superintendent and will include the School Budget unchanged but with comment in a consolidated budget plan.
9. The Finance Committee will receive from the Town Administrator complete and detailed Town and School budgets with all prior comments from the Board of Selectmen.
10. Following its review and compilation of the final ~~FY 2020~~ budget, the Finance Committee will present at the draft ~~FY 2020~~ budget to the Board of Selectmen, School Committee, staff, boards and public. This public meeting is anticipated to occur in early February ~~2019~~.



**11. The Finance Committee will develop a final budget for inclusion in the Annual Town Meeting warrant.**

8.) PEC  
Agreement

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE TOWN OF WAYLAND  
AND  
WAYLAND PUBLIC EMPLOYEE COMMITTEE**

**(July 1, 2019 through June 30, 2022)**

**WHEREAS**, the Town of Wayland, including the Wayland Public Schools ("Town"), currently provides health insurance benefits to its subscribers pursuant to M.G.L. c. 32B and,

**WHEREAS**, the Town, by a vote of its Board of Selectmen on June 13, 2016, elected to change health insurance benefits under M.G.L. c. 32B, § 19, as amended by Chapter 69 of the Acts of 2011, for the purpose of implementing changes in health insurance benefits it provides to its subscribers and,

**WHEREAS**, the parties agree that acceptance of M.G.L. c. 32B, § 19, is revoked as of June 30, 2019 unless a subsequent agreement is reached and,

**WHEREAS**, the Town and the Public Employee Committee ("PEC") are entering into this written agreement to accept plan design changes effective July 1, 2019 through June 30, 2022 ("2019-2022 Agreement") and,

**WHEREAS**, the Town and the Unions agree and affirm that this Agreement supersedes and voids any conflicting provisions contained in any Collective Bargaining Agreements (CBAs) for the length of this M.G.L. c. 32B, § 19 Agreement and pursuant to the majority vote of the PEC the Parties agree that they have satisfied all of their bargaining obligations related to the subject matter of this Agreement.

**WHEREAS**, the parties agree that they will discuss a successor agreement through the process specified under M.G.L. c. 32B, § 19. The Parties also agree that by discussing a successor agreement, neither Party forfeits any rights with respect to entering into such an agreement.

**NOW THEREFORE**, the Town and the PEC agree as follows:

***Purpose of Agreement***

1. The purpose of this 2019-2022 Agreement is to implement changes in health insurance benefits for Non-Medicare health plans following a process of negotiations authorized under M.G.L. c. 32B, § 19. Accordingly, the Town shall implement the following plan design changes to the current Active Employee / Non-Medicare Plans:

Effective July 1, 2019, the Town will offer a High-Deductible Health Plan (HDHP) offered by West Suburban Health Group in addition to the existing Benchmark plans.

**Contributions**

2. Effective July 1, 2019 through June 30, 2022, the following plan contributions shall apply to the Non-Medicare plans.

HPHC PPO		50% Employer / 50% Subscriber
HPHC Benchmark HMO	Individual	74% Employer / 26% Subscriber
	Family	66% Employer / 34% Subscriber
BCBS Benchmark HMO	Individual	74% Employer / 26% Subscriber
	Family	66% Employer / 34% Subscriber
Tufts Benchmark HMO	Individual	74% Employer / 26% Subscriber
	Family	66% Employer / 34% Subscriber
Fallon Direct Benchmark HMO	Individual	74% Employer / 26% Subscriber
	Family	66% Employer / 34% Subscriber
Fallon Select Benchmark HMO	Individual	74% Employer / 26% Subscriber
	Family	66% Employer / 34% Subscriber
High-Deductible Health Plan HMO	Individual	74% Employer / 26% Subscriber
	Family	70% Employer / 30% Subscriber

Effective July 1, 2020, all HMO Benchmark family plan contributions shall be 68% Employer / 32% Subscriber.

**Mitigation Fund**

3. The parties agree that as July 1, 2019, the mitigation plan shall terminate. The pre-paid "card" issued prior to this agreement will remain active until September 1, 2019 but limited to eligible expenses incurred prior to July 1, 2019.
4. The Catastrophic Illness provision of the Mitigation Plan shall terminate on July 1, 2019. Eligible participants may access this mitigation provision until September 1, 2019 for services incurred prior to July 1, 2019.
5. Unused mitigation funds as of September 1, 2019 shall be returned to the Town.

***New Plans***

6. Should the West Suburban Health Group institute any new plan offerings during the life of this agreement, the parties agree to negotiate the implementation of those new plans.

***Arbitration of Disputes***

7. Either party may submit a dispute between the parties concerning the interpretation or application of this agreement to the American Arbitration Association for final and binding arbitration under its Labor Arbitration Rules. A request for arbitration by the Public Employee Committee shall be in accordance with M.G.L. 32B, Section 19.

***Severability Clause***

8. If any provision or portion of this "2019-2022 Agreement" is found to be unenforceable or unlawful, the remaining provisions or portions shall remain binding.

***Scope***

9. This "2019-2022 Agreement" shall constitute the whole of the Agreement between the Town and the PEC.

***Authorization to Sign Agreement***

10. Each signatory to this "2019-2022 Agreement" is authorized to bind the entity he/she represents. The PEC represents that it has the authorization and approval of a majority of the weighted votes of the PEC and that this Agreement is binding on all subscribers and their representatives.

**For the Town of Wayland**

**Wayland Public Employee Committee**

9.) Plastic Bag



NAN BALMER  
TOWN ADMINISTRATOR  
TEL. (508) 358-7755  
[www.wayland.ma.us](http://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

August 7, 2017

### RE: PLASTIC CHECKOUT BAG REDUCTION BYLAW IN WAYLAND

Dear Wayland Business Owner or Manager,

On April 3, 2017, the Town of Wayland adopted a bylaw that bans the use of thin film plastic checkout bags that are less than 4.0 Mils in thickness. These plastic bags are commonly offered by retail stores and restaurants. In the unlikely case that you offer thick plastic bags, please check the packaging or ask your supplier about the thickness. The full text of the bylaw is enclosed and is online at [http://www.wayland.ma.us/Pages/WaylandMA\\_Selectmen/plastic/plastic.pdf](http://www.wayland.ma.us/Pages/WaylandMA_Selectmen/plastic/plastic.pdf). The bylaw applies only to plastic checkout bags. Other uses of plastic bags are not affected, such as bags for dry cleaning, newspapers, produce, meat, bulk foods, wet items, and similar merchandise.

The bylaw will go into effect on February 4, 2018, six months after its approval by the Massachusetts Attorney General. The formal notification of the decision of the Attorney General is posted on the Wayland Board of Selectmen website: [http://www.wayland.ma.us/Pages/WaylandMA\\_Selectmen/plastic/AGBylawApproval.pdf](http://www.wayland.ma.us/Pages/WaylandMA_Selectmen/plastic/AGBylawApproval.pdf)

The purpose of this letter is to communicate with businesses that thin film plastic checkout bags will be banned from use by retail and grocery stores and restaurants in Wayland. We want to give you as much notice as possible to make the necessary changes by the effective date. If you have difficulty meeting the deadline, the bylaw contains a hardship provision under which you can apply for a six month extension. If you need to apply for an extension, please contact the Wayland Town Administrator Nan Balmer at [nbalmer@wayland.ma.us](mailto:nbalmer@wayland.ma.us)

Once the ban is in place, thin film plastic bags will not be allowed. Penalties for non-compliance are as follows: First offense--warning: Second offense--\$50 per day: Third and each subsequent offense--\$100 per day. We look forward to a smooth transition with your establishment and appreciate your cooperation.

The Board of Selectmen and the Town Administrator would greatly appreciate your taking a moment to return the enclosed Response Postcard to assist in the rollout of this ban. Thank you in advance.

The bylaw allows two alternatives to thin film plastic bags:

- Paper bags that are 100 percent recyclable and display the words "recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.
- Reusable checkout bags that are specifically designed and manufactured for multiple reuses. These bags may be made of polyester, polypropylene, cotton, or other durable material and are washable. Reusable bags can be offered for sale and allow you to advertise your business. They also reduce your costs, are stronger than either plastic or paper, and are better for the environment as they reduce plastic pollution.
- For extra protection, meat and produce can be placed in bags designed to hold these products with either paper or reusable bags.

We appreciate your compliance with this bylaw. If you have any questions please feel free to contact the Town Administrator at [nbalmer@wayland.ma.us](mailto:nbalmer@wayland.ma.us)

Sincerely,



Lea Anderson  
Chair, Board of Selectmen



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

MAURA HEALEY  
ATTORNEY GENERAL

(508) 792-7600  
(508) 795-1991 fax  
[www.mass.gov/ago](http://www.mass.gov/ago)

July 21, 2017

Beth R. Klein, Town Clerk  
Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778

**RE: Wayland Annual Town Meeting of April 2, 2017 - Case # 8302  
Warrant Article # 14 (Zoning)  
Warrant Article # 5, 23 and 24 (General)**

Dear Ms. Klein:

Articles 5, 23 and 24 - We approve Articles 5, 23 and 24 from the April 2, 2017 Wayland Annual Town Meeting.<sup>1</sup> Our comments regarding Article 5 are provided below.

Article 5 - Article 5 amends the Town's general by-laws by inserting a new Section 19-10, "Revolving Funds." General Laws Chapter 44, Section 53E ½, requires revolving funds to be established by by-law. Section 53E ½ authorizes municipalities to establish revolving funds for "any fees, charges or other receipts from the departmental programs or activities supported by the revolving fund," to be accounted for separately from other monies in the town, and authorizes expenditures from such fund without further appropriation, subject to the provisions of Section 53E ½. According to the Department of Revenue/Division of Local Services (DOR/DLS), the purpose of a departmental revolving fund is to enable the department to separately account for money received from a specific program or activity and to make expenditures from that separate account for that specific program or activity.

However, according to DOR/DLS, not all receipts may lawfully be deposited in a revolving fund. For example, property taxes, motor vehicle taxes, or revenues from general municipal activities, rather than those of a particular department, are not properly categorized as "fees, charges or other receipts from the departmental programs or activities supported by the revolving fund." See G.L. c 44, § 53 and 53E ½. In addition, receipts reserved by law (for example betterment payments under G.L. c. 44, § 53J), or receipts authorized by law for expenditure for a particular purpose (for example, local acceptance of G.L. c. 44B, Community

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<sup>1</sup> Due to a deficiency in the procedural adoption of Article 14, on June 30, 2017, we placed Article 14 on 299 hold in accordance with Chapter 299 of the Acts of 2000.

Preservation Act), are expressly prohibited from being included in a revolving fund under the statute.

The DOR/DLS has published several informational guidelines to provide information regarding municipal revenues and special funds. In particular, DOR/DLS has published Bulletin 2017-01B, "Authorization of Departmental Revolving Funds and Model By-law/Ordinance:"

<http://www.mass.gov/dor/docs/dls/publ/bull/2017/2017-01b.pdf>

and an "Overview of Statutory Treatment of Municipal Revenues:"

<http://www.mass.gov/dor/docs/dls/training/overview.pdf>

We approve the by-law created under Article 5. However, the Town should consult closely with Town Counsel to ensure that receipts designated for each revolving fund are not already reserved under other funds or statutes, and are properly included in the designated revolving fund. In addition, the Town should consult closely with Town Counsel to ensure that any deposits into a revolving fund are properly from "fees, charges or other receipts" associated with a specific departmental program or activity and that the funds are expended in connection with that specific program or activity, not for the general use of the department.

Further, G.L. c. 44, § 53E ½, requires the establishment of any revolving fund to be "made not later than the beginning of the fiscal year in which the fund shall begin." The Town established these revolving funds by by-law at a vote of Town Meeting on April 2, 2017, apparently with the intention that these funds be used during Fiscal Year 2018 (beginning July 1, 2017). According to DOR/DLS, all receipts collected during Fiscal Year 2018 can be credited to the revolving funds created under Article 5. The Town should consult with Town Counsel and/or DOR/DLS with any questions on this issue.

In light of the above, we offer specific comments on certain revolving funds.

1. School Department: Curriculum.

Pursuant to the provisions of G.L. c. 44, § 53E ½, the Town has established several departmental revolving funds, including "School Department: Curriculum." The by-law states that the revenue source for the School Department Curriculum Fund is "[f]ees paid for student instructional materials" to be used for the "payment of costs for student instructional materials." General Laws Chapter 44, Section 53E ½, provides that the following receipts may not be used as a revenue source for a revolving fund: "receipts reserved by law or as authorized by law for expenditure for a particular purpose."

According to DOR/DLS, many fees, charges or other receipts pertaining to schools are not properly deposited into a departmental revolving fund because these school related fees have previously been designated by the Legislature for other specific funds. DOR/DLS has published a chart pertaining to specific school revolving funds to assist municipalities in determining where certain school related fees must, or may by local option, be deposited:



<http://www.mass.gov/dor/docs/dls/training/revolvingfundchartschool.pdf>

The Town should work closely with Town Counsel and DOR/DLS to review the "School Department: Curriculum" fund to determine whether such fees are properly accounted for in a departmental revolving fund under G.L. c. 44, § 53E ½, or whether these school fees need to be accounted for in a separate school specific revolving fund, as detailed in the DOR/DLS link provided above.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4418  
[nicole.caprioli@state.ma.us](mailto:nicole.caprioli@state.ma.us)

cc: Town Counsel Carolyn M. Murray



## TOWN OF WAYLAND

### 2017 ANNUAL TOWN MEETING WARRANT SUNDAY, APRIL 2, 2017

*This bylaw was approved by the voters at the 2017 Annual Town Meeting. It was reviewed and approved by the Massachusetts Attorney General on July 21, 2017, and was posted and published on August 3, 2017.*

*This bylaw will go into effect February 4, 2018, six months after all statutory duties were fulfilled.*

#### **ARTICLE 23: PLASTIC BAG REDUCTION BYLAW**

Voted: that the Town amend the Code of the Town of Wayland, by adopting a General Bylaw entitled "Plastic Bag Reduction Bylaw" as set forth in Article 23 on Pages 78 through 79 of the Warrant for the 2017 Annual Town Meeting as amended:

##### **Section 1. Purpose and Intent**

The production and use of thin-film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to the potential death of aquatic and land animals through ingestion and entanglement; contributing to pollution of the natural environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture. The purpose of this bylaw is to protect the Town's unique natural beauty and its water and natural resources by eliminating single-use plastic checkout bags that are distributed in the Town of Wayland and to promote the use of reusable bags.

##### **Section 2. Definitions**

2.1 *Checkout bag* means a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or checkout area of the store.

2.2 *Grocery Store* means a retail establishment where more than fifty percent (50%) of the gross floor area is devoted to the sale of food products for home preparation and consumption, which typically also offers home care and personal care products.

2.3 *Retail Store* means any business facility that sells goods directly to the consumer whether for or not for profit, including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

2.4 *Reusable checkout bag* means a bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 4.0 Mills in thickness.

2.5 *Thin-film single-use plastic bags* are those bags typically with handles, constructed of high-density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE),

polyvinyl chloride (PVC), polyethylene terephthalate (PET), or polypropylene (other than woven and non-woven polypropylene fabric), if said film is less than 4.0 mils in thickness.

2.6 *Recyclable paper bag* means a paper bag that is 100 percent recyclable and contains at least 40% post-consumer recycled content, and displays the words "recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.

2.7 BoPW means the Board of Public Works or the Board of Public Works' designee, which may be the Department of Public Works.

2.8 This bylaw shall be known as the *Plastic Bag Reduction Bylaw*.

### **Section 3. Use Regulations**

3.1 Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail store or grocery store within the Town of Wayland.

3.2 If a retail store provides or sells checkout bags to customers, the bags must be one of the following (1) recyclable paper bags, or (2) reusable checkout bags.

3.3 Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are still permissible.

### **Section 4. Effective Date**

This bylaw shall take effect six (6) months following approval of the bylaw by the Attorney General or January 1, 2018, whichever is later. Upon application of the owner or the owner's representative, the Board of Selectmen or their designee may exempt a retail store from the requirements of this section for a period of up to six (6) months upon a finding by the Board of Selectmen that (1) the requirements of this section would cause undue hardship; or (2) a retail store requires additional time in order to draw down an existing inventory of checkout bags.

### **Section 5. Enforcement**

5.1 Enforcement of this bylaw shall be the responsibility of the Board of Selectmen or their designee. The Board of Selectmen or their designee shall determine the monitoring process to be followed, which may be limited to responding to citizen reports, incorporating the process into other town duties as appropriate.

5.2 Any retail or grocery store distributing plastic checkout bags in violation of this bylaw shall be subject to a non-criminal disposition fine as specified in Section 2-2 of the bylaws, Noncriminal disposition of violations; enforcement. Any such fines shall be paid to the Town of Wayland.

5.3 Section 2-2 is amended to add a new section as follows:

#### **Violation of the Plastic Bag Reduction Bylaw**

- (1) Penalty:           1<sup>st</sup> offense – Warning;  
                                  2<sup>nd</sup> offense - \$50 per day; 3<sup>rd</sup> and each subsequent offense - \$100 per day.
- (2) Enforcing persons: Board of Selectmen or their designee

### **Section 6. Severability**

If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

**POLICY # A2-1.1**

**MUTUAL RESPECT IN THE WORKPLACE  
ALL EMPLOYEES**

It is the policy of the Town of Wayland that associated Boards, Committees, governing bodies and employees conduct their work and work-related activities with respect for all employees, residents and individuals conducting business with the Town. Any action, inaction, gesture, or language that would offend a reasonable individual or that a reasonable individual would deem unwelcome will not be tolerated. Harassment or discrimination under any circumstances is prohibited. Harassment can include behavior that affects or interferes with one's work performance and is intended to intimidate or creates a hostile environment. Examples of harassment may include verbal communications, physical behavior or visual materials.

Employees, residents or other individuals who believe they have been harassed or subjected to discrimination should contact the Assistant Town Administrator/ Human Resources Director or the Town Administrator immediately following such actions to register their complaint. The Town may request such complaints in writing. An investigation of the allegation will be conducted immediately. Confidentiality will be maintained to the extent practical under the circumstances. Interviews may be conducted with the person filing the complaint, the person allegedly committing the violation of this policy and any individuals who may have witnessed the alleged violation. If it is determined that a violation of this policy has occurred, appropriate action will be taken. Actions may include counseling or discipline up to and including termination. Any actions will be consistent with existing rules, regulations, policies, applicable collective bargaining agreements and state or federal laws.

Personnel Board Updated:

November 16, 2005

## **POLICY # A2-2.1**

### **STANDARDS OF CONDUCT ALL EMPLOYEES**

It is the policy of the Town of Wayland that employees are courteous and respectful toward fellow workers, residents and customers at all times. The intent of this policy is to provide Boards, Committees and employees with clearly articulated standards and expectations of behavior in the workplace. The Town also expects all employees to dress in a manner that is suitable for conducting business. The Town of Wayland expects all employees to conduct themselves professionally at all times while on duty. The rules and regulations contained within these Standards of Conduct are expected to be observed in conjunction with the Town's Mutual Respect in the Workplace Policy.

The following conduct is prohibited:

- Excessive absenteeism or tardiness.
- Leaving the worksite during work hours without permission.
- Disregard for a supervisor's specific directive or refusal to follow instructions.
- Neglect of duty.
- Violations of safety rules.
- Violation of any Town or Department policy or procedure.
- Performing personal non-Town business during working hours, including but not limited to personal use of Town property and equipment such as business machines, tools, supplies, vehicles, etc.
- Writing on someone else's time card or falsifying a time card.
- More than minimal personal use of the telephone, including calls to 900 numbers.
- More than minimal personal use of a personal computer or the internet.
- Use of abusive, threatening or obscene language.
- Intoxication (including the effects of illegal drugs) during work hours; use, possession or distribution of alcohol or illegal drugs during work hours or on Town property.
- Smoking in workplace areas where smoking is prohibited.
- Inappropriate conduct while on duty or on Town property, such as fighting, wrestling, roughhousing or any other like activity.
- Deliberate injury to another person.
- Unauthorized release of confidential information or discussions held in executive session.
- Use of or attempt to use one's authority or official influence to control or modify the political actions of any Town employee, or engaging in any form of political activity during working hours.
- Misrepresenting or withholding information on employment application or in Town records.
- Neglect or improper use or abuse of Town property; deliberate misuse of Town property.

- Unauthorized removal, possession or damage or destruction of Town property; or the property of employees or customers at the workplace.
- Unauthorized possession or sale or use, on Town property of weapons, narcotics or substances that State or Federal statutes define as controlled.
- Theft of Town property or the property of other employees, residents or the general public.

The aforementioned standards attempt to identify inappropriate behavior in the workplace. While they cover many relevant topics, these standards should not be considered inclusive of all unacceptable behavior. Failure to adhere to these standards may result in disciplinary action up to and including termination. Discipline will be applied in a fair and equitable manner. Discipline will be applied consistent with established collective bargaining agreements and Town policies. The imposition of discipline, including termination, does not preclude an employee or former employee from being subjected to civil liability and/or criminal prosecution.

Personnel Board Approved: April 7, 2004



# Wayland Board of Selectman

## Board Description and Guiding Principles

The Board of Selectmen is a five-member, non-partisan governing board that acts as the principal policy-making authority of the town. Members are elected to staggered, three-year terms. Each year at the first meeting following the conclusion of the Annual Town Meeting, the Board elects a chair who approves the agenda for Board meetings, conducts its meetings, and is the primary spokesman for the Board. The Board also elects a vice-chair, who acts in the temporary absence of the chair and also serves as clerk of the Board.

The oath of office binds each Selectman to adhere to the laws of the Commonwealth and Town bylaws; and each Selectman recognizes Board policies. The Board exercises general supervisory authority over all matters not specifically delegated by law or by vote of the town to another officer or board. Overall, the Board has broad responsibility for the safety and well-being of the town. Each member recognizes that the chief function of local government is to serve the best interests of all of the people at all times.

Members represent the Town of Wayland at all times. The Board's duties are outlined in the Town's bylaws and include the following major duties and responsibilities:

1. To provide leadership for the town.
2. To develop, articulate, and implement policies to steer the town government as applicable under the Town's bylaws.
3. To sign or veto items on warrants for payment of all town bills.
4. To make appointments to town boards, committees, commissions and offices.
5. To hire professional administrative assistance.
6. To appoint and retain legal counsel and direct the legal affairs of the town.
7. To prepare the Town Meeting warrant, including ordering of articles.

The Board conducts the affairs of the town by upholding the following guiding principles through the words and actions of individual members and as a public body:

- **Each member is integral to the effectiveness of the entire board.**

The Board provides leadership as a team. Therefore, each member agrees to conduct him/herself so as to maintain public confidence in our local government,

demonstrating at all times respect for the office and for the citizens who are represented and conducting official business in such a manner as to give the clear impression that he or she cannot be improperly influenced in the performance of his or her official duties. Selectmen shall share information regarding town matters with the entire Board and with members of other committees who may be seeking help or relevant information. Each member will treat all colleagues on the Board with respect, despite differences of opinion on matters of policy, always remembering that respectful debate does not preclude honest differences of opinion. Board members will exercise care to clearly state in any individual statements contrary to Board policy that the opinion is that of the individual member and not representative of the Board.

- **Selectmen recognize the role and relationship of Town Administrator and administrative staff.**

The Board will work to effectively support the ordinary business of town offices. The Town Administrator is the conduit between the Board and each Selectman and town departments. Each member recognizes and supports the role of the Board and the administrative chain of command and refuses to act on complaints as an individual outside of the Board and administration. Each member channels all requests for assistance or staff support from Town departments through the Board and the Town Administrator. Each member shall treat all staff as professionals and respect the abilities and experience of each individual. Members shall never publicly criticize an individual employee or a department; concerns about staff performance should only be made to the Town Administrator through direct communication.

- **Authority is limited to actions taken by the Board as a whole.**

The power of the Board is invoked only when action is taken by a quorum at a duly posted meeting. No individual Selectman has authority to act on behalf of the Board, unless the Board has granted such specific authority, and no member should represent him/herself as having individual authority or influence to governmental bodies or the public.

- **Selectmen make decisions based on information received and discussion held at Board meetings.**

Board members make decisions only after all relevant facts on an issue have been presented and discussed in formal session. Selectmen respect that each member is entitled to his or her viewpoint and opinion. The Board makes decisions by considering the needs of the town and for the good of the entire community.

- **Board members abide by decisions of the Board.**

Action taken at official meetings is binding. Each member abides by decisions of the Board made at a duly posted meeting, even when such decisions are contrary to an individual member's vote.



- **Members respect the intent of and deliberations conducted in executive session.**

Executive session is held only in particular circumstances to protect the interests of the Town or individuals' privacy as provided in state law. The content of the proceedings is privileged. Members pledge to uphold the intent of executive session, to respect the privileged communication that exists in executive session, and to safeguard confidential information. Statements uttered, sentiments expressed, information shared, and actions taken in executive session shall not later be discussed in an open meeting or publicly or privately with non-members who were not present in the executive session.

*Adopted on July 15, 1997; revised on July 9, 2007; revised and restated on October 13, 2010; revised and restated on June 11, 2012; revised and restated on June 5, 2013; revised and restated on July 27, 2015.*

**DRAFT 5/29/19**  
**SELECT BOARD/TOWN MANAGER ACT**

**Special Act of Legislation Creating Select Board/Town Manager Form of Government in the Town of Wayland**

[HISTORY: Adopted by the Annual Town Meeting of the Town of Wayland 5-3-2004 by Art.11. Amendments noted where applicable.]

**GENERAL REFERENCES**

Boards, commissions and committees — See Ch. 6.  
Finances — See Ch. 19.  
Personnel — See Ch. 43.  
Board of Selectmen — See Ch. 58.  
Treasurer and Collector — See Ch. 72.

**§ 1. Appointment and qualifications.**

1.1 The Select Board, by an affirmative vote of at least four (4) members, may appoint a Town Manager as the Town's chief executive officer for a term of years as the Select Board deems to be in the best interests of the Town. The Town Manager shall receive such aggregate compensation and benefits, not exceeding the amount appropriated, as the Select Board may determine. The Select Board may, but is not required to, establish a written employment contract with the Town Manager pursuant to Massachusetts General Laws Chapter 41, Section 108N, to provide for the salary, fringe benefits, and other conditions of employment. The Town Manager position shall be a non-union position. (modified from existing Code)

1.2 The Town Manager shall be appointed on the basis of educational, management and administrative qualifications and experience, including at least a bachelor's degree in a related field of study from an accredited four-year college or university. The Town Manager shall have considerable professional experience, consisting of compensated service in municipal administration or an equivalent combination of education and business management experience. (in existing Code)

1.3 The Town Manager shall devote full-time to the responsibilities of the office. The Town Manager shall hold no elective Wayland Town office. The Town Manager may be appointed by the Select Board to any other compatible Town office or position, but he/she shall engage in no other business or occupation without advance written authorization by the Select Board. (in existing Code)

**§ 2. Authority and responsibilities of Town Manager.**

2.1 Administrative Authority and Responsibilities

- a. The Town Manager shall be the chief administrative and operating officer of the Town. (new)
- b. The Town Manager shall be responsible for managing, supervising and executing all of the activities noted in this Act, the Town Manager's job description and any other duties assigned to the Town Manager by the Select Board or under the Town Code in compliance with federal and state laws and the Town Code and Town policies. (in current Code)
- c. The Town Manager shall ensure that all Town departments, boards, commissions and committees comply with the Town's financial, personnel and legal policies and procedures, as well as all Town Meeting votes, Town Code, federal and state law. (modified from current Code)
- d. The Town Manager shall be responsible for the management of all financial, administrative and operational affairs of the Town and Town departments, including the Police and Fire Departments and all boards, commissions and committees but excluding the School Department, provided, however, that all boards, commissions and committees shall continue to exercise permitting and/or policy-making authority as provided in state law. (modified from current Code)
- e. The Town Manager shall be responsible for overseeing, coordinating, and making recommendations that may impact multiple Town boards and committees, broadly or in detail, regarding Town financial, personnel and legal activities. (in current Code)
- f. The Town Manager will not set Town policy, but will ensure there is appropriate coordination in the implementation of Town policy working across all Town departments in conjunction with all elected and appointed boards and committees. (in current Code)
- g. The Town Manager shall understand and have a working knowledge of the statutory authority and responsibility held by certain department heads and elected and appointed boards, commissions and committees so he/she can effectively support these officers in the execution of their duties. Unless expressly stated herein, nothing in this Act is intended to reassign policy-making or permit granting statutory authority of any department head or any elected or appointed board, commission or committee to the Town Manager. (modified from current Code)
- h. With respect to Town policies and programs that impact multiple areas of Town government, the Town Manager shall work with all elected and appointed boards, commissions and committees and Town department heads, be accountable for ensuring there is appropriate administration and coordination both (i) in the implementation and on-going adherence to Town policies; and (ii) in the development and execution of such policies and programs. (in current Code)

- i. With respect to the development, implementation and execution of policies and programs affecting various Town departments, the Town Manager shall:
  - i) Coordinate the setting of priorities with the rest of the Town government;
  - ii) Communicate activities, including projects, plans and studies, so that necessary input is received from all areas of Town government that should be involved in those initiatives; and
  - iii) Coordinate efforts so that cross-functional services to residents and others are effectively and consistently delivered. (in current Code)
  
- j. The Town Manager is designated as the Town's Records Access Officer under the Public Records statute. The Town Manager shall, directly or through the Town's various departments, boards, commissions and committees, provide for the preparation, filing and maintenance of all records and reports on behalf of the Town,. (modified from current Code)
  
- k. The Town Manager oversees crisis intervention in emergency situations, working with other key Town department heads, and addresses any systemic problems impacting multiple areas of the Town as they arise. The Town Manager shall ensure priority items are properly attended to and bring concerns about problem resolution to related boards, commissions and committees, and ultimately, to the Select Board for assistance in resolution, if necessary. (in current Code)

## 2.2 Financial Authority and Responsibilities

- a. The Town Manager shall be the chief financial officer of the Town.
  
- b. The Town Manager shall initiate, prepare and have general oversight of the process of preparing the Town's annual operating and capital budgets. To assist the Town Manager in preparing the proposed annual operating and capital budgets, all department heads, boards, commissions and committees of the Town, including the School Department, shall furnish all relevant information and submit to the Town Manager, in writing and in such form as the Town Manager shall prescribe, a detailed estimate of the appropriations required and available funds. (new)
  
- c. The Town Manager shall work with the Finance Director and Finance Committee to:
  - i) Develop long-term financial strategies addressing operational and capital financial needs of the Town;
  - ii) Establish set budgetary guidelines to be used in the development of annual budgets;
  - iii) Review all operating and capital budgets of all Town departments and make recommendations to the affected boards, commissions and committees and to the Finance Committee about priorities important to budget development; and

- iv) Evaluate actual expenditures and receipts against budgets and coordinate with affected department heads, boards, commissions and committees the development of plans to manage to the budget or obtain Finance Committee approval for Reserve Fund transfers, in advance of spending, when possible. (in current Code)
- d. The Town Manager shall prepare and update a five-year capital budget for all Town departments.
- e. The Town Manager shall serve as the Town's chief procurement officer pursuant to the General Laws and shall ensure that all Town departments comply with applicable procurement laws.. The Town Manager may, in his or her discretion, delegate any procurement responsibilities. (modified from current Code)
- f. Unless any statute or special act provides to the contrary, the Town Manager shall be authorized to execute all grant applications and shall award and execute all contracts binding the Town up to a set amount to be established by policy set by the Select Board.

### 2.3 Personnel Authority and Responsibilities

- a. Department Heads with Elected Boards: Except as expressly provided herein, the Town Manager shall appoint on the basis of merit and fitness alone, all department heads or similar positions, in consultation with the respective elected boards, commissions and committees and in compliance with any applicable provision of a collective bargaining agreement, with the exception of the School Department and Library.
- b. Department Heads with Appointed Boards: Except as expressly provided herein, the Town Manager shall appoint on the basis of merit and fitness alone all department heads for departments with appointed boards, commissions and committees.
- c. Department Employees (subordinate): The Town Manager shall appoint on the basis of merit and fitness alone, all subordinate employees of each Town department, with the exception of the School Department. The Town Manager shall also appoint all other appointed officers or employees for whom no other method of appointment is provided by the Town Code or other special act.
- d. Discipline and Removal for Cause: The Town Manager may, for cause, remove or discipline any department head or similar position, with the exception of the School Department and Library Director, and all subordinate employees of each Town department, with the exception of the School Department. (new)
- e. The Town Manager shall appoint, on the basis of merit and fitness alone, with ratification by a vote of at least three members of the Select Board, and evaluate, discipline and, for cause, remove, without the ratification of the Select Board:
  - i) A Police Chief;
  - ii) A Fire Chief; and

- iii) A Finance Director who shall have the authority and responsibilities of a Town accountant. (in current Code and special act)
  - iv) A Town Clerk
- 
- f. In the event of a vacancy, disability or absence greater than thirty (30) days, of any department head or any position appointed by the Town Manager, the Town Manager may appoint someone to serve in an acting or interim capacity. (new)
  - g. With the exception of the School Department and Library, to streamline services the Town Manager may create a new department, may reorganize, eliminate or consolidate Town departments or functions, in whole or in part, and may assign functions of one department to another department, subject to the approval of the Select Board. (new)
  - h. The Town Manager shall, working with the Town's Human Resource Department, be responsible for the daily administration of the Town-wide personnel system, including the maintenance of personnel records and the enforcement of personnel policies, rules and regulations and managing personnel costs to ensure maximum efficiency and fairness across Town departments. (in current Code)
  - i. Evaluations: The Town Manager may develop a performance evaluation process and establish performance standards not inconsistent with any terms of any collective bargaining agreement. (new) The Town Manager shall be responsible for the annual evaluation of job performance of all Town department heads, including the Town Clerk and other positions appointed by the Town Manager but excluding the School Department and Library Director, and may incorporate any input or recommendations received from any elected or appointed board, commission or committee served by such department heads. Evaluation of the Library Director shall include input of the Town Manager. The Town Manager may also be responsible for annually evaluating the job performance of subordinate Town employees, excluding those of the School Department. (modified from current Code)
  - j. The Town Manager shall serve as the agent of the Select Board and negotiate collective bargaining agreements on behalf of the Select Board in accordance with General Laws Chapter 150E, provided, however, that such agreements shall be subject to ratification by the Select Board and subject to funding by Town Meeting. The Town Manager may appoint confidential staff to assist with collective bargaining. (new)

#### 2.4 Facilities/Property Authority and Responsibilities

- a. The Town Manager shall be responsible for the construction, reconstruction, restoration, rehabilitation, repair and maintenance of all Town buildings and all

Town real and personal property, information technology and infrastructure, including schools and library. (new)

- b. The Town Manager shall maintain an inventory of all Town-owned real and personal property. (in current Code)

2.5 Transitional Authority and Responsibilities (all new)

- a. With the enactment of this Act by the General Act, Chapter 320 of the Acts of 2004, An Act Relative to the Position of Town Administrator in the Town of Wayland, shall be repealed.
- b. Following the enactment of this Act, the Select Board shall appoint a Town Manager, and if the Select Board so chooses, the incumbent Town Administrator may be appointed Town Manager.

**§ 3. Removal of the Town Manager.**

The Town Manager may be removed by an affirmative vote of at least four (4) members of the Select Board in accordance with the provisions of the Town Manager's contract. (modified from existing Code)

**§ 4. Acting Town Manager.**

If the Town Manager shall be absent from his/her office for up to fourteen (14) days, the Town Manager may designate a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during this period of absence. In the event the office of Town Manager shall be vacant for more than fourteen (14) days, the Select Board may appoint a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during the period of any vacancy caused by the Town Manager's absence, illness, suspensions, removal or resignation. The appointment by the Select Board shall be for a period not to exceed six months, but such appointment may be extended by an additional two months by majority vote of the Select Board (in existing Code)

**§5. Renaming of Select Board. (new)**

5.1 The Board of Selectmen in the Town of Wayland shall hereafter be known as the Select Board, who shall be vested with all of the powers and duties conferred upon a board of selectmen by any general or special law. All references to the Board of Selectmen contained in the Town Code shall be construed as referring to the Select Board, and all powers and duties conferred upon the Board of Selectmen by the Town Code shall be vested in the Select Board.

5.2 The executive powers of the Town shall be vested in the Select Board, and the Select Board shall serve as the chief policymaking body of the Town.

5.3 The Select Board shall develop and promulgate policy directives and guidelines which shall be followed by all agencies serving under it and, in conjunction with other elected Town officers and multiple-member bodies, shall develop and promulgate policy guidelines designed to bring the operation of all town agencies into harmony; provided, however, nothing in this section shall authorize any member of the Select Board or a majority of such members to become involved in the day-to-day administration of a town agency.

5.4 The Select Board shall cause the by-laws, rules and regulations of the Town to be enforced.

5.5 The Select Board shall have full authority as agents of the Town to employ counsel to commence, prosecute and defend suits in the name of the Town. Said authority shall not extend to employing counsel to the School Committee.

5.6 The Select Board shall appoint a Town Manager, Town Counsel, independent auditor and any other boards, committees, and commissions according to Town Code, statute or any special act. The Select Board shall also appoint any other multi-member boards for who no other method of appointment is provided by Town Code, statute or special act.

#### **§6. Town Clerk To Become Appointed Position**

6.1 Upon the effective date of this Act, the position of Town Clerk shall cease to be elected and shall become a position appointed by the Town Manager pursuant to Sections 2.3.b and 6 of this Act.

6.2 The incumbent in the office of Town Clerk shall continue to serve until the expiration of the term for which elected as Town Clerk, and at the expiration of that term, the Town Clerk shall be appointed by the Town Manager as provided in §2 of this Act. If the incumbent in the office of Town Clerk vacates said office prior to the expiration of the term for which the Town Clerk was elected, the office of Town Clerk shall cease to be an elected position and shall be appointed by the Town Manager as provided in §2 of this Act.

#### **§7. Conflict with Other Acts or Town Code.**

In the event that there is a conflict between any provision of this Act and any provision of the Town Code or other special act pertaining to the Town of Wayland, this Act shall prevail.

#### **§8. Time for Taking Effect. (new)**

This Act shall take effect upon its passage by the General Court.

NOTE: May need to add provisions allowing for continuation of existing laws not inconsistent with this Act and/or repeal any existing laws inconsistent with this Act. If this act is approved, we will need to review provisions of Town Code for repeal, amendment, etc.



6667581/WAYL0001

11.) Town Manager  
Special Act (red-lined  
version)

**DRAFT 5/29/19**  
**SELECT BOARD/TOWN MANAGER ACT**

**Special Act of Legislation Creating Select Board/Town Manager Form of Government in the Town of Wayland**

[HISTORY: Adopted by the Annual Town Meeting of the Town of Wayland 5-3-2004 by Art.11. Amendments noted where applicable.]

**GENERAL REFERENCES**

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Board of Selectmen — See Ch. 58.  
Treasurer and Collector — See Ch. 72.

**§ 1. Appointment and qualifications.**

1.1 The Select Board, by an affirmative vote of at least four (4) members, may appoint a Town Manager as the Town's chief executive officer for a term of years as the Select Board deems to be in the best interests of the Town. The Town Manager shall receive such aggregate compensation and benefits, not exceeding the amount appropriated, as the Select Board may determine. The Select Board may, but is not required to, establish a written employment contract with the Town Manager pursuant to Massachusetts General Laws Chapter 41, Section 108N, to provide for the salary, fringe benefits, and other conditions of employment. The Town Manager position shall be a non-union position. (modified from existing Code)

1.2 The Town Manager shall be appointed on the basis of educational, management and administrative qualifications and experience, including at least a bachelor's degree in a related field of study from an accredited four-year college or university. The Town Manager shall have considerable professional experience, consisting of compensated service in municipal administration or an equivalent combination of education and business management experience. (in existing Code)

1.3 The Town Manager shall devote full-time to the responsibilities of the office. The Town Manager shall hold no elective Wayland Town office. The Town Manager may be appointed by the Select Board to any other compatible Town office or position, but he/she shall engage in no other business or occupation without advance written authorization by the Select Board. (in existing Code)

**§ 2. Authority and responsibilities of Town Manager.**

2.1 Administrative Authority and Responsibilities

**Comment [CMM1]:** Since we have decided to rename the Board of Selectmen the "Select Board" and use that term throughout the act, I think we should move Section 5 to the beginning. However, for ease of following the revisions from the prior draft, I will leave it as Section 5 now.

- a. The Town Manager shall be the chief administrative -and operating officer of the Town ~~f.~~ (new)
- b. The Town Manager shall be responsible for managing, supervising and executing all of the activities noted in this Act, the Town Manager's job description and any other duties assigned to the Town Manager by the Select Board or under the Town Code in compliance with federal and state laws and the Town Code's bylaws and Town policies. (in current Code)
- c. The Town Manager shall ensure that all Town departments, boards, commissions and committees comply with the Town's financial, personnel and legal policies and procedures, as well as all Town Meeting votes, Town Code, federal and state law. (modified from current Code)
- d. The Town Manager shall be responsible for the management of all financial, administrative and operational affairs of the Town and Town departments, including the Police and Fire Departments and all boards, commissions and committees but excluding the School Department, provided, however, that all boards, commissions and committees shall continue to exercise permitting and/or policy-making authority ~~and technical decisions~~ as provided in state law ~~f.~~ (modified from current Code)
- e. The Town Manager shall be responsible for overseeing, coordinating, and making recommendations that may impact multiple Town boards and committees, broadly or in detail, regarding Town financial, personnel and legal activities. (in current Code)
- f. The Town Manager will not set Town policy, but will ensure there is appropriate coordination in the implementation of Town policy working across all Town departments in conjunction with all elected and appointed boards and committees. (in current Code)
- g. The Town Manager shall understand and have a working knowledge of the statutory authority and responsibility held by certain department heads and elected and appointed boards, commissions and committees so he/she can effectively support these officers in the execution of their duties. Unless expressly stated herein, nothing in this Act is intended to reassign policy-making or permit granting statutory authority of any department head or any elected or appointed board, commission or committee to the Town Manager. (modified from current Code)
- h. With respect to Town policies and programs that impact multiple areas of Town government, the Town Manager shall work with all elected and appointed boards, commissions and committees and Town department heads, be accountable for ensuring there is appropriate administration and coordination both (i) in the implementation and on-going adherence to Town policies; and (ii) in the development and execution of such policies and programs. (in current Code)

**Comment [LA2]:** The BoS asked if Chief Financial Officer needs to be mentioned here, as well as in Sec. 2.2.a.

**Comment [CMM3]:** It is not necessary to repeat CFO in both places, but where Section 2.2 is the financial authority section. I think it should be stated there. Since 2.1 is the administrative section, perhaps we delete financial here.

**Comment [LA4]:** BoS did not change this section relative to library.

**Comment [CMM5]:** Question: What shall the Town Manager's role be with respect to Library?

**Comment [CMM6]:** I think policymaking a better term than "technical decisions." Also consistent with language of paragraph f below.

**Comment [LA7]:** BoS did not want to add quasi-judiciary duties.

**Comment [CMM8]:** On 4/16, the Board suggested elaborating or clarifying policy-making roles of various boards. It is not possible to capture all policy-making roles. When we consider the acts that various boards take, the board either issue licenses and permits (alcohol, variances, special permits orders of conditions) or they make policy decisions (whether to hire another employee, how much to pay that employee, what roads to repave, what bylaws to propose to Town Meeting, what recreational programs to offer, what books to purchase, whether to provide a certain service to seniors, children or the public in general). The boards decide to do X, and the Town Manager and various department heads execute those policy decisions. There are a few boards with quasi-judiciary duties, such as the ZBA hearing an appeal of an order of the BI, the Board of Assessors granting an abatement, or the Board of Registrars deciding whether someone should be removed from the voter rolls. Do you want to add quasi-judiciary duties to paragraph and f?

h. ~~The Town Manager shall ensure that all Town departments, boards, commissions and committees comply with the Town's financial, personnel and legal policies and procedures, as well as all Town Meeting votes, bylaws, federal and state law. (modified from current Code)~~

**Comment [LA9]:** BoS asked if this section should be moved closer to c. above.

- i. With respect to the development, implementation and execution of policies and programs affecting various Town departments, the Town Manager shall:
- i) Coordinate the setting of priorities with the rest of the Town government;
  - ii) Communicate activities, including projects, plans and studies, so that necessary input is received from all areas of Town government that should be involved in those initiatives; and
  - iii) Coordinate efforts so that cross-functional services to residents and others are effectively and consistently delivered. (in current Code)

j. The Town Manager is designated as the Town's Records Access Officer under the Public Records statute. The Town Manager shall, directly or through the Town's various departments, boards, commissions and committees, provide for the preparation, filing and maintenance of all records and reports on behalf of the Town, ~~but in no event shall the Town Manager be responsible for making policy decisions reserved to the Town's boards, commissions and committees by state law or Town Bylaws.~~ (modified from current Code)

**Comment [CMM10]:** I deleted the last portion of this sentence about the TM not exercising policy-making role, as this is redundant with d and f above.

k. The Town Manager oversees crisis intervention in emergency situations, working with other key Town department heads, and addresses any systemic problems impacting multiple areas of the Town as they arise. The Town Manager shall ensure priority items are properly attended to and bring concerns about problem resolution to related boards, commissions and committees, and ultimately, to the Select Board for assistance in resolution, if necessary. (in current Code)

## 2.2 Financial Authority and Responsibilities

- a. The Town Manager shall be the chief financial officer of the Town.
- b. The Town Manager shall initiate, prepare and have general oversight of the process of preparing the Town's annual operating and capital budgets. To assist the Town Manager in preparing the proposed annual operating and capital budgets, all department heads, boards, commissions and committees of the Town, including the School Department, shall furnish all relevant information and submit to the Town Manager, in writing and in such form as the Town Manager shall prescribe, a detailed estimate of the appropriations required and available funds. (new)
- c. The Town Manager shall work with the Finance Director and Finance Committee to:
- i) Develop long-term financial strategies addressing operational and capital financial needs of the Town;

**Comment [LA11]:** BoS did not want to insert budget provisions from Collins Center draft.

**Comment [CMM12]:** Question: Do you want to insert some or all of the budget provisions from the Collins Center draft?

- ii) Establish set budgetary guidelines to be used in the development of annual budgets;
- iii) Review all operating omnibus and capital budgets of all Town departments and make recommendations to the affected boards, commissions and committees and to the Finance Committee about priorities important to budget development; and
- iv) Evaluate actual expenditures and receipts against budgets and coordinate with affected department heads, boards, commissions and committees the development of plans to manage to the budget or obtain Finance Committee approval for Reserve Fund transfers, in advance of spending, when possible. (in current Code)

d. The Town Manager shall prepare and update a five-year capital budget for all Town departments.

e. The Town Manager shall serve as the Town's chief procurement officer pursuant to the General Laws and shall ensure that all Town departments comply with applicable procurement laws.. The Town Manager may, in his or her discretion, delegate any procurement responsibilities. (modified from current Code)

f. Unless any statute or special act provides to the contrary, the Town Manager shall be authorized to execute all grant applications and shall award and execute all contracts binding the Town up to a set amount to be established by policy set by the Select Board.

**Comment [LA13]:** Should this be part of 2.2 c. iii. If it is included as part of a recommendation to the Finance Committee, would Chap. 19 have to be changed? BoS did not want to shift more duties from Fincom to TM. On further review of the taped discussion, I think we want to leave this as a separate statement.

**Comment [CMM14]:** I added this opening clause in case there are any special acts or statutes that allow some board of Town agency to execute contracts. One example that comes to mind is the WAHT and their authority to enter into mortgages. If you feel that the inclusion of this provision highlights an issue and may cause more debate about the authority vested in various boards going forward, we can remove this.

**Comment [CMM15]:** What about any appointed boards, such as Conservation Commission and Conservation Agent? If you are silent, they default to b, but do you want to address department heads under appointed boards?

**Comment [CMM16]:**

**Comment [CMM17]:** Do you want this to include police officers and firefighters?

**Comment [CMM18]:** Are we including or excluding the Library here?

**Comment [LA19]:** Put this with new c.

### 2.3 Personnel Authority and Responsibilities

a. Department Heads with Elected Boards: Except as expressly provided herein, the Town Manager shall appoint on the basis of merit and fitness alone, all department heads or similar positions, in consultation with the respective elected boards, commissions and committees and in compliance with any applicable provision of a collective bargaining agreement, with the exception of the School Department and Library.

b. Department Heads with Appointed ~~out~~ Elected Boards: Except as expressly provided herein, the Town Manager shall appoint on the basis of merit and fitness alone all department heads for departments with appointed boards, commissions and committees.

a.c. Department Employees (subordinate): The Town Manager shall appoint on the basis of merit and fitness alone, all subordinate employees of each Town department, with the exception of the School Department. The Town Manager shall also appoint all other appointed officers or employees for whom no other method of appointment is provided by the Town Code's Bylaws or other special act.

b.d. Evaluations, Discipline and Removal for Cause: The Town Manager may develop a performance evaluation process and establish performance standards not inconsistent with any terms of any collective bargaining agreement. (new)  
The Town Manager ~~may~~ shall be responsible for evaluations and, for cause, may

remove or discipline any department head or similar position, with the exception of the School Department and Library Director, and all subordinate employees of each Town department, with the exception of the School Department (new)

e.c. The Town Manager shall appoint, on the basis of merit and fitness alone, with ratification by a majority vote of at least three the full membership of the Select Board ~~then serving~~, and evaluate, discipline and, for cause, remove, without the ratification of the Select Board:

- i) A Police Chief;
- ii) A Fire Chief; and
- iii) A Finance Director who shall have the authority and responsibilities of a Town accountant. (in current Code and special act)
- iv) A Town Clerk

f.f. In the event of a vacancy, disability or absence greater than thirty (30) days, of any department head or any position appointed by the Town Manager, the Town Manager may appoint someone to serve in an acting or interim capacity. (new)

e.g. With the exception of the School Department and Library, to streamline services the Town Manager may create a new department, may reorganize, eliminateabolish or consolidate Town departments or departments or functions, in whole or in part, and may assign functions of one department to another department, subject to the approval of the Select Board. (new)

f.i. The Town Manager shall, working with the Town's Human Resource Department, be, be responsible for the daily administration of the Town-wide personnel system, including the maintenance of personnel records and the enforcement of personnel policies, rules and regulations and managing personnel costs to ensure maximum efficiency and fairness across Town departments. (in current Code)

g. The Town Manager may develop a performance evaluation process and establish performance standards not inconsistent with any terms of any collective bargaining agreement. (new)

h.i. Evaluations: The Town Manager may develop a performance evaluation process and establish performance standards not inconsistent with any terms of any collective bargaining agreement. (new) The Town Manager shall be responsible for the annual evaluation of job performance of all Town department heads, including the Town Clerk and other positions appointed by the Town Manager but excluding the School Department and Library Director, and may incorporate any input or recommendations received from any elected or appointed board, commission or committee served by such department heads. Evaluation of the Library Director shall include input of the Town Manager. The Town Manager may also be responsible for annually evaluating the job performance of

**Comment [LA20]:** Do we add library exclusion for Dept. Head?

**Comment [CMM21]:** Decision needs to be made to include or exclude the Library.

**Comment [CMM22]:** Evaluation language moved to i to avoid redundancy or inconsistency.

**Comment [LA23]:** Maybe put d. before c to keep all appointments together?

**Comment [CMM24]:** So the TM can create and reorganize a town department but cannot abolish a department?

**Comment [LA25]:** Put this with new c.

**Comment [LA26]:** Put this with new c.

subordinate Town employees, excluding those of the School Department.  
(modified from current Code)

~~i. The Town Manager will consult with relevant elected and appointed boards, commissions and committees prior to implementing personnel related actions. (modified from existing Code)~~

**Comment [CMM27]:** Question: Do you want to keep this?

j. The Town Manager shall serve as the agent of the Select Board and negotiate collective bargaining agreements on behalf of the Select Board in accordance with General Laws Chapter 150E, provided, however, that such agreements shall be subject to ratification by the Select Board and subject to funding by Town Meeting. The Town Manager may appoint confidential staff to assist with collective bargaining. (new)

#### 2.4 Facilities/Property Authority and Responsibilities

a. The Town Manager shall be responsible for the construction, reconstruction, restoration, rehabilitation, repair and maintenance of all Town buildings and all Town real and personal property, information technology and infrastructure, excluding schools and library buildings. (new)

**Comment [CMM28]:** Should this include school and library buildings or also school and library infrastructure and IT?

b. The Town Manager shall maintain an inventory of all Town-owned real and personal property. (in current Code)

**Comment [LA29]:** The BoS discussed this as being administrative responsibility. It includes all Town buildings, including schools and library.

#### 2.5 Transitional Authority and Responsibilities (all new)

a. With the enactment of this Act by the General Act, Chapter 320 of the Acts of 2004, An Act Relative to the Position of Town Administrator in the Town of Wayland, shall be repealed.

b. Following the enactment of this Act, the Select Board shall appoint a Town Manager, and if the Select Board so chooses, the incumbent Town Administrator may be appointed Town Manager.

~~e. Upon the effective date of this Act, all department heads, with the exception of the School Department, shall report to and come under the supervision of the Town Manager, regardless of whether such department heads were appointed by an elected or appointed board, commission or committee prior to the enactment of this Act.~~

### § 3. Removal of the Town Manager.

The Town Manager may be removed by an affirmative vote of at least four (4) members of the Select Board in accordance with the provisions of the Town Manager's contract. (modified from existing Code)

#### § 4. Acting Town Manager.

If the Town Manager shall be absent from his/her office for up to fourteen (14) days, the Town Manager may designate a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during this period of absence. In the event the office of Town Manager shall be vacant for more than fourteen (14) days, the Select Board may ~~designate~~ appoint a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during the period of any vacancy caused by the Town Manager's absence, illness, suspensions, removal or resignation. The appointment by the Select Board shall be for a period not to exceed six months, but such appointment may be extended by an additional two months by majority vote of the Select Board (in existing Code)

#### §5. Renaming of Select Board. (new)

5.1 The Board of Selectmen in the Town of Wayland shall hereafter be known as the Select Board, who shall be vested with all of the powers and duties conferred upon a board of selectmen by any general or special law. All references to the Board of Selectmen contained in the Town Code shall be construed as referring to the Select Board, and all powers and duties conferred upon the Board of Selectmen by the Town Code shall be vested in the Select Board.

5.2 The executive powers of the Town shall be vested in the Select Board, and the Select Board shall serve as the chief policymaking body of the Town.

5.3 The Select Board shall develop and promulgate policy directives and guidelines which shall be followed by all agencies serving under it and, in conjunction with other elected Town officers and multiple-member bodies, shall develop and promulgate policy guidelines designed to bring the operation of all town agencies into harmony; provided, however, nothing in this section shall authorize any member of the Select Board or a majority of such members to become involved in the day-to-day administration of a town agency.

5.4 The Select Board shall cause the by-laws, rules and regulations of the Town to be enforced.

5.5 The Select Board shall have full authority as agents of the Town to employ counsel to commence, prosecute and defend suits in the name of the Town. ~~(unless otherwise especially ordered by vote of the Town).~~ Said authority shall not extend to employing counsel to the School Committee.

5.6 The Select Board shall appoint a Town Manager, Town Counsel, independent auditor and any other boards, committees, and commissions according to Town Code, statute or any special act. The Select Board shall also appoint any other multi-member boards for who no other method of appointment is provided by Town Code, statute or special act. ...

#### §6. Town Clerk To Become Appointed Position

**Comment [CMM30]:** Chapter 58 and various sections of the Code will have to be revised once the legislation is approved.

**Comment [CMM31]:** Question: Should we include that the SB shall execute all contracts in the name of the Town unless otherwise delegated to the Town Manager?  
yes

**Comment [LA32]:** Section 2.2.f. includes a statement on contracts. Please insert your suggested language on contracts in this section also.

**Comment [LA33]:** This section needs to broadly state the responsibilities of the Select Board. Does this act add any? In current code Chp. 58, the BoS commences, prosecutes, and defends suits, supplies Town reports, serves warrant, declares states of emergency, and controls use of vehicles. Perhaps a rewrite of Chp. 58 at some future point.

**Comment [LA34]:** Is this from state law?

**Comment [CMM35]:** No, this language, or similar language, appears in several special acts: this can be deleted or revised as you deem appropriate.

**Comment [CMM36]:** From existing Code 58-1. Suggest deleting highlighted language.

**Comment [CMM37]:** Shall we list SB appointments similar to TM appointments above?

**Comment [LA38]:** BoS did not want to list all appointments. Please include catch-all type language. Cherry wonders if this section is needed.



6.1 Upon the effective date of this Act, the position of Town Clerk shall cease to be elected and shall become a position appointed by the Town Manager pursuant to Sections 2.3.b and 6 of this Act.

6.2 The incumbent in the office of Town Clerk shall continue to serve until the expiration of the term for which elected as Town Clerk, and at the expiration of that term, the Town Clerk shall be appointed by the Town Manager as provided in §2 of this Act. If the incumbent in the office of Town Clerk vacates said office prior to the expiration of the term for which the Town Clerk was elected, the office of Town Clerk shall cease to be an elected position and shall be appointed by the Town Manager as provided in §2 of this Act.

**§7. Conflict with Other Acts or Town Code.**

In the event that there is a conflict between any provision of this Act and any provision of the Town Code or other special act pertaining to the Town of Wayland, this Act shall prevail.

**§8. Time for Taking Effect. (new)**

This Act shall take effect upon its passage by the General Court, and approval of the legislature of the Commonwealth.

NOTE: May need to add provisions allowing for continuation of existing laws not inconsistent with this Act and/or repeal any existing laws inconsistent with this Act. If this act is approved, we will need to review provisions of Town Code for repeal, amendment, etc.

**Comment [CMM39]:** See Collins  
Center draft

6667581/WAYL0001

62.) TA Report  
3.) Verizon Cell Tower



Sarkis Sarkisian  
Wayland Town Planner

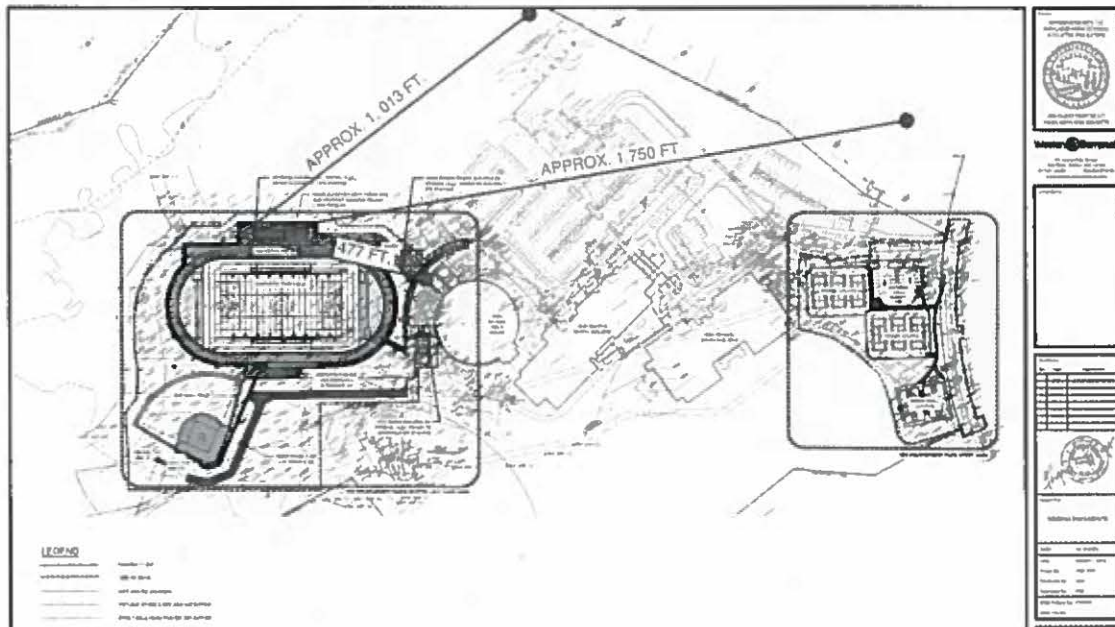
**TOWN OF WAYLAND**  
MASSACHUSETTS  
01778  
**PLANNING DEPARTMENT**

TOWN BUILDING  
41 COCHITUATE ROAD  
TELEPHONE: (508) 358-3778  
FAX: (508) 358-4036

**NOTICE OF BALLOON TEST**  
**Wayland High School Athletic Field**  
**Thursday, June 6, 2019 from 2:00 P.M. to 6:00P.M.**

The Wayland Town Planner has requested that Verizon Wireless hold a balloon test at the Wayland High School Athletic Complex, on Thursday afternoon, June 6, 2019 from 2:00 P.M to 6:00 P.M.

In order to fill a coverage gap, Verizon has an application before the Zoning Board of Appeals for a proposed 140' monopole located at the current Rod & Gun Club at 4 Meadowview Road, which has been continued pending investigation of other potential locations including the Wayland High School Athletic Complex. The purpose of this balloon test is to fly a balloon at the height of 140' at the Wayland High School Athletic Complex, to demonstrate the maximum height of the proposed monopole.



Please call Sarkis Sarkisian, Town Planner with any questions 508-358-3778

Gregory P. Watson  
Manager, Planning and Programs  
Massachusetts Housing Finance Agency  
One Beacon Street  
Boston, MA 02108

Re: Cost Examination for Wayland Meadows Development

Dear Greg:

First, I want to thank you for answering our preliminary questions by conference call on March 27, 2019, and for having allowed the Town an extension of time to submit further comments and questions regarding the Wayland Meadows development 40B cost examination.

As you know, we retained the services of Denise Cataldo, CPA, to help in our review. Based on her report dated May 28, 2019, which is attached to this letter, we have the following further questions:

1. Total "soft costs" are not to exceed 28% of the total residential construction costs. This project's soft costs are at 31%. Could you please provide clarification of this item or an explanation of the soft costs and the calculation.
2. The "construction manager" line item of \$1,685,000 appears to be some form of profit sharing that was paid to Brendan Homes. It was labeled "developer fee" in the supporting schedules, but then re-named "construction manager". Could you please provide an explanation for the relabeling of the "developer fee" to "construction manager." According to Denise Cataldo's report, the hard costs already included a \$1M general contractor fee (overhead, profit). This is in addition to the \$1,685,000 construction manager expense.

Sarkis Sarkisian, Wayland's Town Planner, and I will follow up with you shortly to confirm that all the costs included in the cost analysis report and cost supporting documentation is acceptable under Chapter 40B rules and regulations.

Thank your for time and consideration.

Sincerely yours,

Louise L.E. Miller

Cc: Board of Selectmen  
Sarkis Sarkisian, Town Planner

May 28, 2019

**DENISE CATALDO, CPA, P.C.**  
*Financial Solutions that Add Up*

Mr. Sarkis Sarkisian  
Town Planner  
Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778

Re: MassHousing Review of Cost Examination Report of Wayland Commons

Dear Mr. Sarkisian,

Per your request, I have reviewed the Review of Cost Examination Report submitted to the Town of Wayland by Massachusetts Housing Finance Agency with regards to the development of Wayland Commons by Wayland Meadows LLC.

Wayland Commons is an affordable housing project approved by the Town of Wayland under the Commonwealth of Massachusetts's affordable housing law, MGL Chapter 40B (the "Project")

My examination included:

1. Reading the Report of Mass Housing's Analysis of Cost Examination Dated March 6, 2019 which included the Independent Accountant's Report, DiCicco, Guiman & Company LLP, regarding the examination of the Schedule of Chapter 40B Maximum Allowable Profit from Sales and Total Chapter 40B Project Costs of Wayland Meadows LLC
2. Reviewing Brandon Homes Inc. general ledger detailing revenue and expenses of the Wayland Commons Project along with the trail balance and excel schedule reconciling 40B Cost Certification Report expenses to the trial balance.
3. Discussions with Ms. Jennifer Wierl of the Massachusetts Housing Authority.

The following are items that I questioned:

1. Although the 40B guidelines refer to the developer providing all the necessary information needed for the Developer CPA to perform an examination in accordance with AICPA attestation standards this does not appear to be the case. The Developer CPA had to rely on the general ledger that was provided by the project manager, Brandon Homes Inc. The developer of a project who bears the regulatory risks, legal risk and financial risk is the party that would normally track and prepare all the financial records. The project manager financial records typically only reflect their revenue earned on a project and any expenditures they incurred during the construction. In this case, Brandon Homes provided a general ledger that reflected not only the developer bank loan disbursement information which I have never seen shared with a project manager but all disbursements made relating to the project including payments made to the Wayland Meadows LLC as well as all the sales transactions. Not included in Brandon Homes Inc. general ledger was any interest paid on the construction loans by Wayland Meadows LLC. I discussed this with Ms. Wierl and she agreed that it was unusual for the general ledger not to come from the developer but

apparently Wayland Meadows LLC claimed they did not have any financial information or records. The reliance on invoice and records prepared by the general contractor and not the developer was not disclosed in the report provided to the Town of Wayland.

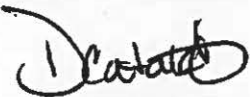
2. I requested a copy of the contract between the developer and project manager. Ms. Wierl informed me that MassHousing had requested a copy as well and was told that one did not exist. She explained that in related party transactions where the developer and project manager or construction company were related, it was not unusual not to have such a contract but it was unusual where the developer and construction company were not related as was the situation in this case. Due to the lack of such a contract, it is difficult to determine if the fees paid to Brendon Homes as project management fees are in compliance with any contract or with Chapter 40B cost certification rules.
3. My review of Schedule 1A, detailed trial balance breaking out hard costs and soft costs, shows that there were "Developer Fees" paid of \$1,685,000 as well as "Project Management Fees" paid of \$1,050,000. Both of these costs were listed as soft costs. Both of these items raised concerns.
  - a. Per the detailed general ledger, the Project Management Fees consisted of monthly payments of \$25,000 to Brendon Homes from March 2010 thru August 2013. This exact amount is not listed separately under soft costs in the CPA's report. Instead, \$1,685,000 is listed under "Construction Manager" even though this amount is listed as Developer Fees in Schedule 1A. Ms. Wierl explained that the \$1,060,000 was included in "hard costs" which is contrary to Schedule 1A. 40B requirements call for supporting documentation of expenses. With no contract to support these monthly fees, inquiries should be made as what supporting documentation was examined for this expense.
  - b. The general ledger detail showed that the \$1,685,000 of Developer Fees was paid to three different vendors, Kevin Giblin, Brendon Giblin as well as Brendon Homes, Inc. The total of the Developer fees is shown in the CPA's report under soft costs as Construction Manager expense which differs from the description given on Schedule 1A. The report states that "No developer's overhead or development consulting fees were charged to this project." It would appear that additional inquiries should be made to clarify how this expense differs from "development consulting fees" and what documentation was provided to support this \$1,685,000 expense.
  - c. The report provides in detail that the land value was based upon the accessed value as of January 1, 2003 as no proper valuation authorized by Mass Housing was performed. This is inconsistent with Chapter 40B rules which require an appraisal to determine the maximum land cost.

My review disclosed that the MassHousing and the independent accountant took several things into consideration when calculating profits. This resulted in profits being shown in their report that could be larger than the profit actually realized. In fact, Ms. Wierl informed me that the developer, Wayland Meadows, LLC stated that they had incurred a loss on the project. Some examples of steps taken to be conservative in their calculations were the following:

1. The date of the last home was September 11, 2013. The general ledger showed continuing expenditures being paid from the bank account as late as a year later, September 25, 2014. DiCicco, Gulman & Company LLP did not include \$88,488 of these expenditures made subsequent to the last sale and treated such expenditures as not being related to the project.
2. DiCicco, Gulman & Company LLP also excluded from expenditures an estimated \$646,965 of expenses based upon a sample of invoices which demonstrated that the invoices or supporting documentation could not be found
3. Loan interest paid by Wayland Meadows, LLC relating to the financing of this project is not reflected in the expenditures because it was not provided.

Although steps were taken by both MassHousing and the independent accountant to prepare conservative costs, I would recommend that the Town seek some additional information to confirm that all the costs included in the cost analysis report and cost supporting documentation is acceptable under Chapter 40B rules and guidelines for determining the profitability of this project.

Respectfully submitted,



Denise Cataldo, CPA, CFF, CFE



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

TEL: 617.854.1000 |  
FAX: 617.854.1091 | [www.masshousing.com](http://www.masshousing.com)

Videophone: 857.366.4157 or Relay: 711

March 6, 2019

Lea Anderson, Chair  
Board of Selectmen  
Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778

RECEIVED  
MAR 11 2019  
Board of Selectmen  
Town of Wayland

Dear Chair Anderson:

Enclosed please find MassHousing's draft report regarding the cost examination for the Wayland Commons development built pursuant to M.G.L. c. 40B ("Chapter 40B"). This report is based on our analysis of Wayland Meadows, LLC's cost examination (the "Cost Examination") dated March 1, 2019 and received by MassHousing on March 5, 2019 (a copy of which is enclosed). We have undertaken this analysis pursuant to our responsibilities as the Subsidizing Agency (defined under the provisions of 760 CMR 56.02) for certain Chapter 40B programs; specifically the New England Fund program. It is our responsibility to determine whether the Cost Examination complies with applicable accounting and reporting standards, as well as legal requirements and published guidelines for the preparation of these examinations.

Prior to MassHousing issuing a final report regarding the Cost Examination for Wayland Commons and releasing the developer's financial surety, we would like to offer you, as the Chief Elected Official of the Town of Wayland, an opportunity to comment on this draft report, identify any issues that you might have with the content, or raise any questions that you believe should be addressed. I would appreciate it if all comments could be sent to us by April 9, 2019 so that we may consider them prior to the issuance of our final cost examination report for this development. Comments should be sent to Jennifer Wierl, Auditor, Planning and Programs. Ms. Wierl can be reached at (617) 854-1136 or [jwierl@masshousing.com](mailto:jwierl@masshousing.com) should you have any questions.

Very truly yours,

Gregory P. Watson  
Manager, Planning and Programs

Enclosures

cc: Donald Levine, Wayland Meadows, LLC  
Jaclyn Reinhard, CPA, Diccico, Gulman & Company LLP  
Louise Miller, Wayland Town Administrator  
Jonathan M. Sachs, Chair, Wayland Zoning Board of Appeals  
Daniel C. Hill, Esq.  
Margaux LeClair, DHCD  
Carl Nagy-Koechlin, Housing Solutions for Southeastern Massachusetts

Charles D. Baker, Governor | Michael J. Derrane, Chairman | Chrystal Komegay, Executive Director  
Karyn E. Polito, Lt. Governor | Ping Yin Chai, Vice Chair



**Report on MassHousing's Analysis  
of the Cost Examination  
Dated March 1, 2019  
and  
Received by MassHousing on March 5, 2019**

**Submitted By  
Wayland Meadows, LLC**

**Wayland Commons  
a M.G.L. Chapter 40B Development  
Wayland, Massachusetts  
PE-297 / #80**

**Date of Report: March 6, 2019**



## Executive Summary

On March 5, 2019, MassHousing received an Independent Accountant's Report dated March 1, 2019 for the Wayland Commons housing development ("Wayland Commons" or the "Project") located in Wayland, Massachusetts (the "Town"). In said Independent Accountant's Report, Dicicco, Gulman & Company LLP (the "CPA") stated that they have examined the Schedule of Chapter 40B Maximum Allowable Profit from Sales and Total Chapter 40B Project Costs (the "Cost Examination") of Wayland Meadows, LLC (the "Developer"), and that in their opinion the Chapter 40B Maximum Allowable Profit from Sales and Total Chapter 40B Project Costs of the Developer for the period November 1, 2009 through September 11, 2013 have been prepared in accordance with guidelines prescribed by the Department of Housing and Community Development ("DHCD") and MassHousing. A draft version of the cost examination was received by MassHousing on January 11, 2019.

MassHousing, acting as the Subsidizing Agency (formerly, "Project Administrator") for this development, conducted an analysis of this Cost Examination to ensure that it was in compliance with applicable accounting standards, reporting standards, legal requirements and applicable Chapter 40B guidelines.

MassHousing has completed its analysis and has prepared this report (the "Report"). In the process, we have reached two conclusions:

1. The Cost Examination is consistent with existing guidelines and practices.
2. MassHousing believes that the Developer has not exceeded the maximum profit allowed to be earned on this development as indicated in the Regulatory Agreement.

The following schedule, more fully described in Appendix A, reflects the final profit calculation as adjusted for project sales and cost findings noted in this Report:

**Executive Summary (continued)**

<i>Description</i>	<i>Per Cost Examination</i>	<i>Proposed Adjustments</i>	<i>Ref.</i>	<i>Final Per MassHousing</i>
Total Project Sales/Revenue	\$ 23,334,156	\$ -		\$ 23,334,156
Project Costs:				
Site Acquisition	\$ 346,700	\$ -		\$ 346,700
Hard Costs	15,165,124	-		15,165,124
Soft Costs	4,078,738	-		4,078,738
Total Project Costs	\$ 19,590,562	\$ -		\$ 19,590,562
Computed Profit (Loss) from Sales/Revenue	\$ 3,743,594	\$ -		\$ 3,743,594
Profit (Loss) Percentage	19.11%			19.11%
Excess Profit Due to Municipality	\$ -			\$ -

MassHousing concludes that the Cost Examination is free of material mathematical errors, reflects project sales revenue from all units, reflects project costs that appear to be reasonable and/or consistent with existing policy, and the number of units in the Project do not exceed what was agreed to in the Regulatory Agreement. The Notes to Schedules appear to cover the full scope and time frame of the period of the Project in which the Developer was the owner.

Depending on the timing of a project, different projects will be governed by different sets of rules. The "Guidelines for Housing Programs in Which Funding is Provided Through a Non-Governmental Entity" (the "NEF Guidelines"), published in February 2003, were the guidelines in effect when this Project received its project eligibility letter from MassHousing. In February 2008, DHCD issued Chapter 40B regulations at 760 CMR 56.00 (most recently amended April 2012) and the associated guidelines (most recently revised in December 2014). These regulations and guidelines (the "Guidelines") were in effect at the time MassHousing issued its final approval letter.

MassHousing will apply the Guidelines when reviewing the Cost Examination for this Project, with the exception of land valuation. For land valuation, MassHousing will apply the NEF Guidelines.

## **I. Overview**

According to the Cost Examination, Wayland Meadows, LLC was formed for the purpose of acquiring, developing, constructing, and selling condominium units at Wayland Commons. The Project consists of 44 units of residential housing, including 11 units (25% of the total) for qualifying income eligible individuals and households in Wayland, Massachusetts.

On February 4, 2005, MassHousing issued a project eligibility letter evidencing fundability of the Project under both the "*Housing Starts*" and the "*New England Fund*" ("NEF") programs.

On March 30, 2005, Wayland Commons Development, Inc. (the "Prior Developer"), applied for a comprehensive permit from the Wayland Zoning Board of Appeals ("ZBA").

On January 27, 2007, the ZBA issued the Comprehensive Permit for the Project.

On December 30, 2008, MassHousing issued a final approval letter, pursuant to 760 CMR 56.04(7), under the NEF program.

MassHousing and the Prior Developer entered into a Regulatory Agreement dated October 7, 2008 and recorded on January 13, 2009 at the Middlesex (South) County Registry of Deeds in Book 52078, Page 1.

MassHousing and the Prior Developer entered into a Monitoring Services Agreement (with regard to the 20% profit limitation) dated October 7, 2008 and recorded as an exhibit to the Regulatory Agreement at said Deeds in Book 52078, Page 1 ("Monitoring Services Agreement").

MassHousing, Housing Solutions for Southeastern Massachusetts (the "Monitoring Agent") and the Prior Developer entered into a Monitoring Services Agreement (with regard to the affordable units), dated October 7, 2008 and recorded as an exhibit to the Regulatory Agreement at said Deeds in Book 52078, Page 1 ("Affordability Monitoring Services Agreement").

MassHousing, the Prior Developer and the Developer entered into an Assignment, Assumption and Release Agreement dated January 22, 2010. In said Agreement, the Developer assumed and agreed to pay and perform all of the Prior Developer's obligations under the Regulatory Agreement, the Affordability Monitoring Services Agreement and the Monitoring Services Agreement.

Pursuant to the Regulatory Agreement and the Monitoring Services Agreement, MassHousing has the responsibility to determine the Developer's compliance with the allowable profit limitation through approval of total development costs.

The Cost Examination states that the final unit in the Project was sold on September 11, 2013.

## **II. Procedures**

In connection with its responsibilities under the Regulatory Agreement and the Monitoring Services Agreement, MassHousing reviewed documentation and information related to Chapter 40B and specifically to the Project, including but not limited to the following:

- The Cost Examination, including Independent Accountant's Report and Notes to Schedules<sup>1</sup>.
- Developer's Certificate from Donald Levine on behalf of Wayland Meadows, LLC.
- General Contractor's Certificate dated February 21, 2019, from Brendon P. Giblin on behalf of Brendon Homes, Inc.
- "Housing Starts Process and Guidelines."
- The NEF Guidelines.
- MassHousing's Homeownership Cost Examination Guidance dated August 7, 2007 ("MassHousing Guidance").
- The Guidelines.

In order to verify the contents of the Cost Examination, MassHousing obtained the "Developer's Certificate," referenced above. This certification, executed under seal and under the pains and penalties of perjury, serves as an additional safeguard in verifying the data set forth in the Cost Examination.

---

<sup>1</sup> Throughout this report we use the term "Cost Examination" rather than "audit." For various technical reasons, a Chapter 40B cost examination report prepared by a CPA may not meet the requirements of the U.S. Auditing Standards established by the American Institute of Certified Public Accountants (AICPA). We note, however, that we require the CPA's report to be the result of an "attestation examination" and that under AICPA standards (i) the objective of an attestation examination parallels that of an audit, (ii) the required level of evidence which must be accumulated for an attestation examination parallels that of an audit, (iii) the professional requirements for performing an attestation examination parallel that of an audit, and, finally, (iv) an attestation examination is the equivalent of an audit in situations where the financial statements have been prepared based on a set of specific rules (here, the requirements of our detailed 40B Cost Certification Guidance) that do not constitute accounting principles generally accepted in the United States ("GAAP").

### III. Project Sales/Revenue

MassHousing reviewed documentation for all unit sales at Wayland Commons.

<u>Sales Revenue from all 44 units</u>	<u>Amount</u>
Affordable Unit Sales Per Cost Examination - 11 units	\$ 1,758,900
Market Rate Unit Sales Per Cost Examination - 33 units	21,575,256
Total Sales Revenue Per Cost Examination	<u>\$ 23,334,156</u>

#### A. Unit Sales – 44 units

Our analysis included reviewing the deeds at the Registry for all unit sales at Wayland Commons and comparing that data to the sales data reported in the Cost Examination. (HUD-1 Settlement Statements were not provided). The average unit sales price for an affordable unit was \$159,900 while the average unit sales price for a market rate unit was \$653,796. The reported sales revenue includes extras and upgrade revenue, interest income and seller credits.

There are certain restrictions imposed on the resale of any affordable unit under Chapter 40B. It is the responsibility of the Monitoring Agent to review and approve on MassHousing's behalf the subsequent sale of all affordable units.

#### B. Related Party Sales

According to the Developer's Certificate, signed under the pains and penalties of perjury, there were no sales made to a related party.

#### C. Rental Activity

According to the Developer, no units were rented prior to sale.

#### **IV. Project Costs**

##### **A. Land**

The Project consists of 18.1 acres of land located off Old Sudbury Road in Wayland, Massachusetts (the "Site").

The land value stated in the Cost Examination is \$346,700 and represents the Town of Wayland's assessed value of Parcel 023-052D, totaling 14.359 acres.

The Prior Developer acquired approximately 25.73 acres of land off Old Sudbury Road, which included the Site, for \$4,500,000, based on a Quitclaim Deed from Wayland Meadows Limited Partnership dated March 10, 2006 and recorded on March 22, 2006 at the Registry in Book 01317, Page 46.

On November 27, 2007, Mullin Appraisal Company, LLC prepared an "as is" appraisal of 23.62 acres of the land off Old Sudbury Road as of December 28, 2005, resulting in an "as is" value of the land, without the benefit of a comprehensive permit, of \$4,200,000.

Given that the above referenced appraisal was not commissioned by MassHousing and did not provide a value for the 18.1 acre site, the appraised land value of \$4,200,000 was not considered by MassHousing.

The MassHousing policy (provided with the site approval letter) for establishing land acquisition value in effect at the time was the lesser of:

- the "as is" appraised market value of the land and improvements as estimated by the MassHousing Home Ownership Division at the time of loan commitment, and subject to confirmation by a MassHousing commissioned independent appraisal prior to loan closing. Or
- the purchase price of the land and improvements in the last arm's length transaction, if any, within three years of the time of site approval, plus (i) reasonable and verifiable costs of property improvements made subsequent to the above acquisition and/or (ii) reasonable and verifiable carrying costs related to the land and improvements, such as interest, taxes and insurance.

The Developer elected to pursue NEF funding. Contrary to the above-referenced MassHousing policy, the 2003 NEF Guidelines in effect at that time maintain that the appraised land value is the appropriate method of valuing land in the Cost Examination. The NEF Guidelines specifically state in Section 17 that, "*For purposes of calculating total development costs and profit, an independent appraisal is required to determine the allowable acquisition cost. Allowable acquisition cost shall not be unreasonably greater than the current appraised fair market value under existing zoning without a comprehensive permit in place. Economic benefits of the comprehensive permit shall accrue to the development and shall not be used to substantiate an acquisition cost that is unreasonably greater than fair market value under existing zoning.*"

**A. Land (continued)**

In this case, an appropriate “as is” appraisal of the Site was not available.

As indicated in the Monitoring Services Agreement, the role of MassHousing is not to calculate the precise level of developer profit on every Chapter 40B development, but rather first to determine whether the Developer has exceeded the 20% profit limitation and then further, in cases where the limitation has been exceeded, to determine the exact amount of the excess profit.

Therefore, while assessed value is not a proper measurement of land value for a Chapter 40B development, it may be used in a situation such as this to answer the initial question of whether the profit limitation would have been exceeded under certain “worst case” scenarios in order to avoid the expense and administrative delay that would result from ordering a new, appropriate “as is” appraisal. Accordingly, we utilized the assessed value in this instance, solely for the limited purpose of determining the threshold question of whether any “excess profit” could have been earned by the Developer of this Project even under a scenario where the land value was artificially understated. The result of this “worst case” approach is presented below:

<b>Town of Wayland Fiscal Year 2004 Real Estate Assessed as of 1/1/2003:</b>		
<b>Parcel ID</b>	<b>Land Area (Acres)</b>	<b>Assessed value</b>
023-052D	14.359	\$ 346,700
023-052G	0.925	300,000
023-052H	0.760	290,100
023-052I	0.733	288,500
023-052J	1.673	345,000
023-052K	4.429	371,100
023-052L	1.181	315,400
023-052M	0.752	45,200
<b>Total</b>	<b>24.812</b>	<b>\$ 2,302,000</b>

MassHousing confirmed with the Town of Wayland Assessor’s Office that the assessed value of Parcel 023-052D for FY2005 (the timeframe in which the Prior Developer’s PEL application was received by MassHousing) was \$346,700. Assessor’s Map 23, Lot 52 from FY2005 was not available and therefore MassHousing was not able to determine which Parcel IDs from the table above make up the 18.1 acre site. As a “worst case” scenario, MassHousing used the assessed value of Parcel ID 023-052D to determine whether the 20% profit limitation would be exceeded.

Since the Project complied with the profit limitation requirement even with this “worst case” scenario for land value, MassHousing will not review in greater depth the question of whether a higher land value might have appropriately been attributed to the Project.

**B. Hard Costs**

**1. RS Means**

When analyzing the Cost Examinations of Chapter 40B developments, one issue which MassHousing focuses on is whether construction costs were inflated in an effort to increase developer return. For this reason, the Guidelines provide, for purposes of establishing a “safe harbor” regarding hard construction costs, RS Means data.

RS Means is recognized as an independent cost authority in the home construction business. The “RS Means Residential Cost Data” guides provide reasonably accurate cost information to help developers, contractors and others estimate costs for new construction when only a general description of size and amenities are available. For purposes of our review we used, for comparison purposes only, new home construction cost data from the RS Means Residential Cost Data 2014, 33<sup>rd</sup> Annual Edition (“RS Means”).

The Cost Examination results were compared to the RS Means 2014 Base Residential Cost per Square Foot, and the 96,976 total square footage of the Project was based upon information reported by the Developer. MassHousing estimates that the reported cost per square foot was \$134.52, which was approximately \$42.27 lower than the RS Means residential construction cost.

Since the Guidelines allow for up to 110% of the RS Means residential construction cost per square foot as a safe harbor, the calculation below shows the reported cost per square foot as \$18.15 lower than the safe harbor cost per square foot. See calculations below.

Total Residential Construction	\$	13,045,430
Square Footage		96,976
Cost per Square Foot	\$	134.52
<hr/>		
<i>Calculation</i>		
RS Means Residential Construction Cost	\$	138.79
Allowable Percentage Factor		110%
Allowable Cost per Square Foot		152.67
Actual Cost per Square Foot		134.52
Difference	\$	18.15

As a result of our analysis, we determined that the calculated construction costs per square foot as reported in the Cost Examination did not exceed the RS Means residential construction cost, and also did not exceed the 110% safe harbor cost which would be allowed under MassHousing Guidance and the Guidelines.



## **2. Builder's Profit, Builder's Overhead and General Requirements**

The Guidelines allow, for a related party general contractor, a builder's profit of 6% of construction costs, a builder's overhead of 2% of construction costs and general requirements of 6% of construction costs. It is acceptable for a particular line item to exceed the limit set forth above so long as the total of the three line items does not exceed 14%

According to the Developer's Certificate, signed under the pains and penalties of perjury, the Project did not utilize a related party general contractor. This section is therefore not applicable.

### **C. Soft Costs**

#### **1. Commissions/Advertising – Market Rate Units**

The brokerage commissions/advertising costs reported for market rate units in the Cost Examination were \$1,075,852 or 5% of total market rate sales.

According to the Developer's Certificate, signed under the pains and penalties of perjury, the Project did not utilize a related party brokerage firm in connection with the sale of the market rate units.

The limit imposed by the Guidelines for non-related-party broker commissions is 6% and must include advertising costs.

As a result of our analysis, we determined that the brokerage commissions/advertising costs charged to the Project did not exceed the allowable limits set forth in the Guidelines.

#### **2. Commissions/Marketing/Lottery Costs – Affordable Units**

The commissions/marketing/lottery costs reported for affordable units in the Cost Examination were \$28,000 or 1.6% of total affordable sales prices.

The Guidelines state that the maximum allowable commissions/marketing/lottery costs for affordable units should be the greater of \$20,000 or 3% of the sum of the actual affordable unit sales prices.

As a result of our analysis, we determined that the commissions/marketing/lottery costs charged to the Project did not exceed the allowable limits set forth in the Guidelines.

### **3. Developer's Overhead Costs**

For a 44-unit development, the Guidelines limit developer's overhead to \$128,000 (\$80,000 base for units 1 – 20 plus \$2,000 per unit 21 - 44) and must include fees paid to a development consultant for performing standard owner's tasks (as detailed in the Guidelines).

According to the Cost Examination, no developer's overhead or development consulting fees were charged to the Project.

#### **D. Other Related Party Transactions**

According to the Developer's Certificate, signed under the pains and penalties of perjury, there were no related party transactions for this Project.

DRAFT

MassHousing  
Review of Cost Examination Report  
Wayland Commons  
Wayland Meadows, LLC  
PE-297 / #80

**Appendix A**

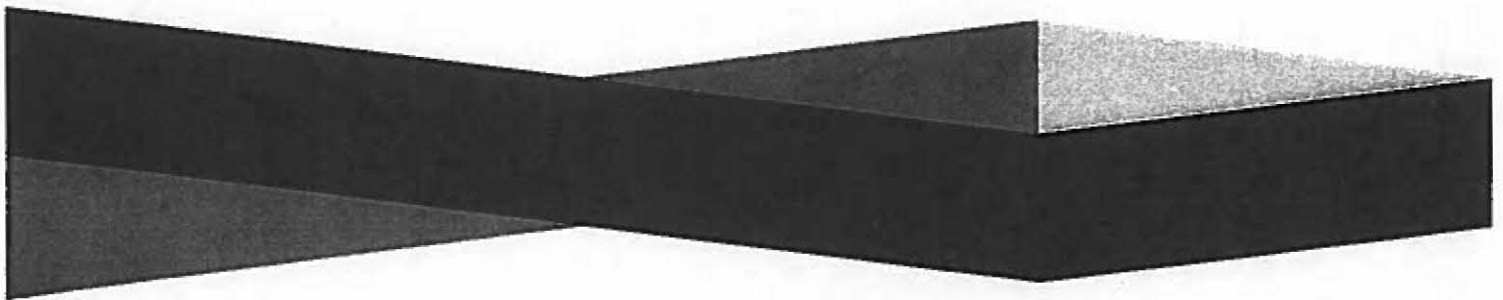
DRAFT

<u>Categories</u>	<u>Per Cost Examination</u>	<u>Adjustments</u>	<u>Adjusted Balance</u>
<b>Project Sales/Revenue</b>			
Market	\$ 21,575,256	\$ -	\$ 21,575,256
Affordable	1,758,900		1,758,900
<b>Total Project Sales/Revenue</b>	<u>\$ 23,334,156</u>	<u>\$ -</u>	<u>\$ 23,334,156</u>
<b>Project Costs</b>			
Site Acquisition - Land	\$ 346,700	\$ -	\$ 346,700
<b>Hard Costs</b>			
Residential construction	13,045,430		13,045,430
Site Preparation	1,603,812		1,603,812
Landscaping	515,882		515,882
<b>Total Hard Costs</b>	<u>15,165,124</u>	<u>-</u>	<u>15,165,124</u>
<b>Soft Costs</b>			
Architectural	236,550		236,550
Surveys and Permits	234,635		234,635
Engineering	114,091		114,091
Legal	171,268		171,268
Accounting	30,000		30,000
Construction Manager	1,685,000		1,685,000
Real estate taxes	47,402		47,402
Insurance	74,130		74,130
Closing Costs	125,598		125,598
Financing/Application Fees	79,844		79,844
Utilities	63,867		63,867
Town Fees	112,501		112,501
Lottery	28,000		28,000
Commissions/Advertising - Market	1,075,852		1,075,852
<b>Total Soft Costs</b>	<u>4,078,738</u>	<u>-</u>	<u>4,078,738</u>
<b>Total Project Costs</b>	<u>\$ 19,590,562</u>	<u>\$ -</u>	<u>\$ 19,590,562</u>
<b>Computed Profit (Loss) from Sales/Revenue</b>	<u>\$ 3,743,594</u>	<u>\$ -</u>	<u>\$ 3,743,594</u>
<b>Profit (Loss) Percentage</b>	<u>19.11%</u>		<u>19.11%</u>
<b>Maximum allowable (20% of total project costs)</b>	<u>\$ 3,918,112</u>		<u>\$ 3,918,112</u>
<b>Excess Profit Due to Municipality</b>	<u>\$ -</u>		<u>\$ -</u>

**WAYLAND MEADOWS, LLC**

**SCHEDULE OF CHAPTER 40B MAXIMUM ALLOWABLE PROFIT FROM SALES  
AND SCHEDULE OF TOTAL CHAPTER 40B COSTS  
TOGETHER WITH INDEPENDENT ACCOUNTANT'S REPORT**

**SEPTEMBER 11, 2013  
(DATE OF THE FINAL SALE)**



**DGC**  
ACCOUNTING • TAX • ADVISORY

**WAYLAND MEADOWS, LLC**

**SCHEDULE OF CHAPTER 40B MAXIMUM ALLOWABLE PROFIT FROM SALES  
AND SCHEDULE OF TOTAL CHAPTER 40B COSTS**

**SEPTEMBER 11, 2013  
(DATE OF THE FINAL SALE)**

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Schedule of Total Chapter 40B Costs	3
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Independent Accountant's Report

To the Members of  
Wayland Meadows, LLC

We have examined the accompanying Schedule of Chapter 40B Maximum Allowable Profit from Sales and Schedule of Total Chapter 40B Costs of Wayland Meadows, LLC (the "Company") for the period November 1, 2009 through September 11, 2013 (date of the final sale) and the notes to the schedules (the "Schedules"), to determine whether the Schedules have been prepared in accordance with the accounting practices prescribed by the requirements of the Massachusetts Housing Finance Agency ("MassHousing"), MGL Chapter 40B, and the Regulations at 760 CMR 56.00, et seq., and the associated guidelines issued by the Department of Housing and Community Development (collectively, the "Guidance"), as further described in Note 2. The Company's management is responsible for the Schedules. Our responsibility is to express an opinion on the Schedules based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Schedules are prepared in accordance with the Guidance, in all material respects. An examination involves performing procedures to obtain evidence about the Schedules. The nature, timing, and extent of the procedures selected depends on our judgement, including an assessment of the risks of material misstatement of the Schedules, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

As discussed in Note 2 to the Schedules, the purpose of these Schedules is to facilitate the review and determination of the Company's maximum allowable profit from sales. An appraisal commissioned by MassHousing in accordance with MassHousing's Acquisition Value Policy is unavailable. Therefore, an alternative approach was used to determine the fair market value of the 18.1-acre site, excluding any value relating to the possible issuance of a comprehensive permit. Our opinion is not modified with respect to this matter.

In our opinion, the Schedules for the period November 1, 2009 through September 11, 2013 have been prepared in accordance with the Guidance, as further described in Note 2, in all material respects.

This report is intended solely for the information and use of the Members of the Company, MassHousing, and the Town of Wayland, and is not intended to be and should not be used by anyone other than these specified parties.

*Di Cicco, Gulman & Company LLP*

March 1, 2019  
Boston, Massachusetts

**WAYLAND MEADOWS, LLC**

**SCHEDULE OF CHAPTER 40B MAXIMUM ALLOWABLE PROFIT FROM SALES**

**SEPTEMBER 11, 2013  
(DATE OF THE FINAL SALE)**

The Schedules cover the period from November 1, 2009 to September 11, 2013.

Affordable Unit Fraction      25%

**SALES REVENUE**

	<u>Total Number of Units</u>	<u>Total Dollars</u>
Market Unit Sales	<u>33</u>	\$ <u>21,575,256</u>
*Market Unit Sales to Related Parties	<u>-</u>	<u>-</u>
Affordable Unit Sales	<u>11</u>	<u>1,758,900</u>
Total Sales Revenue		\$ <u>23,334,156</u>
Total Project Costs (taken from Schedule of Total Chapter 40B Costs)		\$ <u>19,590,562</u>
Computed Profit from Sales		\$ <u>3,743,594</u>
Maximum Allowable Profit - 20% of Total Project Costs		\$ <u>3,918,112</u>
Excess Profit		\$ <u>(174,518)</u>
Percent Profit		<u>19%</u>

\*Market Unit Sales to Related Parties – use the higher of X or Y:

<u>Unit #</u>	<u>Buyer</u>	<u>Actual Sales Price (X)</u>	<u>Average Sale Price of Highest 3 Arm's Length Sales of Comparable Units (Y)</u>
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -

*The accompanying notes are an integral part of the Schedules.*



**WAYLAND MEADOWS, LLC**

**SCHEDULE OF TOTAL CHAPTER 40B COSTS**

**SEPTEMBER 11, 2013  
(DATE OF THE FINAL SALE)**

<u>DEVELOPMENT ITEM</u>	<u>TOTAL COST</u>	<u>PER UNIT COST</u>
SITE ACQUISITION	\$ 346,700	\$ 7,880
<b>HARD COSTS</b>		
Site Development Costs		
Roads (including utilities in roads)	172,990	3,932
On-site Septic System	494,972	11,249
On-site Water System	93,120	2,116
Rough Grading/Site Prep.	842,730	19,153
Landscaping	515,882	11,725
Residential Construction	13,045,430	296,487
<b>TOTAL HARD COSTS</b>	<b>15,165,124</b>	<b>344,662</b>
<b>SOFT COSTS</b>		
Permits/Surveys	234,635	5,333
Architectural	236,550	5,376
Engineering	114,091	2,593
Legal	171,268	3,892
Insurance	74,130	1,685
Construction Manager	1,685,000	38,295
Property Taxes	47,402	1,077
Application/Financing Fees	79,844	1,815
Utilities	63,867	1,452
Accounting	30,000	682
Closing Costs	125,598	2,855
Lottery	28,000	636
Commissions/Advertising-Market	1,075,852	24,451
Town Fees	112,501	2,557
<b>TOTAL SOFT COSTS</b>	<b>4,078,738</b>	<b>92,699</b>
<b>TOTAL DEVELOPMENT COSTS</b>	<b>\$ 19,590,562</b>	<b>\$ 445,241</b>

*The accompanying notes are an integral part of the Schedules.*

# WAYLAND MEADOWS, LLC

## NOTES TO SCHEDULES

### **Note 1 - Organization and Nature of Operations**

Wayland Meadows, LLC (the "Company") was formed as a limited liability company under the laws of the State of Delaware for the purpose of acquiring, developing, constructing, and selling a condominium housing community located on an 18.1-acre site in Wayland, Massachusetts known as Wayland Commons (the "Project"). The Project consists of 44 units of residential housing, including 11 units for qualifying low-income families.

The accompanying Schedules include activity for the period November 1, 2009, a date that is not earlier than 24 months prior to the application for site approval, through September 11, 2013, the date of the final unit sale. The initial site approval was issued in February 2005.

### **Note 2 - Basis of Presentation and Summary of Significant Accounting Policies**

#### **Basis of Presentation**

The accompanying Schedules have been prepared utilizing the format prescribed by the Massachusetts Housing Finance Agency ("MassHousing"), as Subsidizing Agency for the Department of Housing and Community Development ("DHCD"). The Schedules were prepared in conformity with the accounting practices prescribed by the requirements of the MassHousing, MGL Chapter 40B, and the Regulations at 760 CMR 56.00, et seq., and the associated guidelines issued by the DHCD (collectively, the "Guidance").

The purpose of these Schedules is to facilitate the review and determination of the Project's maximum allowable profit from sales. Total project costs reported of \$19,590,562, excluding the site acquisition of \$346,700, are not considered representative of the total costs incurred to build the Project. Due to the amount of time that has passed since completion of the Project there is a lack of readily available supporting documentation, and therefore the Schedules reflect project costs available to be examined for the purpose of demonstrating compliance with the maximum allowable profit from sales limitation. Actual total project costs could be more than what is reported in the Schedules.

#### **Basis of Accounting**

The accompanying Schedules have been prepared on the accrual basis of accounting. Development costs have been designated between acquisition, construction and other qualifying uses in accordance with the Guidance.

#### **Use of Estimates**

The preparation of the Schedules in conformity with the Guidance requires management to make estimates and assumptions that affect the reported amounts at the date of the Schedules. Actual results could differ from those estimates.

## WAYLAND MEADOWS, LLC

### NOTES TO SCHEDULES

#### **Note 2 - Basis of Presentation and Summary of Significant Accounting Policies (Continued)**

##### **Site Acquisition**

The site acquisition cost of \$346,700 is based on the Town of Wayland's 2003 assessed value of Parcel 023-052D, totaling 14.359 acres. Due to the fact that an as-is value from an appraisal commissioned by MassHousing in accordance with MassHousing's Acquisition Value Policy is unavailable, this valuation methodology is an alternative measurement used for the purpose of demonstrating compliance with the maximum allowable profit from sales limitation. The fair market value of the 18.1-acre site, excluding any value relating to the possible issuance of a comprehensive permit, could be more than what is reported as site acquisition in the Schedules.

#### **Note 3 - Subsequent Events**

The Company has evaluated subsequent events through March 1, 2019, the date that the Schedules were approved and authorized for issuance by management, and determined that there have been no subsequent events that would require recognition in, or disclosure in the notes to, the Schedules.

13.) Draft minutes  
of May 13, 2019  
BoS



LOUISE L. E. MILLER  
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  
THOMAS J. FAY  
CHERRY C. KARLSON  
DOUGLAS A. LEVINE

### DRAFT

Board of Selectmen

Meeting Minutes

May 13, 2019

7:00 p.m.

Wayland Town Building

Selectmen's Meeting Room

41 Cochituate Road, Wayland

**Attendance:** Lea T. Anderson, Mary M. Antes, Thomas J. Fay, Cherry C. Karlson, Douglas A. Levine (arrived 7:04 p.m.)

**Also Present:** Town Administrator Louise Miller, Assistant Town Administrator Elizabeth Doucette

**A1. Call to Order by Chair** C. Karlson called the meeting of the Board of Selectmen to order at 7:00 p.m. in the Selectmen's Meeting 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. Announcements and Public Comment** There are two more days to respond to the COA questionnaire. The Conservation Department is looking for volunteers to remove invasive species on the third Saturday of every month beginning this Saturday through November. The Annual Memorial Day Parade and Ceremonies will take place on Monday, May 27 at the Middle School starting at 10:30 am.

Sally Cartwright, Commonwealth Road East, asked the Board to keep the Wayland Free Public Library free from political influence.

Carole Plumb, Bald Rock Rd., expressed the need for a long-term plan and vision for the future. She also asked about Chapter 193 related to Conservation, the process of the decision making, and if it will be an agenda item in the future with an opportunity for public input.

Aida Gennis, Wayland Hills Rd., Board of Library Trustees Chair, discussed the process for the Library's certification and noted the Library will be creating a long-range 5-year plan. A community visioning session will be held on May 30 at the Library 7 pm.-9 pm.

Alice Boelter, Lake Shore Dr., expressed her concern about overspending the budget of the Loker turf field design contract. She asked article sponsors to respect the obligation to obey the Conservation Commission's rulings and asked the Board of Selectmen to show leadership.

**A3. Town Manager Special Act: Review latest draft, discuss communication plan, discuss timetable**

L. Anderson reviewed the process to date and reminded the Board that the revised draft of the Town Manager Special Act is based on Chapter 60, the Town Administrator Special Act of 2004. Tonight's goal is to review the changes made by Town Counsel based on Board input at the April 16 meeting, to make decisions on outstanding issues, and to be ready to hold forums with boards and committees and the public in the near future.

L. Anderson went over the revised draft section by section. The Board discussed Section 2.2 (Financial Authority and Responsibilities) related to the Town Manager's proposed role in preparing the Town's annual operating and capital budgets.

The Board discussed Section 2.3 (Personnel Authority and Responsibilities) at length. T. Fay suggested inserting the Library along with the School Department as exceptions in Section 2.3 (a) and proposed that the Town Manager be involved in the evaluation. C. Karlson said the Library union contract states the Town Administrator is involved in hiring library union employees, but she noted it does not include the Library Director, which is a non-union position. L. Anderson stated she believes the Library and the Schools have to be protected from political influence. An in-depth discussion ensued about Section 2.3 (a) regarding hiring and evaluation practices. D. Levine suggested having a separate section for the Library from the Schools. The Board agreed to reorganize Section 2.3 to address appointment of department heads separately from appointment of subordinate employees, and to address evaluations, discipline, and removal for cause.

T. Fay suggested that Section 2.3 (d), relative to reorganizing and consolidating town functions, add language to express the need to streamline services. The Board agreed to add the Library to the School Department exception and to work on the language. A discussion ensued regarding how the Town interacts with the Library through management. The Board pointed out other revisions to give to Town Counsel and planned to review a final version by June 3, 2019. It was suggested that the Board hold a session with boards and committees and another session with the public to present and gather feedback on an updated version of the Town Manager Special Act. L. Anderson stated the goal is to have an article ready for Special Town Meeting in the fall.

**A4. Review and discuss updated Board liaison assignments: discuss and assign** C. Karlson presented an updated liaison assignment draft document and noted some changes she made after the last meeting. The Board agreed with the assignments, and she will reissue the liaison assignments to the Board.

**A5. Vote to authorize the Treasurer to issue an interim loan note (or notes) in an aggregate principal amount not to exceed \$700,000 (The complete set of documents is in the packet.)** L. Miller discussed the request of authorization of Clean Water Trust interim loan notes. Tonight's vote is Part 1 for the Rte. 20 project for \$700,000.

D. Levine moved, seconded by M. Antes, that the Board of Selectmen vote to adopt the six sections referenced on pages 13 and 14 in the packet dated May 13, 2019 referencing the issuance of bonds.

(1) That the Town shall issue a bond or bonds in an aggregate principal amount not to exceed \$950,000 (the "Bonds") pursuant to Chapters 29C and 44 of the General Laws and a vote of the Town passed April 2, 2018 (Article 9, Motion 2, Item 22), which authorized a total borrowing of \$950,000, for the drinking water project identified in such vote (the "Project"); (2) that in anticipation of the issuance of the Bonds the Treasurer is authorized to issue an interim loan note or notes (the "Notes") from time to time in an aggregate principal amount not to exceed \$700,000; (3) that each Bond or Note shall be issued as a single registered security, and sold to the Massachusetts Clean Water Trust (the "Trust") at a price determined pursuant to the Financing Agreement; (4) that the Treasurer is authorized to determine the date, the form, the maximum interest rate and the principal maturities of each Bond and Note, and to execute a Financing Agreement (or Agreements) with the Trust with respect to the sale of the Bonds and Notes, such date, form and maturities and the specific interest rate or rates of the Bonds and Notes to be approved by a majority of the Board of Selectmen and the Treasurer and evidenced by their execution of the Bonds or Notes; (5) that all action taken to date by the Town and its officers and agents to carry out the Project and its financing, including the execution of any loan commitment or agreement by the Treasurer, are hereby ratified, approved and confirmed; and (6) that the Treasurer and the other appropriate Town officials are each hereby authorized to take any and all actions necessary or convenient to carry out the provisions of this vote, including execution and delivery of the Financing Agreement(s) and the Project Regulatory Agreement(s) relating to the Project. YEA: L. Anderson, M. Antes, C. Karlson, D. Levine, T. Fay. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

**A6. Review and vote to approve Board of Selectmen regular session minutes of April 22, 2019.**

L. Anderson moved, seconded by D. Levine, that the Board of Selectmen approve the regular session minutes of April 22, 2019, as amended. YEA: L. Anderson, M. Antes, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: T. Fay. Adopted 4-0-1.

**A7. 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 and signing invoice from Valerio, Dominello & Hillman, LLC, dated May 3, 2019, for legal services rendered through April 30, 2019, in the amount of \$308.65.

3. **Vote the question of approving and signing invoice from Betty Waxman, Esq., Arbitrator for Case AAA No. 01-18-0001-1636, Town of Wayland to pay \$7,000. (revision of request from May 6, 2019 Consent Calendar)**

M. Antes moved, seconded by L. Anderson, to approve the Consent Calendar, as amended. YEA: L. Anderson, M. Antes, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

**A8. Correspondence Review** No correspondence was provided this week due to staff vacations. The next meeting packet will include any correspondence from this time period.

**A9. Town Administrator's Report**

1. **Council on Aging/ Community Center options with respect to the Town's agreement with Twenty Wayland, LLC, relative to property and development located off 400-440 Boston Post Road** L. Miller reviewed the status of the Municipal Parcel and other adjacent parcels owned by Twenty Wayland. She had a meeting with department heads to see what the consequences for the COA/CC project might be of not controlling the three parcels surrounding the Municipal Parcel. Access to the building, public safety, and parking were some of their concerns. L. Miller discussed the acquisitions options available. L. Miller reported that Frank Dougherty, Twenty Wayland, has no interest in leasing the three surrounding parcels to the Town. L. Miller suggested discussing the conservation parcels in combination with the parcels needed for the COA/CC. The Board discussed negotiating with Twenty Wayland, taking the property by eminent domain, the potential financial risks, and what option would be more timely. T. Fay stated he will be the liaison for the Board and be a fresh face for talks with Twenty Wayland LLC.
2. **River's Edge Update** L. Miller is meeting tomorrow to review the due diligence status related to soils with Wood Partners. L. Miller said she will have a better estimate of the timetable and costs next week.
3. **Potential Cell Tower at High School** L. Miller stated that the School Committee is very interested in the idea of a cell tower at the high school, and it would be placed where the tennis courts are located. Currently they are scheduling a balloon test.

**A10. Selectmen's reports and concerns** M. Antes said she is hoping to schedule the fall's Citizen's Academy but first will need to know the date of Special Town Meeting. She also said the Housing Trust and Wayland Housing Authority are near an agreement on an affordable house that the Trust purchased and it will come before the Board soon. She also requested a discussion by Recreation about the overall plan for the fields so everyone can see the bigger picture. C. Karlson said she will put a meeting schedule together soon. The date set for Special Town Meeting is the week of November 11, 2019. A specific date will be determined later. There's a memo from Richard Turner, Chairman of the Public Ceremonies Committee, inviting a selectman to give welcoming remarks at the ceremony on May 27, 2019. D. Levine volunteered to do it again this year. C. Karlson said she would like a larger discussion on Loker and the budget process in the near future. She received a request for a proclamation for Race Amity Day, which is June 9 this year.

**A11. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any:**  
None.

**A13. Enter into Executive Session: Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to collective bargaining pursuant to the Public Employee Committee (PEC) agreement.** At 9:11 p.m., C. Karlson moved, seconded by D. Levine, that the Board of Selectmen enter into Executive Session Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to collective bargaining pursuant to the Public Employee Committee (PEC) agreement.

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, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0. The Chair invites attendance by Louise Miller, Town Administrator; Elizabeth Doucette, Assistant Town Administrator; Ken Lombardi, Consultant for PEC negotiations with NFP Corporation; and Donna Lemoyne, Benefits Manager. The Board will reconvene in approximately 10 minutes for the purpose of adjourning.

**A14. Adjourn** L. Anderson moved, seconded by D. Levine, to adjourn the meeting at 9:25 p.m. YEA: L. Anderson, M. Antes, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

**Items Distributed for Information and Use by the Board of Selectmen at the Meeting of May 13, 2019.**

1. Board of Selectmen Liaison Assignments for April 2018 through April 2019
2. Correspondence from Louise Miller, Town Administrator, to Board of Selectmen, dated May 13, 2019, re: Options with Respect to Town's Agreement with Twenty Wayland, LLC relative to Property and Development Located Off 400-440 Boston Post Road
3. Correspondence from Louise Miller, Town Administrator and Cherry Karlson, Selectman, to Jerry Cellucci, Senior Director, Corporate Real Estate, Raytheon Company, dated November 7, 2018, re: Town of Wayland's plans to redevelop an area of the former Raytheon Company property
4. Correspondence from Richard Turner, Chairman, Public Ceremonies Committee, to Lea Anderson, Chair, Board of Selectmen, dated May 3, 2019, re: invitation for Board of Selectmen to attend Wayland's Memorial Day Parade and ceremonies on May 27, 2019
5. Schedule of Memorial Day 2019 Events

**Items Included as Part of Agenda Packet for Discussion During the May 13, 2019 Board of Selectmen's Meeting**

1. Draft of the Town Manager Act, dated May 8, 2019
2. Draft Board of Selectmen Liaison Assignments for May 2019 through April 2020
3. Vote of the Board of Selectmen, dated May 13, 2019, authorizing the Treasurer to issue interim note(s) in an aggregate principal amount not to exceed \$700,000
4. Financing Agreement between the Town of Wayland and the Massachusetts Clean Water Trust, dated August 1, 2018
5. Terms and Conditions to the Massachusetts Clean Water Trust Financing Agreement
6. Project Regulatory Agreement, dated August 1, 2018, between the Department of Environmental Protection and the Town of Wayland
7. Draft minutes of the Board of Selectmen meeting of April 22, 2019

**Correspondence**

There was no correspondence provided this week.

13.) Draft minutes  
of May 29, 2019  
Bas



# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

LOUISE L. E. MILLER  
TOWN ADMINISTRATOR  
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BOARD OF SELECTMEN  
LEA T. ANDERSON  
MARY M. ANTES  
THOMAS J. FAY  
CHERRY C. KARLSON  
DOUGLAS A. LEVINE

## **DRAFT**

### **Board of Selectmen**

### **Meeting Minutes**

**May 29, 2019**

**8:30 a.m.**

**Wayland Town Building**

**Selectmen's Meeting Room**

**41 Cochituate Road, Wayland**

**Attendance:** Lea T. Anderson, Mary M. Antes, Thomas J. Fay, Cherry C. Karlson, Douglas A. Levine

**Also Present:** Louise Miller, Town Administrator; Rebecca Stanizzi, River's Edge Advisory Committee; Sarkis Sarkisian, Town Planner (arrived 8:54 a.m.)

**A1. Call to Order by Chair and Public Comment** C. Karlson called the meeting of the Board of Selectmen to order at 8:30 a.m. in the Selectmen's Meeting Room in the Wayland Town Building when a quorum was present, noted that the meeting was not being broadcast or videotaped for later broadcast by WayCAM, and reviewed the agenda for the public. There was no public comment.

**A2. River's Edge: Discuss and vote on 10<sup>th</sup> Amendment to Land Disposition Agreement** C. Karlson noted that she had been in touch with R. Stanizzi, chair of the River's Edge Advisory Committee, on the proposed 10<sup>th</sup> Amendment to the Land Disposition Agreement (LDA). L. Miller reviewed the issues documented in the amendment. Wood Partners plans on submitting an application to the Planning Board for its meeting on July 8, 2019. Wood Partners' attorneys raised a question regarding which board, Planning Board or Zoning Board of Appeals, maintains jurisdiction on site plan approval if variances are required. The overlay district was set up with the understanding that the Planning Board has jurisdiction. C. Karlson asked if Town Counsel, KP Law, or Special Counsel, Anderson Kreiger, should make the determination. The Board agreed to first ask KP Law, which handles zoning issues for the Town, to opine on jurisdiction, with the understanding that Anderson Krieger can be consulted if necessary.

L. Miller reviewed the buyer's three proposed variances from the overlay zoning:

1. Not more than six feet of a parking level may be exposed. Buyer's current design does not conform to the overlay language and may require a variance.
2. No building shall exceed 150,000 square feet of gross floor area. Buyer proposed combining two buildings, separated by a firewall, which is technically two buildings by building code. This may require a variance from the overlay zoning.
3. Maximum lot coverage of 20% is not directly addressed by the River's Edge Housing Overlay District. Buyer's current design exceeds 20% lot coverage and it is not clear which underlying zoning (municipal or residential) will apply.

The Board discussed possible reasons for the variance proposals. R. Stanizzi expressed concern that the buyer is taking too much soil away instead of backfilling the parking area to cover the exposed parking area, thereby adding cost. The reason for connecting the buildings may be to save money on elevators, which may not a good reason to change the design from the Town's perspective. The original conceptual design, which is part of the LDA, shows three separate buildings allowing views to the trees behind the buildings. R.



Stanizzi asked that these two major site changes go before the Planning Board. L. Miller informed the Board that Town Engineer, Paul Brinkman, said that the garage could not be built without a variance.

S. Sarkisian joined the meeting at 8:54 a.m. The Board discussed the original intention to have three separate buildings. T. Fay suggested that what the Board does today is in no way an endorsement of the new design. S. Sarkisian suggested not worrying about the garage, because it could be landscaped. He said that the Planning Board knew that there would be greater coverage than 20% and was silent on coverage in the overlay district language. S. Sarkisian reminded the Board that this project could also be done by Local Initiative Project (friendly 40B) and could avoid other approvals. C. Karlson referred to the LDA of June 2017 regarding site plan approval and noted that Replacement Exhibit I to Contract (approvals timeline) had minor changes to two items.

The Board considered Exhibit B (summary table) that compares cost estimates from the RFP Proposal of 7/6/16 to estimates of 5/20/19. L. Miller reported that the Town has hired its own consultant, Beta, to confirm the costs. R. Stanizzi noted that the Town did not offer a structural guarantee of the soil, only an environmental guarantee. The added cost of taking away so much soil and doing geo piles does not seem reasonable. She said that either one or the other should be done, but not both. L. Miller noted that Paul Brinkman will follow up on this and other issues with Wood Partners.

The Board agreed to make three changes to the 10<sup>th</sup> Amendment: Section C. add the words "special permits" on line 3; Section D. change "will" to "may" on line 2; Exhibit A, number 2, change "Zoning Board of Appeals" to "Town".

M. Antes moved, seconded by T. Fay, to approve the 10<sup>th</sup> Amendment to the Land Disposition Agreement as amended, and to authorize Louise Miller to sign the document. YEA: L. Anderson, M. Antes, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

**A3. Adjourn** D. Levine moved, seconded by L. Anderson, to adjourn the meeting at 9:28 a.m. YEA: L. Anderson, M. Antes, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

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

1. 10<sup>th</sup> Amendment to the River's Edge Land Disposition Agreement - Exhibit B – Summary Table
2. Land Disposition Agreement for the Sale and Redevelopment of Land Between Town of Wayland and WP East Acquisitions, L.L.C.  
<https://www.wayland.ma.us/sites/waylandma/files/uploads/riverlda.pdf>

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

1. Tenth Amendment to Land Disposition Agreement for River's Edge (clean copy)
2. Tenth Amendment to Land Disposition Agreement for River's Edge (track changes)



## OPEN MEETING LAW COMPLAINT FORM

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

16.) OML  
complaint  
5/29/19

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: 5/6/19 & 5/13/19

**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.

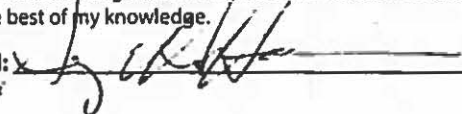
**II. Consulting With a Private Attorney.**

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](mailto: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: May 29, 2019

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 ("Board") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25, with regard to executive sessions held on May 6 and 13, 2019.

#### 1. May 6, 2019 Executive Session Meeting Notice and Announcement Lacked Sufficient Topic Specificity<sup>1</sup>

The meeting notice and the chair's announcement for the Board's executive session I held on May 6, 2019 stated:

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,

See Exhibit 1 (topic 13) (emphasis in original) attached hereto and Exhibit 2, also attached hereto (minutes topic A13).

The words "all bargaining units pursuant to the Public Employee Committee (PEC) agreement" contained in both the meeting notice and announcement by Chair Cherry Karlson do not explicitly identify the bargaining units. It is unreasonable to expect that the public would be sufficiently familiar with the PEC agreement to know the names of the specific bargaining units.<sup>2</sup> The "Open Meeting Law Guide" and numerous Division determinations make clear that the public must be informed of the specific bargaining units with which the Board is negotiating. In effect, then, members of the public must consult the PEC agreement to explicate the meaning of "all bargaining units."

In OML 2019-22, the Attorney General has advised "[i]t will no longer be acceptable for a meeting notice to refer members of the public to another location to find the required information; it must be included on or with the notice itself." Here, the public must consult the PEC agreement to learn the identity of "all bargaining units." To make matters worse, the public is not informed where it may find the PEC agreement. Consequently, the Board violated the Open Meeting Law by not identifying the names of the bargaining units with which it is negotiating.

---

<sup>1</sup> The matter raised in this complaint was also raised in previous complaints dated November 13, 2018; January 4, 2019; February 1, 2019; and March 4, 2019.

<sup>2</sup> To the best of my knowledge, the Board has rarely, if at all, discussed the PEC agreement as such in the past six months. It is fair to say that the public is not familiar with the PEC agreement or the unions participating therein.

Further, I question whether the discussion, if made public, might have a detrimental effect on the Board's bargaining position.

2. May 13, 2019 Executive Session Meeting Notice and Announcement Lacked Sufficient Topic Specificity

The meeting notice and the chair's announcement for the Board's executive session I held on May 13, 2019 stated:

Enter into Executive Session I. Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to collective bargaining pursuant to the Public Employee Committee (PEC) agreement

See Exhibit 3 (topic 12) (emphasis in original) attached hereto and the video recording available at [www.waycam.tv/government-on-demand](http://www.waycam.tv/government-on-demand), select Board of Selectmen + May 13, 2019, at elapsed time 2:10:37.

The notice and chair's announcement lacked sufficient topic specificity for all the reasons given above for the May 6, 2019 executive session, namely, that the statements failed to identify the specific bargaining units with which the Board is negotiating. However, in addition to the above, both statements omitted the words "with all bargaining units." I pointed out this same omission in my March 4, 2019 complaint, which the Board appears to have ignored or overlooked. In any event, once again the public has not been informed of the specific bargaining units, in violation of the Open Meeting Law.

Further, I question whether the discussion, if made public, might have a detrimental effect on the Board's bargaining position.

ACTIONS REQUESTED

1. The Board shall admit in open session the alleged violations of the Open Meeting Law.
2. The Board shall in the future ensure that it complies with the Open Meeting Law in giving proper notice to the public with regard to executive sessions.
3. The Attorney General should order the Board forthwith to release the subject executive session minutes because the executive sessions were not held in compliance with G.L. c. 30A, § 21(b)(3) in that all subjects were not revealed without compromising the purpose for which the executive sessions were called. See G.L. c. 30A, § 22(f).



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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



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WAYLAND, MASSACHUSETTS 01778

### BOARD OF SELECTMEN

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

**Board of Selectmen  
Meeting Minutes  
May 6, 2019  
7:00 p.m.  
Wayland Town Building  
Selectmen's Meeting Room  
41 Cochituate Road, Wayland**

**Attendance:** Lea T. Anderson, Mary M. Antes, Thomas J. Fay, Cherry C. Karlson, Douglas A. Levine

**Also Present:** Town Administrator Louise Miller, Assistant Town Administrator Elizabeth Doucette

**A1. Call to Order by Chair L. Anderson** called the meeting of the Board of Selectmen to order at 7:00 p.m. in the Selectmen's Meeting 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. Announcements and Public Comment** L. Anderson welcomed new Selectmen Tom Fay to the Board.

Ellen Scult, Council On Aging Board, expressed her concern about the inadequacy of the space used by the COA and the need to have appropriate space for programs and meetings. She encouraged the BoS to take control of the property at Town Center for the COA/CC project.

Bill Sterling, COA Board, reported that many people are asking about the COA/CC project status. He requested that the BoS devise a firm schedule of action items with milestone deadlines, put the COA/CC on every BoS agenda, and gather monthly with volunteers who are waiting to help by publishing articles or being a sounding board for strategy.

**A3. Organization of the Board: Vote to elect officers** L. Anderson reviewed the Board's policy on officers and meetings and noted that the reorganization occurs at the first meeting after Annual Town Meeting. She said that she has been the chair for two years and has enjoyed the experience, but is ready to let someone else take over. C. Karlson said if the Board is interested she would be Chair or Vice Chair. M. Antes moved, seconded by T. Fay, to nominate C. Karlson as Chair of the Board of Selectmen. YEA: L. Anderson, M. Antes, C. Karlson, D. Levine. T. Fay. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

D. Levine stated he is interested in serving as Vice Chair.

M. Antes moved, seconded by T. Fay, to nominate D. Levine as Vice Chair of the Board of Selectmen. YEA: L. Anderson, M. Antes, C. Karlson, D. Levine, T. Fay. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

C. Karlson became chair of the meeting.

- **Board Liaison Assignments: Review, discuss and assign** The Board reviewed the current list of Board liaisons assignments. C. Karlson said the FinCom and the Personnel Board typically goes to the Chair. The Board will consider moving the School Committee over to the Chair. T. Fay will take the Board of Library Trustees, Youth Advisory, and Recreation. L. Anderson said she will take C. Karlson's assignments when she was Vice Chair. C. Karlson said she would like to keep River's Edge Advisory Committee and the Energy and Climate Committee. L. Anderson said she will take



#### A10. Town Administrator's Report

1. **Spencer Circle Update** The Town needs to draft two easements and both homeowners are aware. L. Miller said the Town is working out the limits of indemnity and the developer needs to complete some work.
2. **River's Edge Update** Soil work is continuing to proceed and a quality report will be issued soon. Wood Partners is starting the process to go before the Planning Board for a preliminary site plan review.
3. **Update on legal matters:**
  - a. **Cascade 40B Development:** L. Miller stated that the first day of mediation was held, and that there is a second day of mediation scheduled for June 5, 2019. L. Miller stated the results of the mediation are confidential until mediation is over.
  - b. **Bernstein v. Town of Wayland:** The evidentiary hearing will begin July 8, 2019. The Town will start preparing for the hearing now.
  - c. **Kenneth Nelson v. Town of Wayland:** There was a new complaint filed against the Board of Health and L. Miller said she anticipates it will be consolidated with the current pending lawsuit against both the Conservation Commission and the Board of Health.
4. **Open Meeting Law complaints: Review and discuss complaints**
  - a. **Against Board of Selectmen**
  - b. **Against Conservation Commission**
  - c. **Opinion of the Attorney General dated April 22, 2019**

The Board is being asked to revise the minutes for an executive session held on Feb. 26, 2018. L. Anderson suggested sending a summary of these decisions in documents a. and b. out to all the Boards and Committees. A discussion ensued about how the minutes for the Board are produced and how boards and committees need to examine their agendas with executive sessions. The Board agreed that committees and boards with an executive session motion should send their agenda to the Town Administrator's office before posting.

**A11. Selectmen's reports and concerns** On May 13, 2019 the Board will meet to continue with the Town Manager's Special Act discussion and review the revised draft. M. Antes attended a MetroWest Regional Collaborative meeting last Thursday and said the issue of climate research was discussed at the meeting. She also noted that the MMA's publication The Beacon included an article advising municipalities have a point person responsible for the Census. L. Miller said that is the Town Clerk for Wayland. C. Karlson said she will work with L. Miller and D. Levine to put a meeting schedule together.

**A12. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any:**  
None.

**A13. Enter into Executive Session: 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, 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, 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.** At 8:49 p.m., C. Karlson moved, seconded by D. Levine, that the Board of Selectmen enter into Executive Session Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to collective bargaining with all bargaining units pursuant to the Public Employee Committee (PEC) agreement and, 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, 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.

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, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0. The Chair invites attendance by Louise Miller, Town Administrator, Elizabeth Doucette, Assistant Town Administrator, Ken Lombardi, Consultant for PEC negotiations with NFP Corporation, and Donna Lemoyne, Benefits Manager. The Board will reconvene in approximately 20 minutes for the purpose of adjourning.

**A14. Adjourn** L. Anderson moved, seconded by M. Antes, to adjourn the meeting at 9:40 p.m. YEA: L. Anderson, M. Antes, T. Fay, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.



LOUISE L. E. MILLER  
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, May 13, 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. Town Manager Special Act: Review latest draft, discuss communication plan, discuss timetable
- 8:10 pm 4. Review and discuss updated Board liaison assignments: discuss and assign
- 8:20 pm 5. Vote to authorize the Treasurer to issue an interim loan note (or notes) in an aggregate principal amount not to exceed \$700,000  
(The complete set of documents is in the packet.)
- 8:30 PM 6. Minutes: Vote to approve Board of Selectmen minutes of April 22, 2019.
- 8:35 pm 7. Consent Calendar: Review and vote to approve (see separate sheet)
- 8:40 pm 8. Correspondence Review
- 8:45 pm 9. Town Administrator's Report
1. Council on Aging/Community Center options with respect to the Town's agreement with Twenty Wayland, LLC, relative to property and development located off 400-440 Boston Post Road
  2. River's Edge Update
  3. Potential Cell Tower at High School

**BOARD OF SELECTMEN  
Monday, May 13, 2019  
7:00 p.m.  
Wayland Town Building  
Selectmen's Meeting Room  
41 Cochituate Road, Wayland, MA**

**Proposed Agenda – Page Two**

- 8:55 pm 10. Selectmen's reports and concerns
- 9:00 pm 11. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 9:05 pm 12. Enter into Executive Session
1. Pursuant to Massachusetts General Laws, Chapter 30A, Section 21 (a) (3) to discuss strategy with respect to collective bargaining pursuant to the Public Employee Committee (PEC) agreement
- 9:15 pm 13. Adjourn

**PUBLIC DOCUMENTS PROVIDED TO THE BOARD OF SELECTMEN FROM MAY 16, 2019 THROUGH AND INCLUDING MAY 30, 2019 OTHERWISE NOT LISTED AND INCLUDED IN THE CORRESPONDENCE PACKET FOR JUNE 3, 2019**

**Items distributed to the Board of Selectmen – May 16, 2019 – May 30, 2019**

(none)

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

1. Tenth Amendment to Land Disposition Agreement
2. Tenth Amendment to Land Disposition Agreement (red-lined version)

**Items Distributed for Information and Use by the Board of Selectmen at the Meeting of May 20, 2019**

1. Correspondence from Jeffrey Ritter, Executive Secretary to the Wayland Board of Selectmen, to Gerard Squires, dated May 21, 2003, re: Proposed Telecommunications Facility in the Town of Wayland (hand out during Public Comment)
2. "Biological effects from exposure to electromagnetic radiation emitted by cell tower base stations and other antenna arrays" by B. Blake Levitt and Henry Lai. Published on the NRC Research Press Web site at er.nrc.ca on 5 November 2010 (hand out during Public Comment)
3. Tenth Amendment to Land Disposition Agreement between Town of Wayland and WP East Acquisitions, L.L.C.
4. Correspondence from Elizabeth Doucette, Assistant Town Administrator, to Cherry Karlson, Chair, Board of Selectmen, dated May 20, 2019, re: Update on Town Meeting Expenses and Account Balance

**Items included as part of the Agenda Packet for discussion during the June 3, 2019 Board of Selectmen Meeting**

1. Bond Anticipation Note Municipal Purpose Load
2. Draft of 2019 Special Town Meeting Schedule
3. Draft of 2020 ATM Potential Dates
4. Draft of Board of Selectmen's Policy on the Annual Budget Process
5. Draft of Board of Selectmen's Policy on the Annual Budget Process (red-lined version)
6. Agreement Between the Town of Wayland and the Wayland Public Employee Committee
7. Correspondence from Lea Anderson, Chair, Board of Selectmen, to Wayland Business Owner and Manager, dated August 7, 2017 re: Plastic Checkout Bag Reduction Bylaw in Wayland
8. Correspondence from Maura Healey, Attorney General, to Beth Klein, Town Clerk, dated July 21, 2017, re: Wayland Annual Town Meeting of April 2, 2017 – Case # 8302; Warrant Article #14 (Zoning); Warrant Article #5, 23 and 24 (General)
9. Copy of Article 13: Plastic Bag Reduction Bylaw from 2017 Annual Town Meeting Warrant
10. Policy #A2-1.1 – Mutual Respect in the workplace-All Employees
11. Policy #A2-2.1 – Standards of Conduct – All Employees
12. Wayland Board of Selectmen – Board Description and Guiding Principles
13. Draft 5/28/2019 Select Board/Town Manager Act
14. Draft 5/29/2019 Select Board/Town Manager Act (red-lined version)
15. Notice of Balloon Test, Wayland High School Athletic Field, Thursday, June 6, 2019 from 2:00 pm to 6:00 pm

16. Draft of Correspondence from Louise Miller, Town Administrator, to Gregory Watson, Manager, Planning and Programs, re: Cost Examination for Wayland Meadows Development
17. Correspondence from Denise Cataldo, of Denise Cataldo, CPA, PC, to Sarkis Sarkisian, Town Planner, dated May 28, 2019, re: MassHousing Review of Cost Examination Report of Wayland Commons
18. Correspondence from Gregory Watson, Manager, MassHousing, Planning and Programs, to Lea Anderson, Chair, Board of Selectmen, dated March 6, 2019, re: MassHousing's Draft Report Regarding Cost Examination for the Wayland Commons development
19. Draft of Report on MassHousing's Analysis of the Cost Examination Dated March 1, 2019 and Received by MassHousing on March 5, 2019
20. Wayland Meadows, LLC, Schedule of Chapter 40B Maximum Allowable Profit form Sales and Schedule of Total Chapter 40B Costs Together with Independent Accountant's Report
21. Draft of Minutes of Board of Selectmen minutes of May 13, 2019
22. Draft of Minutes of Board of Selectmen minutes of May 29, 2019
23. Open Meeting Law Complaint files by resident George Harris May 29, 2019

**BOARD OF SELECTMEN**  
**Monday, June 3, 2019**  
**7:00 p.m.**  
**Wayland Town Building**  
**1. 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 to ratify the contract between Constellation NewEnergy, Inc. and the Town of Wayland (electricity agreement)
3. Vote to ratify the contract between Direct Energy Business Marketing, LLC and Town of Wayland (natural gas agreement)
4. Vote to sign the Race Amity Day Proclamation
5. Vote the question of approving and signing invoice #120563, from KP Law, dated April 23, 2019, for professional services rendered through March 31, 2019, in the amount of \$12,366.36.
6. Vote the question of approving and signing invoice #120565 from KP Law, dated April 23, 2019, for professional services rendered through March 31, 2019, in the amount of \$482.15
7. Vote the question of approving and signing invoice #128947 / 5415-001 from Anderson Kreiger, dated April 8, 2019, for River's Edge Special Counsel services in the amount of \$7,770.00.
8. Vote the question of approving and signing invoice #129411 / 5415-001 from Anderson Kreiger, dated May 16, 2019, for River's Edge Special Counsel services in the amount of \$455.00.
9. Review and vote on Request for Exemption as required by MGL 268A Section 20(b) for the following employee to work in the Recreation Department in the capacity of Site/Camp Director – Wayland Escapes: Shawn Powers
10. Vote to authorize the Chair to sign certificates awarding the Veterans Memorial Freedom Prize and Freedom Prize Finalists
11. Vote to authorize Cherry Karlson, Chair, or Louise Miller, Town Administrator, to sign Local Initiative Program Regulatory Agreement for 11 Hammond Road
12. Vote the question of approving and signing Improvements to Wayland High School Athletic Facilities. The Contract is for the construction project with a value of \$5,797,000 and will be performed by Heimlich Landscaping and Construction Corporation

S.) KP Law Invoice  
#120563

**KP LAW, P.C.**  
101 ARCH STREET  
BOSTON, MA 02110  
(617) 556-0007

---

INVOICE NO: 120563

WAYLAND TOWN HALL  
41 COCHITUATE ROAD  
WAYLAND, MA 01778

IN REFERENCE TO: PROFESSIONAL SERVICE  
THROUGH

March 31, 2019

April 23, 2019

TOTAL FEES:	\$11,914.00
TOTAL COSTS:	<u>\$452.36</u>
BALANCE DUE:	<u>\$12,366.36</u>

6.) Kp Law  
Invoice  
#120565

**KP LAW, P.C.**  
101 ARCH STREET  
BOSTON, MA 02110  
(617) 556-0007

---

INVOICE NO: 120565

WAYLAND TAX  
MS. LOUISE MILLER  
WAYLAND TOWN HALL  
41 COCHITUATE ROAD  
WAYLAND, MA 01778

IN REFERENCE TO: PROFESSIONAL SERVICE  
THROUGH

March 31, 2019

April 23, 2019

TOTAL FEES:	\$471.75
TOTAL COSTS:	<u>\$10.40</u>
<b>BALANCE DUE:</b>	<u><b>\$482.15</b></u>



14665

7.) Anderson  
Kreiger Invoice  
# 128947/  
5415-0

**ANDERSON**  
**KREIGER**

50 Milk Street, 21st Floor  
Boston, MA 02109  
(617) 621-6500  
EIN: 04-2988950

April 8, 2019



Town of Wayland  
Nan Balmer  
Town Administrator  
1st Floor, Selectmen's Office  
41 Cochituate Road, Wayland, MA 01778

Reference # 128947 / 5415-001

In Reference To: River's Edge Special Counsel

Total Current Billing:	\$7,770.00
Total Now Due:	\$7,770.00

PLEASE NOTE: ALL BALANCES DUE WITHIN 30 DAYS

893

8.) Anderson  
Kreiger Invoice  
# 129411 / 5415  
001

**ANDERSON**  
**KREIGER**

50 Milk Street, 21st Floor  
Boston, MA 02109  
(617) 621-6500  
EIN: 04-2988950

May 16, 2019

RECEIVED  
MAY 20 2019  
Board of Selectmen  
Town of Wayland

Town of Wayland  
Nan Balmer  
Town Administrator  
1st Floor, Selectmen's Office  
41 Cochituate Road, Wayland, MA 01778

Reference # 129411 / 5415-001

In Reference To: River's Edge Special Counsel

Total Current Billing:                      \$455.00

PLEASE NOTE: ALL BALANCES DUE WITHIN 30 DAYS

LOCAL INITIATIVE PROGRAM

REGULATORY AGREEMENT  
AND  
DECLARATION OF RESTRICTIVE COVENANTS  
FOR  
RENTAL PROJECT  
Local Action Units

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this \_\_\_ day of June, 2019 by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development ("DHCD") pursuant to G.L. c.23B §1 as amended by Chapter 19 of the Acts of 2007, the Town of Wayland ("Municipality"), the Town of Wayland Municipal Affordable Housing Trust Fund ("Trust"), a municipal affordable housing trust created pursuant to G.L. c. 44, §55C and adopted pursuant to the vote taken under Article 12 of the 2014 Annual Town Meeting, under Declaration of Trust dated October 8, 2014 (recorded with the South Registry District of Middlesex County in Book 64363, Page 415), having an address at 41 Cochituate Road, Wayland, MA 01778, and its successors and assigns, and the Wayland Housing Authority ("WHA", together with the Trust, "Owner"), a Massachusetts housing authority established pursuant to G.L. c. 121B, having a principal place of business at 106 Main Street, Wayland, MA 01778.

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the "Regulations") which establish the Local Initiative Program ("LIP") and *Comprehensive Permit Guidelines: M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory* have been issued thereunder (the "Guidelines");

WHEREAS, the Trust acquired, on September 19, 2017, an approximately .41 acre site (the "Site"), improved with an existing, 4-bedroom single family house, located at 11 Hammond Road in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

WHEREAS, the Trust leased the Project to the WHA pursuant to a long-term lease dated June 1, 2019 pursuant to which the WHA has agreed to be bound by, and comply with, the terms and conditions of this Agreement;

WHEREAS, the Project consists of a single rental dwelling (the " Unit") and the Unit will be rented at rents specified in this Agreement to Eligible Tenants as specified in section 2 of this Agreement (the " Low and Moderate Income Unit");

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Owner have made application to DHCD to certify that the Unit in the Project is a Local Action Unit (as that term is defined in the Guidelines) within the LIP Program;

WHEREAS, in partial consideration of the execution of this Agreement, DHCD has issued or will issue its final approval of the Project within the LIP Program and has given and will give technical and other assistance to the Project;

WHEREAS, the Owner is evaluating the development, pursuant to G.L. c. 40B, of an additional 3-bedroom, single family house on the Site (the "Development Unit");

WHEREAS, if the Owner pursues the development of the Development Unit, the Chief Executive Officer of the Municipality and the Owner anticipate making a separate application to DHCD to certify that the Development Unit will be a Local Action Unit within the LIP Program and, if such application is approved, DHCD, the Municipality, and the Owner shall either amend this Agreement to cause the Development Unit to be subject to this Agreement or enter into a separate regulatory agreement to cause the Development Unit to be subject to such agreement;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, DHCD, the Municipality, and the Owner hereby agree and covenant as follows:

1. Unit. The Owner agrees that the Unit shall contain, at all times during the term of this Agreement, (i) complete living facilities including, but not limited to, a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup; (ii) two or more bedrooms; and (iii) at least 900 square feet of living area (two bedroom unit), 1,200 square feet of living area (three bedroom unit) and 1,400 square feet of living area (four bedroom unit).

During the term of this Agreement, the Owner covenants, agrees, and warrants that the Project will remain suitable for occupancy and in compliance with all federal, state, and local health, safety, building, sanitary, environmental, and other laws, codes, rules, and regulations, including without limitation laws relating to the operation of adaptable and accessible housing for persons with disabilities. The Project must comply with all similar local codes, ordinances, and by-laws.

2. Affordability.

(a) Throughout the term of this Agreement, the Low and Moderate Income Unit will be rented for no more than the rental rates set forth herein to an Eligible Tenant. An Eligible Tenant is a Family whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). A "Family" shall mean two or more persons who will live

regularly in the Low and Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable interdependent relationship; or an individual. The "Area" is defined as the Boston-Cambridge-Quincy MSA/HMFA/Non-Metropolitan County.

(b) The monthly rents charged to tenants of the Low and Moderate Income Unit shall not exceed an amount equal to thirty percent (30%) of the monthly adjusted income of a Family whose gross income equals eighty percent (80%) of the median income for the Area, with adjustment for the number of bedrooms in the Unit, as provided by HUD. In determining the maximum monthly rent that may be charged for the Low and Moderate Income Unit under this clause, the Owner shall include an allowance for any utilities and services (excluding telephone) to be paid by the resident. Annual income shall be as defined in 24 C.F.R. 5.609 (or any successor regulation) using assumptions provided by HUD. The initial maximum monthly rent and utility allowance for the Low and Moderate Income Unit are set forth in Exhibit B attached hereto. If the rent for the Low and Moderate Income Unit is subsidized by a state or federal rental subsidy program, then the rent applicable to the Low and Moderate Income Unit may be limited to that permitted by such rental subsidy program, provided that the tenant's share of rent does not exceed the maximum annual rental expense as provided in this Agreement.

Annually as part of the annual report required under subsection 2(e) below, the Owner shall submit to the Municipality and DHCD a proposed schedule of monthly rent and utility allowance for the Low and Moderate Income Unit. Such schedule shall be subject to the approval of the Municipality and DHCD for compliance with the requirements of this section. Rent for the Low and Moderate Income Unit shall not be increased without the Municipality's and DHCD's prior approval of either (i) a specific request by Owner for a rent increase or (ii) the next annual schedule of rent and allowance. Notwithstanding the foregoing, rent increases shall be subject to the provisions of any outstanding lease and shall not be implemented without at least 30 days' prior written notice by Owner to the affected tenant. If an annual request for a new schedule of rent for the Low and Moderate Income Unit as set forth above is based on a change in the Area median income figures published by HUD, and the Municipality and DHCD fail to respond to such a submission within thirty (30) days of the Municipality's and DHCD's receipt thereof, the Municipality and DHCD shall be deemed to have approved the submission. If an annual request for a new schedule of rent for the Low and Moderate Income Unit is made for any other reason, and the Municipality and DHCD fail to respond within thirty (30) days of the Municipality's and DHCD's receipt thereof, the Owner may send DHCD and the Municipality a notice of reminder, and if the Municipality and DHCD fail to respond within thirty (30) days from receipt of such notice of reminder, the Municipality and DHCD shall be deemed to have approved the submission.

Without limiting the foregoing, the Owner may request a rent increase for the Low and Moderate Income Unit to reflect an increase in the Area median income published by HUD between the date of this Agreement and the date that the Unit begins to be marketed or otherwise made available for rental pursuant to section 5 below; if the Municipality and DHCD approve such rent increase in accordance with this subsection, the Initial Maximum Rent and Utility Allowance for the Low and Moderate Income Unit in Exhibit B of the Agreement shall be deemed to be modified accordingly.

(c) If, after initial occupancy, the income of a tenant of the Low and Moderate Income Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the Unit will be deemed a Low and Moderate Income Unit so long as the Unit continues to be rent-restricted and the tenant's income does not exceed 140% of the maximum income permitted. If the tenant's income exceeds 140% of the maximum income permitted at the time of annual income determination, the Unit will be deemed a Low and Moderate Income Unit until the tenant's one-year lease term expires. When the over-income tenant voluntarily vacates the Unit and when the Unit is again rented to an Eligible Tenant, the Unit will be deemed a Low and Moderate Income Unit and included in the Subsidized Housing Inventory upon the Municipality's application to DHCD.

(d) If, after initial occupancy, the income of a tenant in a Low and Moderate Income Unit increases, and as a result of such increase, exceeds one hundred forty percent (140%) of the maximum income permitted hereunder for such a tenant, at the expiration of the applicable lease term, the rent restrictions shall no longer apply to such tenant.

(e) Throughout the term of this Agreement, the Owner shall annually determine whether the tenant of the Low and Moderate Income Unit remains an Eligible Tenant. This determination shall be reviewed by the Municipality and certified to DHCD as provided in section 2(g), below.

(f) The Owner shall enter into a written lease with the tenant of the Low and Moderate Income Unit which shall be for a minimum period of one year and which provides that the tenant shall not be evicted for any reason other than a substantial breach of a material provision of such lease.

(g) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to DHCD that the Low and Moderate Income Unit continues to be a Low and Moderate Income Unit as provided in sections 2(a) and (c), above; and that the Project and the Low and Moderate Income Unit have been maintained in a manner consistent with the Regulations and Guidelines and this Agreement.

### 3. Subsidized Housing Inventory.

(a) The Project will be included in the Subsidized Housing Inventory upon the occurrence of one of the events described in 760 CMR 56.03(2). The Unit will be deemed low and moderate income housing to be included in the Subsidized Housing Inventory.

(b) The Unit will continue to be included in the Subsidized Housing Inventory in accordance with 760 CMR 56.03(2) for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Owner are in default hereunder; (2) the Project and the Low and Moderate Income Unit continue to comply with the Regulations and the Guidelines as the same may be amended from time to time and (3) the Unit remains a Low and Moderate Income Unit as provided in section 2(c), above.

5. Marketing. Prior to marketing or otherwise making available for rental the Unit, the Owner must obtain DHCD's approval of a marketing plan (the "Marketing Plan") for the Low

and Moderate Income Unit. Such Marketing Plan must describe the tenant selection process for the Low and Moderate Income Unit and must set forth a plan for affirmative fair marketing of Low and Moderate Income Unit to protected groups underrepresented in the Municipality, including provisions for a lottery, as more particularly described in the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low and Moderate Income Unit, subject to all provisions of the Regulations and Guidelines and applicable to the initial rent-up only. When submitted to DHCD for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the tenant selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of NAACP, Boston Chapter v. Kemp. **If the Project is located in the Boston-Cambridge-Quincy MA-NH Metropolitan Statistical Area, the Owner must list the Low and Moderate Income Unit with the City of Boston's MetroList (Metropolitan Housing Opportunity Clearing Center), at Boston City Hall, Fair Housing Commission, Suite 966, One City Hall Plaza, Boston, MA 02201 (671-635-3321).** All costs of carrying out the Marketing Plan shall be paid by the Owner. A failure to comply with the Marketing Plan by the Owner or by the Municipality shall be deemed to be a default of this Agreement. The Owner agrees to maintain for five years following the initial rental of the Low and Moderate Income Unit and for five years following all future rentals, a record of all newspaper advertisements, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by DHCD which may be inspected at any time by DHCD. All Marketing Documentation must be approved by DHCD prior to its use by the Owner or the Municipality. The Owner and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Unit, DHCD determines that the Owner, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Owner or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by DHCD.

5. Non-discrimination. Neither the Owner nor the Municipality shall discriminate on the basis of race, creed, color, sex, age, disability, marital status, national origin, sexual orientation, familial status, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of tenants; and the Owner shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

6. Inspection. The Owner agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules,

regulations, and executive orders. DHCD and the Chief Executive Officer of the Municipality shall have access during normal business hours to all books and records of the Owner and the Project in order to monitor the Owner's compliance with the terms of this Agreement.

7. Recording. Upon execution, the Owner shall immediately cause this Agreement and any amendments hereto to be recorded with the Registry of Deeds for the County where the Project is located or, if the Project consists in whole or in part of registered land, file this Agreement and any amendments hereto with the Registry District of the Land Court for the County where the Project is located (collectively hereinafter, the "Registry of Deeds"), and the Owner shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Owner shall immediately transmit to DHCD and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

8. Representations. The Owner hereby represents, covenants and warrants as follows:

(a) (i) The Trust is a municipal affordable housing trust created pursuant to G.L. c. 44, §55C and adopted pursuant to the vote taken under Article 12 of the 2014 Annual Town Meeting, under Declaration of Trust dated October 8, 2014 (recorded with the South Registry District of Middlesex County in Book 64363, Page 415); (ii) the WHA is a Massachusetts housing authority established pursuant to G.L. c. 121B, (iii) the Owner has the power and authority to own or lease its properties and assets and to carry on its business as now being conducted, and (iv) the Owner has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Owner (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Owner is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Owner will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by DHCD, or other permitted encumbrances, including mortgages referred to in section 17, below).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Owner, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.



9. Transfer Restrictions. Except for rental of Unit to a Low or Moderate Income Tenant as permitted by the terms of this Agreement, the Owner will not sell, transfer, lease, or exchange the Project or any portion thereof or interest therein (collectively, a "Sale") or (except as permitted under section (d) below) mortgage the Project without the prior written consent of DHCD and the Municipality.

(a) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Owner's obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;
- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;
- A certification from the Municipality that the Project is in compliance with the affordability requirements of this Agreement.

(b) Consent to the proposed Sale shall be deemed to be given unless DHCD or the Municipality notifies the Owner within thirty (30) days after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or
- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(c) The Owner shall provide DHCD and the Municipality with thirty (30) day's prior written notice of the following:

- (i) any change, substitution or withdrawal of any general partner, manager, or agent of Owner; or
- (ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in Owner (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).

- (iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of Owner's interest in the Project or any part of the Project.

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation; or (iv) with respect to a trust, any interests as a beneficiary or trustee of such trust to receive income, losses, or a return on equity contributions made to such trust.

(d) Notwithstanding the above, DHCD's consent under this section 9 shall not be required with respect to the grant by the Owner of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of section 14 hereof.

Owner hereby agrees that it shall provide copies of any and all written notices received by Owner from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

10. Casualty; Demolition; Change of Use.

(a) The Owner represents, warrants, and agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Owner (subject to the approval of the lender(s) which has provided financing) will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with this Agreement.

(b) The Owner shall not, without prior written approval of DHCD and the Municipality and an amendment to this Agreement, change the type or number of Low and Moderate Income Units. The Owner shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project, or permit the use of the dwelling accommodations of the Project for any purpose except residences and any other uses permitted by the applicable zoning then in effect;

11. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

12. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

DHCD: Department of Housing and Community Development  
Attention: Local Initiative Program Director  
100 Cambridge Street, 3rd Floor  
Boston, MA 02114

Municipality: Town of Wayland  
Attention: Town Administrator  
Wayland Town Building  
41 Cochituate Road  
Wayland, MA 01778

Owner: Town of Wayland Municipal Affordable Housing Trust Fund  
Attention: Trustee & Treasurer  
41 Cochituate Road  
Wayland, MA 01778

and

Wayland Housing Authority  
Attention: Executive Director  
106 Main Street  
Wayland, MA 01778

13. Term.

(a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, Owner and its successors and assigns, and DHCD and its successors and assigns and the Municipality and its successors and assigns. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement, the rental restrictions, and other requirements provided herein shall be perpetual.

(b) The Owner intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Owner's successors in title, (ii) are not merely personal covenants of the Owner, and (iii) shall bind the Owner, its successors and assigns and enure to the benefit of DHCD and the Municipality and their successors and assigns for the term of the Agreement. Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement

to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

14. Lender Foreclosure. The rights and restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project.

15. Further Assurances. The Owner and the Municipality each agree to submit any information, documents, or certifications requested by DHCD which DHCD shall deem necessary or appropriate to evidence the continuing compliance of the Owner and the Municipality with the terms of this Agreement.

16. Default.

(a) The Owner and the Municipality each covenant and agree to give DHCD written notice of any default, violation or breach of the obligations of the Owner or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If DHCD becomes aware of a default, violation, or breach of obligations of the Owner or the Municipality hereunder without receiving a Default Notice from Owner or the Municipality, DHCD shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "DHCD Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of DHCD within thirty (30) days after the giving of the Default notice by the Owner or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the DHCD Default Notice, then at DHCD's option, and without further notice, DHCD may either terminate this Agreement, or DHCD may apply to any state or federal court for specific performance of this Agreement, or DHCD may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

(b) If DHCD elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this section 16, then the Low and Moderate Income Unit and any other units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed low and moderate income housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory.

(c) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with the restrictions provided herein is to create and maintain long-term affordable rental housing, and by reason thereof the Owner agrees that DHCD or the Municipality or any prospective, present, or former tenant shall be entitled for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce the specific performance by the Owner of its obligations under this Agreement in a state court of competent jurisdiction. The Owner further specifically acknowledges that the beneficiaries of its obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Agreement, the Owner shall reimburse DHCD for all costs and attorney's fees associated with such breach.

17. Mortgagee Consents. The Owner represents and warrants that, if applicable, it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that, if applicable, all such mortgagees have executed the Consent and Subordination of Mortgage to Regulatory Agreement attached hereto and made a part hereof.

**[REMAINDER OF PAGE INTENTIONALLY BLANK]**

Executed as a sealed instrument as of the date first above written.

TOWN OF WAYLAND MUNICIPAL  
AFFORDABLE HOUSING TRUST FUND

By: \_\_\_\_\_  
Its: Trustee

WAYLAND HOUSING AUTHORITY

By: \_\_\_\_\_  
Its: Commissioner

DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT

By: \_\_\_\_\_  
Its:

TOWN OF WAYLAND

By: \_\_\_\_\_  
Its:

Attachments: Exhibit A - Legal Property Description  
Exhibit B - Rents for Low and Moderate Income Unit

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 2019

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as Trustee of the Town of Wayland Municipal Affordable Housing Trust Fund, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 2019

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as Commissioner of the Wayland Housing Authority, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 2019

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the Commonwealth of Massachusetts acting by and through the Department of Housing and Community Development, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 2019

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the Town of Wayland, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:



**CONSENT AND SUBORDINATION OF MORTGAGE  
TO REGULATORY AGREEMENT**

**(NOT APPLICABLE)**

Reference is hereby made to a certain Mortgage dated \_\_\_\_\_ given by \_\_\_\_\_ to \_\_\_\_\_, recorded with the \_\_\_\_\_ Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_ ("Mortgage").

The Undersigned, present holder of said Mortgage, hereby recognizes and consents to the execution and recording of this Agreement and agrees that the aforesaid Mortgage shall be subject and subordinate to the provisions of this Agreement, to the same extent as if said Mortgage had been registered subsequent thereto. The Undersigned further agrees that in the event of any foreclosure or exercise of remedies under said Mortgage it shall comply with the terms and conditions hereof.

[NAME OF LENDER]

By: \_\_\_\_\_  
Its:

(If the Development has more than one mortgagee, add additional consent forms.)

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ of \_\_\_\_\_ Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

**EXHIBIT A**

Re: 11 Hammond Road  
(Project name)  
Wayland, MA 01778  
(City/Town)  
Town of Wayland Municipal Affordable Housing Trust Fund, as fee owner, and  
Wayland Housing Authority, as lessee  
(Owner)

Property Description

(See Attached)

LEGAL DESCRIPTION  
OF  
PROJECT

That certain parcel of land in Wayland, Massachusetts, bounded and described as follows:

- |               |   |
|---------------|---|
| Northwesterly | by land now or formerly of Israel A. Lupien, eighty-three and 13/100 feet;  |
| Northeasterly | by land now or formerly of Mary Alice Neal, two hundred thirty-six and 88/100 feet;   |
| Southeasterly | by land now or formerly of Nellie F. Holmes et al, sixty-three and 27/100 feet; and   |
| Southerly     | by lot 4, by the end of a way and by lot B as shown on plan hereinafter mentioned, two hundred sixty-three and 17/100 feet. |

Said parcel is shown as lot A on said plan.

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 404, Page 97, with Certificate 60465.

There is appurtenant to the above described land a right of way over the Way to West Plain Street as shown on said plan.

For title see deed filed with the South Registry District of Middlesex County in Registration Book 1515, Page 130 as Document No. 01770783.

**EXHIBIT B**

Re: 11 Hammond Road  
(Project name)  
Wayland, MA 01778  
(City/Town)  
Town of Wayland Municipal Affordable Housing Trust Fund, as fee owner, and  
Wayland Housing Authority, as lessee  
(Owner)

Initial Maximum Rents and Utility Allowances for Low and Moderate Income Unit

	<u>Rents</u>	<u>Utility Allowance</u>
Studio units	\$ _____	\$ _____
One bedroom units	\$ _____	\$ _____
Two bedroom units	\$ _____	\$ _____
Three bedroom units	\$ _____	\$ _____
Four bedroom units <sup>1</sup>	\$ <u>1,963</u>	\$ <u>446</u>

<sup>1</sup> Utility allowance for the Unit assumes oil heat and hot water.

12.) Heimlich  
Landscaping and  
Construction Contract

Contract Agreement  
#19-1057  
IMPROVEMENTS TO WAYLAND HIGH SCHOOL ATHLETIC FACILITIES

BETWEEN  
THE TOWN OF WAYLAND, MASSACHUSETTS  
AND  
HEIMLICH LANDSCAPING AND CONSTRUCTION CORPORATION

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_  
in the year **Two Thousand and Nineteen**, between **Heimlich Landscaping and Construction Corporation** with a usual place of business at **65 Burlington Street, Woburn, MA 01801**, hereinafter called the **CONTRACTOR**, and the **Town of Wayland**, with a usual place of business at **41 Cochituate Road, Wayland, MA 01778**, hereinafter called the **OWNER**.

The **CONTRACTOR** and the **OWNER**, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The Contractor shall furnish all labor, materials, equipment and insurance to perform all work required for the project known as **19-1057-IFB Improvements to Wayland High School Athletic Facilities**, in strict accordance with the Contract Documents and all related Drawings and Specifications. The said Documents, Specifications, Drawings and any **GENERAL SUPPLEMENTARY CONDITIONS** are incorporated herein by reference and are made a part of this Agreement.

2. Contract Price

The Owner shall pay the Contractor for the performance of this Agreement, subject to additions and deductions provided herein, in current funds, **the sum of \$5,797,000 as follows:**

<b>Base Bid</b>	<b>\$5,624,000</b>
<b>Alternate 1</b>	<b>\$85,000</b>
<b>Alternate 2</b>	<b>\$88,000</b>

3. Commencement and Completion of Work and Liquidated Damages

It is agreed that time is of the essence of this Agreement. The Contractor shall commence and prosecute the work under this Agreement upon execution hereof and shall complete the work within **285** consecutive calendar days thereafter.

A. Definition of Term: The Term "Substantial completion" shall mean the date certified by

00620-1

the Owner when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner may occupy the project, or designated portion(s) thereof, for the use for which it is intended.

- B. **Time as Essential Condition:** It is understood and agreed that the commencement of and substantial completion of the work are essential conditions of this Agreement. It is further agreed that time is of the essence for each and every portion of the Contract Documents wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract Documents any additional time is allowed for the completion of any work, the new time fixed by such extension shall be of the essence of this Agreement. It is understood and agreed that the times for the completion of the work are reasonable, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
- C. **Progress and Completion:** Contractor shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently and uninterruptedly at such a rate of progress as will insure Substantial Completion within the stipulated number of calendar days.
- D. **Liquidated Damages:** It is expressly agreed between the Contractor and the Owner that the Contractor will be responsible for all damages which may arise due to the Contractor's failure to substantially complete the work within the above specified time. If the Contractor shall neglect, fail or refuse to complete the work within the specified number of days, or any extension thereof authorized by the Owner, Contractor agrees, as a part of the consideration for the execution of this Contract by the Owner, to pay the Owner the amount specified herein, not as a penalty, but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day, excluding Saturdays, Sundays and legal Holidays, that the Contractor shall be in default of Substantial completion after the date specified in the Agreement. Due to the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, said amount is agreed to be the amount of damages which the Owner would sustain, and said amount shall be retained from time to time by the Owner from current periodic estimates. The amount of liquidated damages shall be **\$200.00** per day.

#### 4. Performance of the Work

- A. **Direction of the Work:** The Contractor shall supervise and direct the Work, using his best skills and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the project site during the performance of the Work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement.
- B. **Responsibility for the Work:** (1) The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or

equipment, their employees, contractors, and agents engaged in the work.

(2) The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the Contractor.

C. **Permits and Fees:** Unless otherwise expressly provided, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Agreement and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project.

D. **Notices, Compliance With Laws:** (1) The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees paid. The Owner represents that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Agreement.

(2) If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, codes and regulations in any respect, he shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate modification.

(3) If the Contractor performs any Work which he knows or should know is contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, he shall assume full responsibility therefor and shall bear all costs attributable thereto.

(4) In the performance of the Work, the Contractor shall comply with all applicable federal, state and local laws and regulations including those relating to workplace and employee safety. The Contractor shall notify the Owner immediately of any conditions at the place of the work which violate said laws and regulations and shall take prompt action to correct and eliminate any such violations.

E. **Project Superintendent:** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.

F. **Progress Schedule:** The Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's information an estimated progress schedule for the Work. The progress schedule shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

**G. Drawings, Specifications and Submittals:**

(1) The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, and "As-Built" Drawings and Specifications in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be delivered to the Owner upon completion of the Work.

(2) By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

(3) The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the Owner in writing of such deviation at the time of submission and the Owner has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Owner's approval thereof.

(4) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Owner on previous submittals.

(5) No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Owner. All such portions of the Work shall be in accordance with approved submittals.

**H. Protection of the Work and Owner's Property:** The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Agreement. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury. The Contractor shall clean the work area and restore it to its original condition upon completion of the work.

**I. Quality of the Work:** The Contractor shall perform the work in a good, workmanlike manner. The Contractor hereby guarantees that the entire work constructed by him under the Agreement will meet fully all requirements thereof as to quality of workmanship and materials. The Contractor hereby agrees to make at his own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with respect to any provisions of the Contract Documents. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written



orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the Owner for the cost thereof.

- J. **Warranty:** The Contractor guarantees to Owner that all materials incorporated into the work will be new unless otherwise specified or agreed. Prior to final payment, the Contractor shall deliver to the Owner all manufacturers' warranties, together with such endorsements or assignments as are necessary to ensure to the Owner the full rights and benefits of such warranties.

5. **Affirmative Action/Equal Employment Opportunity**

The Contractor is directed to comply with all applicable State Laws, Ordinances, Bylaws, and rules and regulations regarding affirmative action/equal employment opportunity requirements. Failure of the Contractor to comply with any such law, rule or regulation shall constitute grounds for the Owner to terminate the Agreement.

6. **Site Information Not Guaranteed; Contractor's Investigation**

All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of the Contractor and is not guaranteed.

It is agreed and understood that the Owner does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents.

Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state, and local laws, rules, ordinances, and regulations that in any manner may affect costs, progress, or performance of the work. Contractor has made, or has caused to be made, examinations, investigations, and tests and studies of such reports and related data in addition to those referred to in the paragraph above as he deems necessary for the performance of the work at the Contract Price, within the Contract Time, and in accordance with the other Terms and Conditions of the Contract Documents; and no additional examinations, tests, investigations, reports, and similar data are or will be required by the Contractor for such purposes.

Contractor has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the Contract Documents. Contractor has given the Owner written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents, and the resolution thereof by the Owner is acceptable to the Contractor.

It is further agreed and understood that the Contractor shall not use or be entitled to use any of the information made available to him or obtained in any examination made by him in any manner as a basis of or ground for any claim or demand against the Owner, arising from or by reason of any variance which may exist between the information made available and the actual subsurface conditions or other conditions or structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract

Documents.

7. Project Engineer

There is a project Engineer for this project who is **Weston & Sampson Engineers, Inc.** Additionally there is an Owner's Project Manager (OPM) for this project who is **Leftfield, LLC.** Except as otherwise indicated in the Contract Documents, the Engineer shall be a representative of the Owner and the Contractor shall direct all communications, questions and comments on the work and the performance thereof to the Engineer with an informational copy to the OPM. Except as otherwise provided, the Engineer shall have all the authority of the Owner set forth in the Contract Documents. In general, the Engineer shall have the authority to review the performance of the work, reject work which is defective or otherwise does not comply with the Contract Documents and to order the Contractor to remedy defective work and take such actions which are necessary to make the work conform to the Contract Documents.

8. Wage Rates

Prevailing Wage Rates as determined by the Commissioner of the Department of Labor and Workforce Development under the provisions of Massachusetts General Laws, Chapter 149, Section 26 to 27G, as amended, apply to this project. It is the responsibility of the Contractor to provide the Town with certified payrolls and to comply with all requirements of the above-cited statutes.

The schedules of prevailing wage rates are included in the Contract Documents.

9. Payments to the Contractor

Within thirty (30) days after receipt from the Contractor of a proper and satisfactory periodic estimate requesting payment of the amount due for the preceding month, the Owner shall have thirty (30) days to make payment for:

- A. The work performed during the preceding month.
- B. The materials not incorporated in the Work but delivered and suitably stored at the site (or at some location agreed upon in writing) to which the Contractor has title, or to which a Subcontractor has title and has authorized the Contractor to transfer title to the Owner.
- C. Less the following retention items:
  - 1. A retention based on an estimate of the fair value of the Owner's claims against the Contractor.
  - 2. A retention for direct payments to Subcontractors, if any, based on demands for same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws.
  - 3. A retention not exceeding five percent (5%) of the approved amount of the periodic payment.

D. After the receipt of a periodic estimate requesting final payment and within sixty-five (65) days after the Contractor fully completes the Work, or substantially completes the Work so that the value of the Work remaining to be done is, on the estimate of the Owner, less than 1% of the original Contract Price, or substantially completes the Work and the Owner takes possession or occupancy, whichever occurs first, the Owner shall pay the Contractor the entire balance due on the Contract less:

1. A retention based on an estimate of the fair value of the Owner's claims against the Contractor and of the cost of completing the incomplete and unsatisfactory items of work.
2. A retention for direct payments to Subcontractors, if any, based on demands of same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws, or based on the record of payments by the Contractor to the Subcontractors under this Contract if such record of payment indicates that the Contractor has not paid Subcontractors as provided in Section 39F of Chapter 30 of the General Laws.

The Owner may make changes in any periodic estimate submitted by the Contractor and the payment due on said periodic estimate shall be computed in accordance with the changes so made, and such changes and any requirements for a corrected periodic estimate shall not affect the due date for the periodic payment or the date for the commencement of interest charges on the amount of the periodic payment computed in accordance with the changes made, as provided herein; provided further, that the Owner may, within seven (7) days after receipt, return to the Contractor for correction, any periodic estimate which is not in acceptable form or which contains computations not arithmetically correct, and in that event, the date of receipt of such periodic estimate shall be the date of receipt of the corrected periodic estimate in proper form and with arithmetically correct computations. The date of receipt of a periodic estimate received on a Saturday shall be the first working day thereafter.

E. **Changes in the Work:** No changes in the work covered by the approved Contract Documents shall be made without prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- (a) Unit bid prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost of:
  - (1) Labor.
  - (2) Materials entering permanently into the work.
  - (3) The ownership or rental cost of construction equipment during the time of use on the extra work.
  - (4) Power and consumable supplies for the operation of power equipment.

(5) Wages to be paid.

To the cost under (c) there shall be added a fixed fee to be agreed upon but not to exceed fifteen percent (15%) of the actual cost of work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

- F. Claims for Additional Costs: If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Town on account of any delay in the commencement or performance of the work and/or any hindrance, delay or suspension of any portion of the work including, but not limited to, any claims or damages on account of having to perform out of sequence work, claims for damages on account of loss of production or other interference with the work whether such delay is caused by the Town or otherwise, except as and to the extent expressly provided under G.L. c.30, §390 in the case of written orders by the Town. The Contractor acknowledges that the Contractor's sole remedy for any such claim will be an extension of time as provided herein.

10. Final Payment, Effect

The acceptance of final payment by the Contractor shall constitute a waiver of all claims by the Contractor arising under the Agreement.

11. Contract Documents

The Contract Documents consist of the following, in order of priority, together with this Agreement:

This Contract Form  
Clerk's Certificate of Corporate Vote  
Bid Form  
Invitation to Bid  
Instructions to Bidders  
Specifications and Addenda  
Contract Drawings  
General Conditions  
Supplementary General Conditions  
General Requirements  
Labor & Materials Payment Bond  
Non-Collusion Certificate  
Tax Compliance Certificate  
Certificate of Insurance  
Schedule of Prevailing Wages

12. Terms Required By Law

This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein.

13. Indemnification

The Contractor shall indemnify and hold harmless the Owner from and against any and all claims, damages, losses, and expenses, including attorney's fees, arising out of the performance of this Agreement when such claims, damages, losses, and expenses are caused, in whole or in part, by the acts, errors, or omissions of the Contractor or his employees, agents, subcontractors or representatives.

14. Insurance

The Contractor shall purchase and maintain such insurance as will protect both the Owner and the Contractor from claims which may arise under the Agreement, including operations performed for the named insured by independent contractors and general inspection thereof by the named insured. In addition, the Contractor shall require its subcontractors to maintain such insurance. Coverage shall be provided for:

- 1 claims under workers' or workmen's compensation, disability benefit and other applicable employee benefit acts;
- 2 claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
- 3 claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
- 4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- 5 claims for damages, including damages to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- 6 claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- 7 claims involving contractual liability applicable to the Contractor's obligations under Article 13.

The limits of liability for coverage required under the preceding paragraph shall be as Specified in the Supplemental Conditions.

Except for Workmen's Compensation, all liability coverage shall name the Town as an

additional insured and shall provide for 30 days prior written notice to the Town of any modification or termination of coverage provided thereby. The Contractor shall provide the Owner with appropriate certificate(s) of insurance evidencing compliance with this provision prior to the commencement of any work under this Agreement.

15. Notice

All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. **Additionally all correspondence to Owner should be addressed to Kenneth (Ben) Keefe, Public Buildings Director, Facilities Department, Town of Wayland, 41 Cochituate Road, Wayland, MA 01778 and Aaron P. Hall, Operations Director, Leftfield LLC., 225 Franklin Street, 26<sup>th</sup> Floor, Boston, MA 02110.** In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

16. Termination

- A. Each party shall have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.
- B. The Owner shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the Contractor. In the event that the Agreement is terminated pursuant to this subparagraph, the Contractor shall be reimbursed in accordance with the Contract Documents for all Work performed up to the termination date, and for all materials or equipment not incorporated in the Work, but delivered and suitably stored at the site. Payment for material or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to Owner to establish the Owner's title to such material or equipment or otherwise protect the Owner's interests.

17. Miscellaneous

- A. **Royalties and Patents:** The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.
- B. **Assignment:** The Contractor shall not assign or transfer any of its rights, duties or obligations under this Agreement without the written approval of the Owner.
- C. **Governing Law:** This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts.

- D. By its signature hereon, the Contractor certifies, under the pains and penalties of perjury, that it has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement. All portions of the Contract Documents have been signed or identified by the Owner and Contractor. This agreement will be effective on the date indicated above.

**AGREED:**

**TOWN OF WAYLAND, MASSACHUSETTS**  
(Owner)

**Town of Wayland,  
By its Board of Selectmen**

\_\_\_\_\_ Date: \_\_\_\_\_  
Cherry C. Karlson, Chair

\_\_\_\_\_ Date: \_\_\_\_\_  
Lea T. Anderson

\_\_\_\_\_ Date: \_\_\_\_\_  
Mary M. Antes

\_\_\_\_\_ Date: \_\_\_\_\_  
Thomas J. Fay

\_\_\_\_\_ Date: \_\_\_\_\_  
Douglas A. Levine

**CONTRACTOR: Heimlich Landscaping and Construction Corporation**

By \_\_\_\_\_ Date: 5/23/19

Todd Heimlich  
(Name)  
Vice President  
(Title)  
65 Burlington St.  
(Address)  
Woburn, MA  
(City and State)

Approved as Chief Procurement Officer:

By \_\_\_\_\_ Date: \_\_\_\_\_  
Louise L.E. Miller Town Administrator




Approved as Project Manager:

By  Date: 5-21-19  
Kenneth (Ben) Keefe, Public Buildings Director

Approved as to Form:

By  Date: 5-21-19  
KP Law, P.C., Town Counsel

In accordance with G.L. c.44, Section 31C, this is to certify that an appropriation in the amount of this contract is available therefor and that the Town Administrator has been authorized to execute the contract and approve all requisitions and change orders.

By  Date: 5/31/19  
Brian, Keveny, Director of Finance

41202300-54199

23202200-54199

Appropriation No.

41195403-54199-3466

\_\_\_\_\_  
Purchase Order No.

**CERTIFICATE OF VOTE**  
(to be filed if Contractor is a Corporation)

I, Mark Heimlich, hereby certify that I am the duly qualified  
(Secretary of the Corporation)

and acting Secretary of Heimlich Landscaping & Construction Corp and I further certify that a meeting of the  
(Name of Corporation)

Directors of said Company, duly called and held on 5/1/2019, at which  
(Date of Meeting)

all Directors were present or waived notice, and the following vote was unanimously passed:

VOTED: To authorize and empower

Linda Heimlich, President

Todd Heimlich, Vice President

Mark Heimlich, Treasurer/Secretary

\_\_\_\_\_  
\_\_\_\_\_

Or anyone acting singly, to execute Forms of General Bid, Contracts or Bonds on behalf of the Corporation.

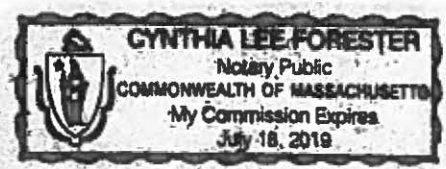
I further certify that the above vote is still in effect and has not been changed or modified in any respect.

By: Mark Heimlich  
(Secretary of Corporation)

A True Copy:

Attest: Cynthia Lee Forester  
(Notary Public)

My Commission Expires: July 19, 2019  
(Date)



**CERTIFICATIONS REQUIRED BY LAW  
FOR PUBLIC CONSTRUCTION CONTRACTS**

You must **COMPLETE** and **SIGN** the following certifications. You must also print, at the bottom of this page, the name of the contractor for whom these certifications are submitted.

**TAX COMPLIANCE**

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A(b), I, the undersigned, authorized signatory for the below named contractor, do hereby certify under the pains and penalties of perjury that said contractor has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

**NON-COLLUSION**

The undersigned certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

**PUBLIC CONTRACTOR DEBARMENT**

The undersigned certifies under penalty of perjury that the below named contractor is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

**OSHA TRAINING**

Pursuant to G.L. c. 30, §39S, the Contractor hereby certifies under penalties of perjury as follows:

- (1) Contractor is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work;
- (2) All employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and they shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and
- (3) All employees to be employed in the work subject to this contract have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration.

**COMPLETE AND SIGN BELOW:**

\_\_\_\_\_  
Authorized Person's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name & Title of Signatory

\_\_\_\_\_  
Name of Contractor

*Todd Heinrich, Vice President*

*Heinrich Landscaping & Construction Corp.*

*5/23/19*

## **SUPPLEMENTAL CONDITIONS**

1. **Introduction**
2. **Prevailing Wage Rates**
3. **Insurance Requirements**
4. **Incorporations of Applicable Provisions of the Massachusetts General Law**

### **§ SC 1.1 INTRODUCTION**

The following provisions modify, change, delete from or add to Section 00500 Agreement. Where any Subsection of the Agreement is modified or any Article Paragraph, Subparagraph or Clause thereof is modified or deleted by these Supplemental Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect.

### **§ SC 2.1 PREVAILING WAGE**

In accordance with General Laws Chapter 149, Section 26 through 27D, the Contractor is obligated to comply with the prevailing wage rates established by the Commissioner of the Department of Labor and Workforce Development for mechanics, apprentices, chauffeurs, teamsters and laborers employed on the Project. The schedule of applicable prevailing wage rates for the Project, together with a Certificate of Compliance therewith, are set forth in Appendix A herein.

### **§ SC 3.1 CONTRACTOR'S LIABILITY INSURANCE**

In no case shall the limits of liability be less than the following:

The Contractor shall provide Certificates of Insurance coverage as listed below and shall be provided by insurer(s) licensed to do business in the Commonwealth of Massachusetts. Said insurance shall be provided at the Contractor's expense and shall be in full force and effect during the full term of this Contract.

Certificates evidencing that such insurance are in full force and effect shall be delivered to the Town simultaneously with the final execution of this contract, and renewal certificates will be provided annually throughout the contract term. Failure to do so shall constitute a material breach of this contract and be grounds for immediate termination.

The Contractor's Liability Policies shall be so written that the Town of Wayland shall be named as "**Additional Insured**" and that the Town will be notified of cancellation at least thirty (30) days prior to the effective date of such cancellation, and shall include:

1. Workers' Compensation Insurance as required by law
2. General Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$3,000,000 Annual Aggregate Limit
3. Vehicle Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability per accident.

**INCORPORATIONS OF APPLICABLE PROVISIONS OF THE MASSACHUSETTS  
GENERAL LAW**

Certain provisions of the Massachusetts General Laws are applicable to Construction contracts including, but not limited to, those contained in Chapter 30 and Chapter 149. All applicable provisions of the Massachusetts General Laws are incorporated into the Contract as if fully set forth herein, and shall prevail over any conflicting provisions of the General or Supplemental General Conditions.

**BOARD OF SELECTMEN**  
**Monday, June 3, 2019**  
**7:00 p.m.**  
**Wayland Town Building**  
**Selectmen's Meeting Room**  
**41 Cochituate Road, Wayland, MA**

**CORRESPONDENCE**

1. Correspondence from resident John Sax to C. Karlson, Chair, Board of Selectmen; Doug Levine, Selectman; Thomas Fay, Selectman; Lea Anderson, Selectman; Mary Antes, Selectman; and Louise Miller, Town Administrator; dated May 28, 2019, re: Loker follow up memo to ZBA (includes MetroWest Daily News article "Disagreement between town boards throw another wrinkle into the controversy surrounding a proposed artificial turf field" dated May 24, 2019; and a copy of correspondence from Daniel Hill, Chair of the Wayland Planning Board, to the Wayland Zoning Board of Appeals, dated May 20, 2019, re: Loker Recreation Project – Clarification on Comments on Site Plan Review Application)
2. Correspondence from Brian Boggia, Executive Director, Wayland Housing Authority; and Katherine Provost, FSS Coordinator, to WHA Board of Commissioners; Wayland Housing Partnership; Municipal Affordable Housing Trust Fund Board; Wayland Town Administrator; Wayland Town Planner; dated May 10, 2019, re: Affordable Housing Update
3. Report from Doug Harris, Preservationist for Ceremonial Landscapes & Deputy Tribal Historic Preservation Officer, Narragansett Indian Tribal Historic Preservation Office, dated April 21, 2019, re: Why Should Loker be Respected and Protected?
4. "Save the Date" correspondence from Massachusetts Office of Disability, to Louise Miller, Town Administrator, dated May 17, 2019, re: Fifth Annual Disability Summit, September 27, 2019 from 8:30am to 12:30pm at the Boston Convention & Exhibition Center, 415 Summer Street, Boston, MA 02210
5. Wayland Free Public Library May 2019 Newsletter