



# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

## BOARD OF SELECTMEN

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

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

**BOARD OF SELECTMEN**  
**Tuesday, February 10, 2015**  
**(In the event that the Meeting of Monday, February 9,**  
**2015, is Cancelled Due to Weather)**

### Proposed Agenda

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

- 6:15 pm 1.) Convene in Open Session and then Enter into Executive Session Pursuant to Massachusetts General Laws Chapter 30A, Section 21a(3), to Discuss Pending Action regarding the Glezen Lane Judgment; and pursuant to Massachusetts General Laws Chapter 30A, Section 21a (2) to Discuss Strategy with Respect to Contract Negotiations with Nonunion Personnel, and Pursuant to Massachusetts General Laws Chapter 30A, Section 21a(6) to Consider the Lease or Value of Real Property, and to Review and Consider for Approval and Potential Release the Following Executive Session Minutes Relative to the Said Subjects:
- May 27, 2014
  - June 30, 2014
  - July 15, 2014
  - August 11, 2014
  - August 18, 2014
  - September 8, 2014
  - October 6, 2014
- 7:00 pm 2.) Call to Order by Chair
- Announcements; Review Agenda for the Public
- 7:02 pm 3.) Public Comment
- 7:10 pm 4.) Meet with WayCAM to Review Changes to Selectmen's Meeting Room
- 7:20 pm 5.) Discussion on OPEB Warrant Article for Annual Town Meeting
- 7:45 pm 6.) Discussion and Potential Vote to Approve the China Rose LLC Application for an Entertainment License
- 7:55 pm 7.) Discussion and Potential Vote on Position on Amendments to Stormwater Bylaw; and Discussion and Potential Vote to Approve Application for MWRA 8(m) Permit for Public Access to Aqueduct Trails
- 8:20 pm 8.) Discussion and Potential Vote on Draft ESCO Resolution

**BOARD OF SELECTMEN**

**Tuesday, February 10, 2015**

**(In the event that the Meeting of Monday, February 9, 2015, is Cancelled Due to Weather)**

**Wayland Town Building**

**Selectmen's Meeting Room**

**Proposed Agenda Page Two**

- |         |      |   |
|---------|------|---|
| 8:35 pm | 9.)  | Vote Order of Annual Town Meeting Warrant Articles  |
| 8:50 pm | 10.) | Discuss and Vote Response to Open Meeting Law Violation                                   |
| 9:00 pm | 11.) | Review and Approve Consent Calendar (See Separate Sheet)                                  |
| 9:05 pm | 12.) | Review Correspondence (See Separate Index Sheet)  |
| 9:15 pm | 13.) | Report of the Town Administrator  |
| 9:30 pm | 14.) | Selectmen's Reports and Concerns  |
| 9:45 pm | 15.) | Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any |
| 9:50 pm | 16.) | Adjourn   |

**ARTICLE FOR ANNUAL TOWN MEETING**

SPONSOR: Board of Selectmen DATE RECEIVED: January 8, 2015  
CONTACT PERSON: Cliff Lewis TELEPHONE/Day: 508-358-4973  
Dave Gutschenritter TELEPHONE/Evening: 508-651-0589  
BOARD VOTE: \_\_\_\_\_ DATE OF VOTE: 1/5/2015  
TITLE: OPEB Funding

COST: X NO COST: \_\_\_\_\_ COST ESTIMATE: \$300,000.00  
\_\_\_\_\_

TEXT: To determine whether the Town will vote to:

- a) authorize the transfer of \$200,289 from the following enterprise and revolving funds to the general fund:
  - 1) Food Service \$ 25,000
  - 2) Children's Way \$ 25,000
  - 3) Pegasus \$ 65,278
  - 4) Building Use \$ 16,699
  - 5) Enrichment \$ 7,590
  - 6) Ice Hockey \$ 4,554
  - 7) Athletics \$ 37,952
  - 8) High School Parking \$ 6,072
  - 9) Instrumental Music \$ 9,108
  - 10) Transportation \$ 3,036
  
- b) appropriate an aggregate amount of \$xx.xx to be deposited in the Town's Other Post-Employment Benefits Fund. The source of the funding shall be from the following enterprise and revolving funds:
  - 1) Food Service \$ xx.xx
  - 2) BASE \$ xx.xx
  - 3) Children's Way \$ xx.xx
  - 4) Full Day Kindergarten \$ xx.xx
  - 5) Water \$ xx.xx
  - 6) Transfer Station \$ xx.xx
  - 7) Recreation \$ xx.xx
  - 8) Pegasus \$ xx.xx

- 9) Building Use                   \$     xx.xx
- 10) Enrichment                   \$     xx.xx
- 11) Ice Hockey                   \$     xx.xx
- 12) Athletics                    \$     xx.xx
- 13) High School Parking        \$     xx.xx
- 14) Instrumental Music         \$     xx.xx
- 15) Transportation             \$     xx.xx

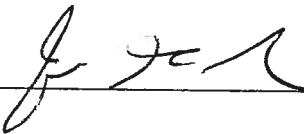
c) appropriate \$300,000 to be deposited in the Town's Other Post-Employment Benefits Fund and to determine whether such appropriation shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose or otherwise;

COMMENTS:

PROS:

CONS:

SIGNATURE OF CHAIR

  
\_\_\_\_\_

DATE

1-12-15

Mark Lanza Approval

\_\_\_\_\_

DATE

\_\_\_\_\_

DATE: FEBRUARY 9, 2015  
TO: BOARD OF SELECTMEN  
FROM: NAN BALMER, TOWN ADMINISTRATOR  
RE: APPLICATION FOR ENTERTAINMENT LICENSE: CHINA ROSE RESTAURANT

**REQUESTED ACTION: DISCUSSION AND POTENTIAL VOTE TO APPROVE THE APPLICATION OF CHINA ROSE LLC FOR LOCAL ENTERTAINMENT LICENSE UNDER MGL CHAPTER 140 SECTION 183 A TO PROVIDE KARAOKE ENTERTAINMENT ON WEEKENDS FROM 9 PM UNTIL MIDNIGHT. AS AN ALTERNATIVE THE BOARD MAY PROVIDE THE OPPORTUNITY FOR A HEARING AND WILL THEN HAVE 30 DAYS TO APPROVE OR DENY THE LICENSE.**

**BACKGROUND:**

The applicant and the Police Chief will be available at your meeting to assist with the decision.

The Selectmen and the ABCC recently approved a change in manager for China Rose, LLC Restaurant after a liquor license violation regarding operation without a manager on staff and without TIPS certified staff. The Police Chief has monitored the operation of China Rose since that time to insure compliance with liquor license laws.

China Rose requests a local entertainment license under MGL 140, Section 183A, attached. China Rose states in its application that the local entertainment license will be for karaoke\*. Action on the application was deferred by the Town Administrator with the agreement of the applicant for several weeks while China Rose transitioned to a new Manager.

Under MGL 183 A, the Board may (a) grant a license, or (b) provide an opportunity for a hearing on the application, with notice of the hearing provided within 7 days of the hearing. If the Board chooses to hold a hearing, the Board has 30 days to grant the license or provide notice of the reasons for denial of the license. The Board has issued no other local entertainment licenses under this section.

*\*DEFINITION: Karaoke is a form of interactive entertainment or video game in which amateur singers sing along with recorded music (a music video) using a microphone and public address system. The music is typically a well-known popular song minus the lead vocal. Lyrics are usually displayed on a video screen, along with a moving symbol, changing color, or music video images, to guide the singer.*



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TEL. (508) 358-7755  
www.wayland.ma.us

## APPLICATION FOR ENTERTAINMENT LICENSE

The undersigned hereby applies for a License for an Entertainment License in accordance with the provisions of the Statutes relating thereto:

Name of Applicant (must be an individual): Bei Huan Peng

Name of Company: China Rose

If Business is a Corporation, Corporate Name and Officers: \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Mailing Address (if different from establishment): \_\_\_\_\_

\_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone Number: 617-817-8218 Fax Number: 508-975-4950

Description of Entertainment: \_\_\_\_\_

seeking the karaoke license

on weekend from 9PM - midnight

\_\_\_\_\_

\_\_\_\_\_

Signature of Applicant: Bei Huan Peng Date: 1/26/2015

**A certificate of insurance, showing evidence that the applicant has workers' compensation insurance, must be included with this completed application.**



|  |
|--|
| <b>PART I</b> ADMINISTRATION OF THE GOVERNMENT   |
| <b>TITLE XX</b> PUBLIC SAFETY AND GOOD ORDER   |
| <b>CHAPTER 140</b> LICENSES  |
| <b>Section 183A</b> Concerts, dances, exhibitions, public shows, etc.; license; application; suspension or revocation; rules and regulations |

Section 183A. No inn holder, common victualler, keeper of a tavern, or person owning, managing, or controlling any club, restaurant or other establishment required to be licensed under section twelve of chapter one hundred and thirty-eight or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance, exhibition, cabaret or public show of any description to be conducted on any premises required to be licensed under the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or carry on a concert, dance exhibition, cabaret or public show of any description, unless and until a license therefor has been issued by the licensing authorities.

The application for such license shall be in writing and shall state the type of concert, dance, exhibition, cabaret or public show sought to be licensed and shall state whether such public show will include: (a) dancing by patrons, (b) dancing by entertainers or performers, (c) recorded or live music, (d) the use of an amplification system, (e) a theatrical exhibition, play, or moving picture show, (f) a floor show of any description, (g) a light show of any description, or (h) any other dynamic audio or visual show, whether live or recorded.

The application shall also state whether as part of the concert, dance exhibition, cabaret or public show any person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or whether any female person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

Upon request of the licensing authorities, the applicant shall furnish further additional information concerning the type of concert, dance exhibition, cabaret, or public show sought to be licensed, the conditions of the premises, and the actions to be taken in order to prevent danger to the public safety, health or order. Once a license has been granted to an applicant, the licensee shall continue to provide such information to the licensing authorities upon their request with regard to any particular concert, dance, exhibition, cabaret, or public show or with regard to the conduct of the premises in general.

Within forty-five days following receipt of an application for a license under this section, the licensing authorities may (a) grant a license or, (b) shall provide the opportunity for a hearing on the application by written notice to the applicant given seven days prior to the hearing date.

Within thirty days next following the final date of such opportunity for a hearing the licensing authorities shall, (a) grant the license or, (b) deliver to the applicant a written notice denying the license and stating in writing the reasons for such denial. No application having been denied as aforesaid and no similar application thereto may be filed within one year of said denial except in the discretion of the licensing authorities.

The licensing authorities shall grant a license under this section unless they find that the license, taken alone or in combination with other licensed activities on the premises, would adversely affect the public health, safety or order, in that the concert, dance, exhibition, cabaret, or public show cannot be conducted in a manner so as to: (a) protect employees, patrons, and members of the public inside or outside the premises from disruptive conduct, from criminal activity, or from health, safety or fire hazards; (b) prevent an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the premises; or (c) prevent an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the premises or an unreasonable increase in the number of vehicles to be parked in the area of the premises.

The licensing authorities may modify, suspend or revoke a license granted pursuant to the provisions of this section after providing an opportunity for a hearing preceded by a written notice to the licensee ten days prior to the hearing date. The licensing authorities may not modify, suspend or revoke such license unless they find that the license, taken alone or in combination with other licensed activities on the premises, has adversely affected the public health, safety or order as stated in the preceding paragraph. In any case in which the licensing authorities modify, suspend or revoke a license, they shall notify the licensee in writing of such action and said written notice shall be accompanied by a statement of reasons.

In order to preserve and protect the public health, safety, and order as aforesaid, the licensing authorities may place conditions upon the license and promulgate rules and regulations for such licenses. The licensing authorities may modify, suspend or revoke a license pursuant to this section for any violation of their rules and regulations or for any violation of law and may petition the superior court department of the trial court to enjoin any violation of this section.

The licensing authorities of any city or town may adopt a rule requiring licensees under this section to prohibit minors from attending any concert, dance, exhibition, cabaret or public



show of any description in which or at which any person appears in a manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or in which or at which any female person appears in a manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

A license issued under this section, unless sooner revoked, shall expire on December thirty-first of each year. The fee for any such license or for any renewal thereof shall not exceed one hundred dollars.

The provisions of this section shall be applicable seven days per week; provided, however, that no license under this section shall be granted to permit such activities, except an athletic game or sport, on Sundays or before 1 o'clock in the afternoon, without the written approval of the commissioner of public safety, made in accordance with the provisions of this section, upon written application to said commissioner accompanied by a fee of not more than \$5, or in the case of an annual license by a fee of not more than \$100.



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TOWN ADMINISTRATOR  
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## BOARD OF SELECTMEN

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JOSEPH F. NOLAN

December 9, 2014

Jaisy Deng  
China Rose LLC  
15 East Plain Street  
Wayland MA 01778

### Decision of the Board of Selectmen

Liquor License Violation Hearing, December 8, 2014

**For a Server not Possessing a TIPS Certification and Failure to Maintain a Roster of Trained Personnel in an Accessible Place During Operating Hours on November 14, 2014, and For Not Having a Manager on the Premises:**

The liquor license for China Rose LLC, 15 East Plain Street, Wayland, is hereby suspended for a period of one day, on December 9, 2014. The licensee is also required to submit a Change of Manager application to the office of the Board of Selectmen by Wednesday, December 10, 2014, by 4:00 p.m. The licensee is also required to have the current manager of record, Jaisy Deng, on premises until such time as a new manager is approved.

Nan Balmer  
Town Administrator

cc: Robert Irving, Chief of Police  
Alcoholic Beverage Control Commission

To: Board of Selectmen

From: Brian J. Monahan, Conservation Administrator

Date: February 6, 2014

Re: Seeking Permission to Officially Use the Weston Aqueduct

**BOARD ACTION REQUESTED:**

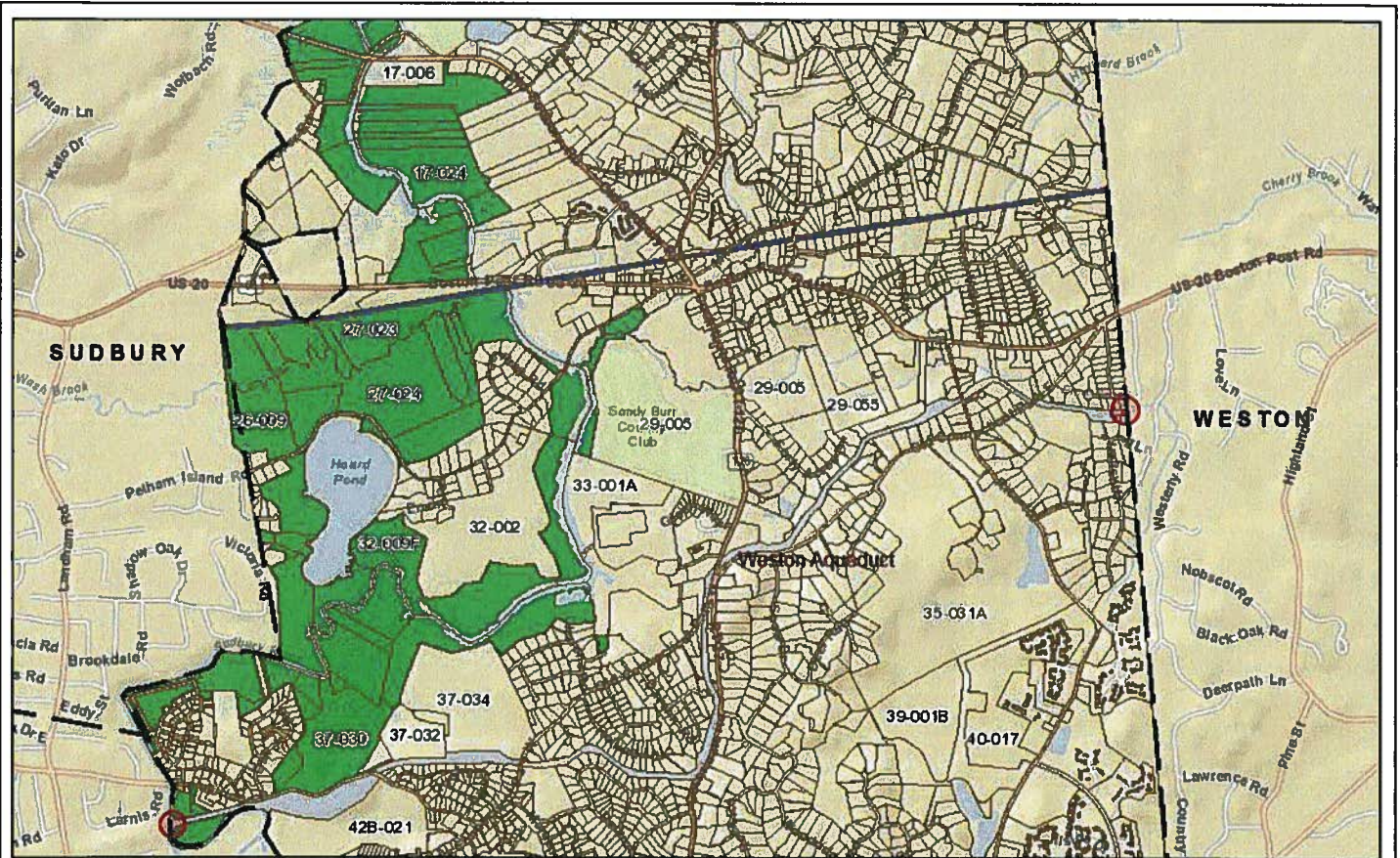
**VOTE TO ACCEPT PURSUE AN APPLICATION FORMASSACHUSETTS WATER RESOURCES  
AUTHORITY APPLICATION FOR 8(m) PERMIT – PUBLIC ACCESS TO THE WESTON AQUEDUCT  
AND AUTHORIZE THE TOWN ADMINISTRATOR TO SUBMIT APPLICATION.**

**BACKGROUND**

The MWRA has encouraged towns to seek an application to allow official public access to the Weston Aqueduct which runs through the Towns of Wayland, Framingham, and Weston. While the public may now be using these for pedestrian access such as use is not currently officially permitted and the 8(m) Permit would create an official document permitting the use of this area for public access. The Conservation Commission prepared a draft application for consideration. Both the towns of Weston and Framingham have already received permission for public access. Access would generally be permitted with the same rules as those for Conservation Areas however, as proposed dog walking would require a leash and bicycling, not permitted by right on most conservation lands, would be allowed. Access is generally confined to the top of the aqueduct on the existing pathways. A copy of the map using the town's GIS is attached. The areas are now being used by people without officially being permitted.

**FISCAL IMPACT**

The MWRA would continue to mow the top of the aqueduct. Enforcement of rules would be done by the town currently in the same manner as is done for other conservation areas. Signs with the rules may be needed and that is an expense the town would incur. Routine maintenance, i.e. littering may be an expense the town could incur.



**Weston Aqueduct Weston to Framingham  
Wayland, MA**

1 Inch = 2500 Feet  
January 28, 2015



[www.cai-tech.com](http://www.cai-tech.com)

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

**ARTICLE X: RESOLUTION REGARDING ESCO PROJECT CHANGES**

*Proposed by: Board of Selectmen*

*Cost: None*

WHEREAS Wayland has been a Green Community since 2010 and has committed to reducing energy usage by 20%; and,

WHEREAS Wayland appropriated \$2,813,920 to enter an Energy Savings Contract (ESCO) at Annual Town Meeting 2014 for projects at various municipal buildings; and,

WHEREAS a commitment was made to return to Town Meeting if the work on the Town Building (phase 2) was changed; and,

WHEREAS the BoS, with input from the Public Buildings Director, has decided to delay any significant capital improvements on Town Building; and,

WHEREAS the Public Buildings Director has recommended the ESCO phase 2 work be reallocated to two School buildings; and,

WHEREAS the School Committee has voted to support this change in ESCO work; and,

WHEREAS the total contracted work is less than the 2015 appropriation.

NOW, THEREFORE, BE IT RESOLVED, that this Town Meeting supports changing the ESCO project as described at the 2014 Annual Town Meeting by reallocating the phase 2 work from Town Building to Claypit Hill and Loker Schools.

|    |   |  |                    |             |  |
|----|---|--|--------------------|-------------|--|
|    |   |  |                    |             |  |
| G  | Rescind Authorized by Unissued Debt                                 |  | Board of Selectmen | T. Boscetto |  |
|    |   |  |                    |             |  |
| 1  | Recognize Citizens and Employees for Particular Service to the Town |  | Board of Selectmen | J. Nolan    |  |
| 2  | Pay Previous Fiscal Year Unpaid Bills                               |  | Board of Selectmen | J. Nolan    |  |
| 3  | Current Year Transfers  |  | Finance Committee  | J. Nolan    |  |
| 4  | Create Chapter 44 Section 53 F ½ Recreation Enterprise Fund         |  | Board of Selectmen | J. Nolan    |  |
| 4A | Create Chapter 44 Section 53D Recreation Revolving Fund             |  | Board of Selectmen | J. Nolan    |  |

|    |  |  |                                  |              |  |
|----|--|--|----------------------------------|--------------|--|
| 5  | OPEB Funding   |  | Board of Selectmen               | T. Boschetto |  |
| 6  | FY 2016 Omnibus Budget   |  | Finance Committee                | T. Boschetto |  |
| 7  | Compensation for Town Clerk  |  | Board of Selectmen               | C. Karlson   |  |
| 8  | Personnel Bylaw and Wage & Classification Plan   |  | Personnel Board                  | C. Karlson   |  |
| 9  | Accept Valor Act to Establish Veterans Property Tax Workoff Program                        |  | Board of Selectmen               | E. Collins   |  |
| 10 | Resolution Regarding ESCO Project Changes  |  | Board of Selectmen               | C. Karlson   |  |
| 11 | Inspection Testing and Maintenance of Privately Owned Water Based Fire Suppression Systems |  | Board of Selectmen               | E. Collins   |  |
| 12 | Set Aside Community Preservation Funds for Later Spending                                  |  | Community Preservation Committee | E. Collins   |  |

|    |  |                                  |              |  |
|----|--|----------------------------------|--------------|--|
| 13 | Set Aside for Later Spending \$2 Million for Open Space                                    | Community Preservation Committee | E. Collins   |  |
| 14 | Transfer Community Housing Funds to Wayland Municipal Affordable Housing Trust Fund        | Community Preservation Committee | E. Collins   |  |
| 15 | Implement Solar Energy: Power Purchase and License Agreement and Authorization for PILOT   | Board of Selectmen               | C. Karlson   |  |
| 16 | Fund Glezen Lane Traffic Control Measures  | Board of Selectmen               | E. Collins   |  |
| 17 | Land and Easement Acquisitions for Route 30 and 27 Intersection Improvements               | Board of Selectmen               | J. Nolan     |  |
| 18 | Withdraw from Minuteman Regional Vocational School District                                | Board of Selectmen               | T. Boschetto |  |
| 19 | Amendments to the District Agreement for the Minuteman Regional Vocational School District | Board of Selectmen               | T. Boschetto |  |
| 20 | Amend Bylaw re: Reconsideration of Articles by Town Meetings                               | Petitioners                      | C. Karlson   |  |



|    |  |  |            |  |
|----|--|--|------------|--|
| 21 | Amend Chapter 193-Stormwater and Land Disturbance Bylaw  | Conservation Commission                        | M. Antes   |  |
| 22 | Authorization for the Town of Wayland to Grant an Additional License for the Sale of All Alcoholic Beverages not to be Drunk on the Premises | Petitioners                                    | E. Collins |  |
| 23 | Fund Payment in Lieu of Sewer Betterment Assessment for Town Owned Buildings   | Board of Selectmen                             | C. Karlson |  |
| 24 | Transfer Dudley Woods Parcels for Passive Recreation   | Board of Selectmen                             | C. Karlson |  |
| 25 | Design and Construct Trails and Signage at Dudley Woods  | Community Preservation Committee               | C. Karlson |  |
| 26 | Acquire Open Space Parcel in Sage Hill Subdivision   | Board of Selectmen and Conservation Commission | M. Antes   |  |
| 27 | Construct Rail-Trail in Wayland  | Community Preservation Committee               | J. Nolan   |  |
| 28 | Acquire Municipal Parcel in Town Center and Convey Access Easement in Town Center  | Board of Selectmen                             | C. Karlson |  |

|    |  |                                  |              |  |
|----|--|----------------------------------|--------------|--|
| 29 | Appropriate Funds for Due Diligence and Feasibility Design for a Proposed Council on Aging/Community Center at Wayland Town Center | Board of Selectmen               | C. Karlson   |  |
| 30 | Amend Chapter 36 of the Current Bylaws   | Petitioners                      | M. Antes     |  |
| 31 | Accept Chapter 390 of the Acts of 2014 to Establish a Tax Title Collection Revolving Fund  | Board of Selectmen               | T. Boschetto |  |
| 32 | Town will Enforce Lowest Speed Limit Allowed by Law  | Petitioners                      | T. Boschetto |  |
| 33 | Appropriate Funds to Create Stewardship and Land Management Plans for Conservation Land  | Community Preservation Committee | M. Antes     |  |
| 34 | Resolution to Continue Electronic Voting Through FY 2019   | Petitioners                      | E. Collins   |  |
| 35 | Prohibit Roadside Distribution of Phone Books and Advertising  | Petitioners                      | T. Boschetto |  |
| 36 | Acquire Land and House at 246 Stonebridge Road   | Community Preservation Committee | M. Antes     |  |

|    |   |                                  |            |  |
|----|---|----------------------------------|------------|--|
| 37 | Appropriate Funds to Stabilize Two Arches of Stone's Bridge                   | Community Preservation Committee | M. Antes   |  |
| 38 | Design of a Multi-Use Grass Playing Field at Oxbow Meadows (Former Nike Site) | Community Preservation Committee | J. Nolan   |  |
| 39 | Increase Water Rates for High Density Housing                                 | Petitioners                      | C. Karlson |  |
| 40 | Hear Reports  | Board of Selectmen               | J. Nolan   |  |
| 41 | Choose Town Officers  | Board of Selectmen               | J. Nolan   |  |
| 42 | Accept Gifts of Land  | Board of Selectmen               | J. Nolan   |  |
| 43 | Sell or Trade Vehicles and Equipment  | Board of Selectmen               | J. Nolan   |  |



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CHERRY C. KARLSON  
JOSEPH F. NOLAN

February 9, 2015

Mr. George H. Harris  
Attorney At Law  
8 Holiday Road  
Wayland MA 01778

***RE: Open Meeting Law Complaint Filed January 29, 2015***

Dear Mr. Harris:

On behalf of the Wayland Board of Selectmen, I am writing in response to your Open Meeting Law complaint filed on January 29, 2015. Your complaint states that since September 15, 2014 the Board did not approve minutes in a timely way. You request that: 1) The Board acknowledge that it violated the Open meeting Law, 2) Within the next 30 days, the Board shall review and approve all minutes of meetings held from September 15, 2014 through December 8, 2015, and 3) The board shall henceforth comply with the Open meeting Law by timely crating and approving minutes of meetings.

Additionally, your complaint demands specific action by the Board of Selectmen to address your allegations. The Board states the following:

1. The Board has acknowledged its errors above in the specific instances that it agrees with you that errors were made.
2. Within the next 30 days, the Board directs to staff complete at least 5 sets of minutes each week of the current 4 regular session minutes and 11 executive sessions outstanding through December 8th.
3. The Board agrees and continues to endeavor to comply with all aspects of the Open Meeting Law.

Sincerely,

Nan Balmer  
Town Administrator

**GEORGE H. HARRIS**  
ATTORNEY AT LAW  
8 HOLIDAY ROAD  
WAYLAND, MASSACHUSETTS 01778

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Tel & Fax: (508) 358-2379

E-mail: [geoharris2@gmail.com](mailto:geoharris2@gmail.com)

January 29, 2015

By Electronic Mail

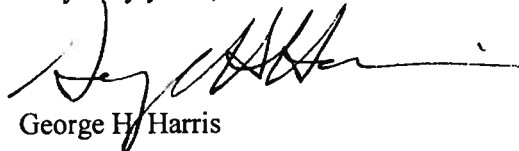
Joseph F. Nolan, Chair  
Wayland Board of Selectmen  
Town Building  
41 Cochituate Road  
Wayland, MA 01778

Dear Chair Nolan:

I am filing herewith an Open Meeting Law complaint pursuant to G. L. c. 30A, § 23(b) and 940 CMR 29.05(3).

Your response to the complaint is required by statute within 14 business days. Thank you.

Very truly yours,



George H. Harris

Enclosure (complaint)

cc: Town Clerk (w/ encl) (by electronic mail)



## OPEN MEETING LAW COMPLAINT FORM

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

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: George Last Name: Harris

Address: 8 Holiday Road

City: Wayland State: MA Zip Code: 01778

Phone Number: +1 (508) 358-2379 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: Various

**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 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, will be considered a public record and available to any member of the public upon request. In response to such a request, the AGO generally will not disclose your contact information.

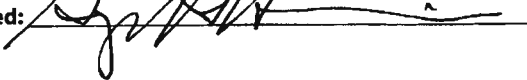
**II. Consulting With a Private Attorney.**

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: 01-29-2015  
For Use By Public Body:      For Use By AGO  
Date Received by Public Body:      Date Received by AGO:

## OPEN MEETING LAW COMPLAINT

This is a complaint that the Wayland Board of Selectmen (Board) violated the Open Meeting Law, G. L. c. 30A, §§ 18-25, by failing to approve meeting minutes in a timely manner.

The Board is a five-member elected public body. The chair is Joseph F. Nolan.

The Board has met 14 times since September 15, 2014.<sup>1</sup> Despite the fact that the Board meets almost on a weekly basis, it has approved only the meeting minutes of September 23, 2014 during the past four months. Ordinarily, during meetings, draft minutes are recorded contemporaneously by the executive assistant to the Board using a laptop computer. All of these unapproved minutes presently exist in draft form.

During the 14 times the Board has met since September 15, 2014, it has held 13 executive sessions.<sup>2</sup> It has approved none of those 13 executive session minutes.

Minutes of open sessions must be created and approved in a timely matter. G. L. c. 30A, § 22(c). Although the Open Meeting Law does not define “timely manner,” the Division of Open Government recommends that minutes of a meeting be approved at the next meeting, whenever possible. OML 2014-62; OML 2013-98; OML 2013-31; OML 2012-91. In addition, the Division recommends that executive session minutes be approved in a timely manner as well. OML 2014-85; OML 2013-195; OML 2013-180.

In OML 2013-31, the Division found that the Ashfield Board of Selectmen violated the Open Meeting Law by failing to timely approve minutes. At issue were the minutes for the June 13 and 20, 2012 meetings. On July 30, 2012, the Ashfield Board provided draft minutes of its June 13, 2012 meeting, and on August 20, 2012, it provided draft minutes of its June 20, 2012 meeting. The Ashfield Board had thus failed to approve its June 13 meeting minutes within seven weeks and had failed to approve its June 20 meeting minutes within nine weeks. The Ashfield Board generally meets on a weekly basis, like the Wayland Board.

The Wayland Board’s failure to timely approve open session minutes is far more serious than is the case of OML 2013-31. The Board has yet to approve the minutes of 10 meetings within seven weeks after each meeting.<sup>3</sup> Indeed, some minutes have not been approved as much as four months later. The Board has also failed to approve the minutes for 11 executive sessions

---

<sup>1</sup> These 14 meetings were held on September 15, 23, 29, 2014; October 6, 20, 27, 2014; November 3, 17, 24, 2014; December 1, 8, 15, 2014; and January 5, 12, 2015.

<sup>2</sup> The Board did not hold an executive session at its meeting on December 15, 2014.

<sup>3</sup> These 10 meetings took place during the period from September 15 through December 8, 2014.



seven weeks afterwards. Because the Board meets so regularly, it has had numerous opportunities to approve minutes in a timely manner.

Based on OML 2013-31, I have used the failure to act within seven weeks after a meeting as indicative of lack of timely approval of minutes, where a public body meets nearly weekly. However, seven weeks is not necessarily the ultimate criterion of timeliness. Arguably, to be timely, minutes should be approved in fewer than seven weeks.

In conclusion, the Board has not reviewed and approved multiple sets of open session minutes in a timely manner in violation of the Open Meeting Law. Despite its failures, I believe the Board could not have been unaware of its obligations in this regard.

#### ACTIONS REQUESTED

1. The Board shall acknowledge that it violated the Open Meeting Law as alleged above.
2. Within the next 30 days, the Board shall review and approve all minutes of meetings held from September 15, 2014 through and including December 8, 2014.
3. The Board shall henceforth comply with the Open Meeting Law by timely creating and approving minutes of meetings.

## TOWN ADMINISTRATOR'S REPORT

FOR THE WEEK ENDING FEBRUARY 6, 2015

### 1. POTENTIAL FUTURE MEETINGS AND KNOWN AGENDA ITEMS –

- PLEASE ADVISE AS TO YOUR AVAILABILITY FOR THESE MEETINGS
- PLEASE PROVIDE DIRECTION ON WHAT ARTICLES SHOULD GET VOTED BEFORE WARRANT DEADLINE OF 2/25

1. Thursday February 12<sup>th</sup>: Finance Committee Budget Presentation, Consider withdrawal of Minuteman Articles and Recreation Revolving Fund articles; Discuss with BOPW Transfer of Land
2. Tuesday February 17<sup>th</sup>: Review of Committee Charges (Audit, PMBC, Municipal Building Planning); Increase Recreation Revolving Fund 53 E ½ cap to \$590,000.
3. Monday February 23<sup>rd</sup> : Rivers Edge Committee: Presentation of Request for Proposal to Secure a Developer, Last BOS meeting before warrant compiled; Transfer of Rivers Edge Land from BOPW to BOS
4. Monday March 2<sup>nd</sup>.
5. Monday March 9<sup>th</sup>
6. Monday March 16<sup>th</sup>.
7. Monday March 23<sup>rd</sup>
8. Monday March 30<sup>th</sup> : Selectmen's Warrant Article Hearing

### 2. RIVERS' EDGE

- a. Site Assignment: There will be a meeting of key players next week with DEP to determine the process that needs to take place to remove DEP's assignment of part of the septage property for landfill uses.
- b. RFP: On 2/23 (tent) the Rivers Edge Committee will ask the Board of Selectmen to approve the issuance of a Request for Proposal to secure a developer– The Selectmen will make the final decision on the selection.
- c. Special Counsel – Health: We will know next week how much legal time the Board of Health is likely to need to act as hearing board for site assignment. Attorney Reich's hourly rate is \$180.

### 3. BOARD OF PUBLIC WORKS:

- a. Transfer of Land: The BOPW asks the Selectmen as a condition of the transfer of land to allow DPW to continue to use the site for staging of operations until a developer is selected. The Board had a thoughtful exchange on this matter and requests to discuss it with the Selectmen.
- b. Location of Admin Staff: The DPW Director requests to move DPW's 4 admin staff to the new building to provide improved management of the department. I met with the BOPW who agreed. The PMBC notes there is a space provided for admin staff and reception. I will review the customer service plan, to minimize traffic and improve service before making a final decision.

4. **RECREATION REVOLVING FUND:** After discussion with the Finance Committee on Monday, the Recreation Commission may want to discuss with you on Thursday February 12<sup>th</sup> the options for accounting for Recreation programs next year. Mark Abrahams' Report was forwarded to you and is in correspondence. The continuing conversation is whether there is a way to pay all Recreation costs outside of the general fund without cutting recreation programs. Program costs are now estimated at \$550,000 a year, Indirect costs are about \$90,000. OPEB costs are a few thousand. "Legacy costs" to pay staff costs paid by the General Fund since 2012 are about \$500,000. One solution is for the Finance

Committee and BOS to raise the 53 E 1/2 cap to the maximum \$590,000, cut programs to \$500,000, pay the indirects and OPEB, and pay salaries from the general fund (and likely require payment to the general fund at a later time.) Longer term, special legislation requested at Town Meeting to increase the cap to 2% may be the answer – Special legislation could be adopted at a fall or annual town meeting and be in place when the legislature acts.

5. **TREASURER / IT / BANKING:** As reported last week, the town was a victim of an attempted fraud to transfer town funds out of the country. On Monday, I brought in an IT / Banking consultant, who volunteered his time to interview separately the Treasurer, Bank representatives and the School IT Director. Through this discussion, we developed a list of actions the town must take to secure its IT system and also to protect the town from the human errors that made us vulnerable to cyber-attack. The incident is still under FBI investigation. Interim steps have been taken to protect the town's funds. The Board may be asked to support a consultant review of cash management and cyber security. This review will dovetail and may incorporate action on two other developments: 1) There may be a request through the Finance Committee and Schools for an updated IT plan in order to plan expenses and staffing, and 2) There is a request for a review and plan on how OPEB funds are invested.



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

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

**BOARD OF SELECTMEN**  
**Tuesday, February 10, 2015**  
**(In the event that the Meeting of Monday, February 9,**  
**2015, is Cancelled Due to Weather)**  
**Wayland Town Building**  
**Selectmen's Meeting Room**  
**CONSENT CALENDAR**

1. Vote the Question of Approving and Signing the Weekly Payroll and Expense Warrants
2. Vote the Question of Approving the Invoice of Town Counsel Mark J. Lanza for the Month Ending January 31, 2015: \$11,627.22
3. Vote the Question of Approving the Invoice of Kopelman and Paige, PC, for Services Through December 31, 2014, Statement No. 103048: \$85.88
4. Vote the Question of Approving the Invoice of Kopelman and Paige, PC, for Services Through December 31, 2014, Statement No. 103049: \$702.00
5. Vote the Question of Approving the Placement of Temporary Signs for the Wayland Loose Change Campaign at the Weston Border on Route 20/Old Connecticut Path, the Intersection of Route 20 and Route 27, the Intersection of Old Connecticut Path and Route 27, and in Front of the Cochituate Fire Station, from February 27-March 8, 2015, Weather Permitting
6. Vote the Question of Approving the Appointment of Catherine A. Radmer to the Board of Registrars for a Three-Year Term Effective April 1, 2015, through April 1, 2018

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

INVOICE - TOWN OF WAYLAND - 1/31/2015

SUMMARY

|  |                    |
|--|--------------------|
| FEE CALCULATION: 78.2 HOURS X \$160.00 PER HOUR =  | \$12,512.00        |
| DISBURSEMENTS (See below for detail)   | 195.22             |
| LESS: 50% of 20 WAYLAND CASE COSTS PAID FROM WWMDC FUNDS   | -1,080.00          |
| TOTAL 1/31/15 INVOICE.....   | <u>\$11,627.22</u> |
| AMOUNT PAYABLE FROM GENERAL FUND LEGAL BUDGET.....   | <u>\$10,987.22</u> |
| AMOUNT PAYABLE FROM GENERAL FUND ECONOMIC<br>DEVELOPMENT COMM. PROFESSIONAL SERVICES ACC'T ..... | <u>\$256.00</u>    |
| AMOUNT PAYABLE FROM SCHOOL BUDGET.....   | <u>\$384.00</u>    |

DISBURSEMENTS

|                        |  |               |
|------------------------|--|---------------|
| 12/11 & 12/15          | Courier Serv.                            | 83.60         |
| 1/2015                 | Long Dist. Tel. Charges (Detail on File) | 13.88         |
| 1/2015                 | Postage                                  | 22.44         |
| 1/2015                 | FAXing (978) 369-9916 & (978) 261-5034   | 0.00          |
| 1/2015                 | Copying                                  | 16.50         |
| 1/2015                 | Mobile Phone (Detail on file)            | 12.50         |
| 1/6/15                 | Mileage: 16 @ \$.50                      | 8.00          |
| 1/6/15                 | MBTA Fares                               | 20.30         |
| 1/7/15                 | Mileage: 36 @ \$.50 =                    | 18.00         |
| Total Disbursements \$ |  | <u>195.22</u> |

**KOPELMAN AND PAIGE, P.C.**

101 ARCH STREET  
BOSTON, MA 02110

(617) 556-0007

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STATEMENT NO. 103048

BOARD OF SELECTMEN  
WAYLAND TOWN HALL  
41 COCHITUATE ROAD  
WAYLAND, MA 01778

IN REFERENCE TO: PROFESSIONAL SERVICES THROUGH      DECEMBER 31, 2014  
JANUARY 26, 2015

|              |              |
|--------------|--------------|
| TOTAL FEES:  | 72.00        |
| TOTAL COSTS: | <u>13.88</u> |
| BALANCE DUE: | <u>85.88</u> |

RECEIVED

JAN 30 2015

Board of Selectmen  
Town of Wayland

**KOPELMAN AND PAIGE, P.C.**

101 ARCH STREET  
BOSTON, MA 02110

(617) 556-0007

---

STATEMENT NO. 103049

WAYLAND PLANNING BOARD  
WAYLAND TOWN HALL  
41 CHOCHITUATE ROAD  
WAYLAND, MA 01778

IN REFERENCE TO: PROFESSIONAL SERVICES THROUGH DECEMBER 31, 2014  
JANUARY 26, 2015

|              |               |
|--------------|---------------|
| TOTAL FEES:  | 702.00        |
| TOTAL COSTS: | <u>0.00</u>   |
| BALANCE DUE: | <u>702.00</u> |

## DiNapoli, MaryAnn

---

**From:** Antonia <hieroa@verizon.net>  
**Sent:** Thursday, January 29, 2015 5:40 PM  
**To:** DiNapoli, MaryAnn  
**Subject:** Re: Loose Change Campaign

Dear MaryAnn,

Happy New Year, and I hope you survived the snow storm adequately.

We are gearing up for another Loose Change campaign across town. In the last 4 years we have collected \$65,000 of change, nearly all of which has come from coins which have been lost and forgotten, and we have build and/or equipped 17 schools in the remote villages of Peru.

About 60 Wayland students and 25 parents have gone on the trip to help build and equip these schools.

I am emailing to request that we may post A-frame signs across town, at the same locations as last year:

Below the permanent signs at Station Two in Cochituate, Old Connecticut Path and Cochituate Road (Five Paths), Route 20/Old Connecticut Path by the Coach Grill, and Town Center (corner of Routes 20 and 27).

The dates would be Feb 27th – March 8th.

Thanks,

Antonia Hieronymus

**From:** [DiNapoli, MaryAnn](#)  
**Sent:** Tuesday, January 08, 2013 12:45 PM  
**To:** [Antonia Hieronymus](#)  
**Cc:** [Gorham, Diane](#)  
**Subject:** Loose Change Campaign

Good afternoon, Antonia. Mr. Kadlik forwarded your message to me.

A-frame signs may be posted for one week only at the following four locations: Below the permanent signs at Station Two in Cochituate, Old Connecticut Path and Cochituate Road (Five Paths), Route 20/Old Connecticut Path by the Coach Grill, and Town Center (corner of Routes 20 and 27). Please let me know what dates you would like to put up the A-frame signs, and I will forward the request to the Board of Selectmen for approval.

The large boards are under the jurisdiction of the DPW. I have forwarded your message to Diane Gorham and she will contact you about reserving those boards.

Thank you -

MaryAnn DiNapoli  
*Executive Assistant*  
*Board of Selectmen*  
(508) 358-3621





# 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)

Date: January 29, 2015  
To: Board of Selectmen  
From: Beth R. Klein, Town Clerk  
RE: Registrar Appointment

Please be advised that the term of Catherine A. Radmer (D), member of the Board of Registrars since 2006, will expire on April 1, 2015.

Ms. Radmer has indicated that she would like to be re-appointed. I am, therefore, recommending that the Board appoint Catherine A. Radmer to the Board of Registrars for a three (3) year term effective April 1, 2015 through April 1, 2018.

Thank you,

cc: J. Michael Gilbreath, Chair  
Catherine A. Radmer



# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

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

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

**REVISED LIST OF PUBLIC DOCUMENTS PROVIDED TO THE  
BOARD OF SELECTMEN FROM JANUARY 30, 2015, THROUGH  
AND INCLUDING FEBRUARY 5 2015, OTHERWISE NOT LISTED  
AND INCLUDED IN THE CORRESPONDENCE PACKET FOR  
FEBRUARY 10, 2015**

**Items Distributed To the Board of Selectmen – January 30-February 5, 2015**

1. Email of 2/5/15 from Nan Balmer, Town Administrator, to Board of Selectmen, re: Meeting Availability for February 12, 2015

**Items Distributed for Information and Use by the Board of Selectmen at the Meeting of February 3, 2014**

1. Wayland Rail Trail Cost Estimate

**Items Included as Part of Agenda Packet for Discussion During the February 9, 2015 Board of Selectmen's Meeting**

1. Article for 2015 Annual Town Meeting, "OPEB Funding"
2. Memorandum of 2/9/15 from Nan Balmer, Town Administrator, to Board of Selectmen re: Application for Entertainment License: China Rose, and Backup Material
3. Draft Resolution for 2015 Annual Town Meeting, "Resolution Regarding ESCO Project Changes"
4. Draft Order of Annual Town Meeting Articles
5. Letter of 1/29/15 from George Harris to Board of Selectmen re: Open Meeting Law Complaint and Draft Response
6. Report of the Town Administrator for the Week Ending February 6, 2015



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

# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

## BOARD OF SELECTMEN

MARY M. ANTES  
ANTHONY V. BOSCHETTO  
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**BOARD OF SELECTMEN**  
**Tuesday, February 10, 2015**  
**(In the event that the Meeting of Monday, February 9,**  
**2015, is Cancelled Due to Weather)**  
**Wayland Town Building**  
**Selectmen's Meeting Room**

## CORRESPONDENCE

### Selectmen

1. Public Comment, Wastewater Settlement Inquiry
2. Public Comment, Snow Removal
3. Letter of 1/21/15 from Treasurer, Minuteman Regional Vocation Technical School, re: Preliminary Assessments
4. Letter of 1/29/15 from George Harris to Board of Selectmen re: Open Meeting Law Complaint
5. Letter of 2/4/15 from Mark D. Abrahams, CPA, to Jessica Brodie, Recreation Director, re: Final Report for the Recreation Revolving Fund
6. Letter received 2/4/15 from Antonia Hieronymus, Loose Change, re: Request to Make a Presentation to the Board of Selectmen
7. Monthly Report, Animal Control, January 2015
8. Director of Public Health Report, February 3, 2015
9. Monthly Report, Fire Department, January 2015
10. Monthly Report, Police Department, January 2015

### Conservation Commission

11. Determination of Applicability, 1/30/15, from Brian Monahan, Conservation Administrator, re: 6 Cross Street
12. Determination of Applicability, 1/30/15, from Brian Monahan, Conservation Administrator, re: 14 Lundy Lane

### Zoning Board of Appeals

13. Public Hearing, February 24, 2015, 65 Glezen Lane

### State

14. Notice of Public Hearing, 1/23/15, from the Department of Telecommunications and Cable, re: Establish and Adjust Basic Service Tier Programming, Equipment and Installation Rates

**DiNapoli, MaryAnn**

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**From:** Nancy Carapezza <npez@comcast.net>  
**Sent:** Friday, January 30, 2015 3:39 PM  
**To:** Selectmen  
**Subject:** Wastewater settlement inquiry

To the Board of Selectmen:

Having waited another 6 months for a reasonable solution, the deadline set for an appeal of the Wastewater betterment charges at 233 Boston Post Road is approaching. Is there a chance that a settlement might be reached so that this issue could be resolved?

As I have said publicly and personally to the Board, I would prefer not to continue with any action. However I feel that we have no other option than to begin the process of abatement with the deadline that the town has given us.

Thank you for any response you might have related to the town's position.

~Nancy

*Nancy Carapezza*

*508.358.4947h*

*508.740.4500c*

“This is Doug Day, 3 Keith Road. I want to thank the Highway Department and Joe Doucette and his crew. We had a very dangerous situation at the corner of Keith Road and Main Street, and they did a phenomenal job clearing it out and improving the visibility going onto Main Street by one hundred percent. So I know you have a lot of people that aren’t happy, but we are very grateful for Joe’s attention to that problem two days ago, and we want to let you know that they are doing a phenomenal job.”

Transcription of Telephone Message  
February 5, 2015



J

January 21, 2015

Mr. Paul Keating  
41 Cochituate Road  
Wayland, MA 01778

Dear Mr. Keating,

The Minuteman Regional Vocational Technical School District School Committee approved preliminary assessments based on the 2016 Governor's Budget House 1 at its meeting on Jan 20th, 2015. Assessments have been calculated based on the minimum contributions included in the 2016 State budget. School Committee will be meeting in September, 2015 and reviewing the final budget and assessment figures based on the final approved state budget. We will send notice of revised figures, if any, after that meeting.

We have established the following schedule which will allow for compliance with Section XI "Fiscal Year".

|  |                   |             |            |
|--|-------------------|-------------|------------|
| <b>On or before August 1<sup>st</sup>, 2015</b>    | \$ 13,756         |             |            |
| <b>On or before September 1<sup>st</sup>, 2015</b> | \$ 13,756         | <b>25 %</b> | \$ 27,511  |
| <b>On or before October 1<sup>st</sup>, 2015</b>   | \$ 12,839         |             |            |
| <b>On or before November 1<sup>st</sup>, 2015</b>  | \$ 12,839         |             |            |
| <b>On or before December 1<sup>st</sup>, 2015</b>  | \$ 12,839         | <b>60%</b>  | \$ 38,516  |
| <b>On or before January 1<sup>st</sup>, 2016</b>   | \$ 5,502          |             |            |
| <b>On or before February 1<sup>st</sup>, 2016</b>  | \$ 5,502          |             |            |
| <b>On or before March 1<sup>st</sup>, 2016</b>     | \$ 5,502          | <b>75%</b>  | \$ 16,507  |
| <b>On or before April 1<sup>st</sup>, 2016</b>     | \$ 13,756         |             |            |
| <b>On or before May 1<sup>st</sup>, 2016</b>       | \$ 13,756         | <b>100%</b> | \$ 110,045 |
| <b><u>Total</u></b>                                | <b>\$ 110,045</b> |             |            |

Please consider this letter as request for payment according to the above schedule. If you have any questions about the assessment, Please contact Kevin F. Mahoney Assistant Superintendent of Finance at kmahoney@minuteman.org or 781-861-6500 Ext 220.

Sincerely,

Laurie Elliott  
Treasurer

cc: Chairman, Finance Committee  
Chairman, Board of Selectmen

**RECEIVED**  
**JAN 30 2015**  
Board of Selectmen  
Town of Wayland

3

**GEORGE H. HARRIS**  
ATTORNEY AT LAW  
8 HOLIDAY ROAD  
WAYLAND, MASSACHUSETTS 01778

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Tel & Fax: (508) 358-2379

E-mail: [geoharris2@gmail.com](mailto:geoharris2@gmail.com)

January 29, 2015

By Electronic Mail

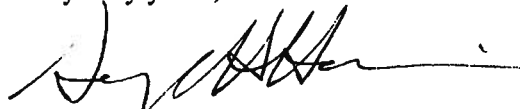
Joseph F. Nolan, Chair  
Wayland Board of Selectmen  
Town Building  
41 Cochituate Road  
Wayland, MA 01778

Dear Chair Nolan:

I am filing herewith an Open Meeting Law complaint pursuant to G. L. c. 30A, § 23(b) and 940 CMR 29.05(3).

Your response to the complaint is required by statute within 14 business days. Thank you.

Very truly yours,



George H. Harris

Enclosure (complaint)

cc: Town Clerk (w/ encl) (by electronic mail)



## OPEN MEETING LAW COMPLAINT FORM

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

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: George Last Name: Harris

Address: 8 Holiday Road

City: Wayland State: MA Zip Code: 01778

Phone Number: +1 (508) 358-2379 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: Various



**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 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, will be considered a public record and available to any member of the public upon request. In response to such a request, the AGO generally will not disclose your contact information.

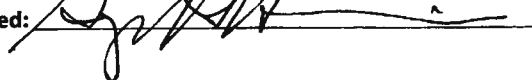
**II. Consulting With a Private Attorney.**

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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: 01-29-2015  
For Use By Public Body For Use By AGO  
Date Received by Public Body: Date Received by AGO:

## OPEN MEETING LAW COMPLAINT

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The Board has met 14 times since September 15, 2014.<sup>1</sup> Despite the fact that the Board meets almost on a weekly basis, it has approved only the meeting minutes of September 23, 2014 during the past four months. Ordinarily, during meetings, draft minutes are recorded contemporaneously by the executive assistant to the Board using a laptop computer. All of these unapproved minutes presently exist in draft form.

During the 14 times the Board has met since September 15, 2014, it has held 13 executive sessions.<sup>2</sup> It has approved none of those 13 executive session minutes.

Minutes of open sessions must be created and approved in a timely matter. G. L. c. 30A, § 22(c). Although the Open Meeting Law does not define “timely manner,” the Division of Open Government recommends that minutes of a meeting be approved at the next meeting, whenever possible. OML 2014-62; OML 2013-98; OML 2013-31; OML 2012-91. In addition, the Division recommends that executive session minutes be approved in a timely manner as well. OML 2014-85; OML 2013-195; OML 2013-180.

In OML 2013-31, the Division found that the Ashfield Board of Selectmen violated the Open Meeting Law by failing to timely approve minutes. At issue were the minutes for the June 13 and 20, 2012 meetings. On July 30, 2012, the Ashfield Board provided draft minutes of its June 13, 2012 meeting, and on August 20, 2012, it provided draft minutes of its June 20, 2012 meeting. The Ashfield Board had thus failed to approve its June 13 meeting minutes within seven weeks and had failed to approve its June 20 meeting minutes within nine weeks. The Ashfield Board generally meets on a weekly basis, like the Wayland Board.

The Wayland Board’s failure to timely approve open session minutes is far more serious than is the case of OML 2013-31. The Board has yet to approve the minutes of 10 meetings within seven weeks after each meeting.<sup>3</sup> Indeed, some minutes have not been approved as much as four months later. The Board has also failed to approve the minutes for 11 executive sessions

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<sup>1</sup> These 14 meetings were held on September 15, 23, 29, 2014; October 6, 20, 27, 2014; November 3, 17, 24, 2014; December 1, 8, 15, 2014; and January 5, 12, 2015.

<sup>2</sup> The Board did not hold an executive session at its meeting on December 15, 2014.

<sup>3</sup> These 10 meetings took place during the period from September 15 through December 8, 2014.

seven weeks afterwards. Because the Board meets so regularly, it has had numerous opportunities to approve minutes in a timely manner.

Based on OML 2013-31, I have used the failure to act within seven weeks after a meeting as indicative of lack of timely approval of minutes, where a public body meets nearly weekly. However, seven weeks is not necessarily the ultimate criterion of timeliness. Arguably, to be timely, minutes should be approved in fewer than seven weeks.

In conclusion, the Board has not reviewed and approved multiple sets of open session minutes in a timely manner in violation of the Open Meeting Law. Despite its failures, I believe the Board could not have been unaware of its obligations in this regard.

#### ACTIONS REQUESTED

1. The Board shall acknowledge that it violated the Open Meeting Law as alleged above.
2. Within the next 30 days, the Board shall review and approve all minutes of meetings held from September 15, 2014 through and including December 8, 2014.
3. The Board shall henceforth comply with the Open Meeting Law by timely creating and approving minutes of meetings.

# THE ABRAHAMS GROUP

FOR BETTER GOVERNMENTS

February 4, 2015

Ms. Jessica Brodie, CPRP  
Recreation Director  
Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778

Dear Ms. Brodie:

I am pleased to submit this report for the Wayland Recreation's Revolving fund. This letter describes the project's background and objectives and my findings and recommendations. All data are provided by the Town Finance Director or the Department of Revenue (DOR).

## EXECUTIVE SUMMARY

The Town of Wayland operates the Recreation Department through general fund appropriations for full-time salaries and indirect costs and direct recreation program authorizations and program revenues through a municipal revolving fund under MGL Chapter 44, Section 53E½, a Recreation Revolving fund. As elaborated in this report, recreation budgeting, accounting and financial reporting has many options under MGLs. As discussed in this report, the existing structure (44:53 E½) has several issues that need to be addressed. This report discusses several options for the Town to consider: (1) to continue the use of a municipal revolving fund under the provisions of MGL 44:53E½, (2) to operate the recreation programs under MGL 44:53D, a Recreation Revolving fund, and to (3) to operate the recreation programs under the enterprise fund statute, 44:53F½. After many meetings between the Finance Committee, the Recreation Commission, the Board of Selectmen and others, the following recommendation is presented to the Town for consideration.

In summary, the Town needs time to develop a workable solution. The best option would be a 44:53 E½ with an expanded cap to 2% or 2.5% of the levy, similar to the Brookline special act. However, a special act would take time to implement. Thus the Town should consider the following:

- The Town should raise the existing 44:53E½ cap with the approval of the Board of Selectmen and Finance Committee.
- The Recreation Commission should develop a FY 2015 and FY 2016 revenue and expenditure budget and would be required to spend within these limits.
- The Town should consider expanding the 44:53E½ cap to 2% or 2.5% of the levy through a special act consistent with the Brookline model.

This report discusses several options for the Town to consider.

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## **BACKGROUND**

The Town of Wayland operates its Recreation activities through a municipal revolving account under MGL Chapter 53 E½. Under that statute, a town may annually authorize the use of one or more revolving funds by one or more municipal agency, board, department or office which will be accounted for separately from all other monies in the town and to which will be credited only the departmental receipts received in connection with the programs supported by that revolving fund. Expenditures may be made from the revolving fund without further appropriation, provided, however, that expenditures will not be made or liabilities incurred from any such revolving fund in excess of the balance of the fund nor in excess of the total authorized expenditures from such fund, ..... provided, further, that no board, department or officer may expend in any one fiscal year from all revolving funds under its direct control more than one percent of the amount raised by taxation by the city or town in the most recent fiscal year for which a tax rate has been.

Wayland Town Meeting voted a ceiling of \$450,000 for the Recreation Revolving Fund for FY 2015. Based on FY 2015 actual results through December 31, 2014, the recreation revolving fund brought has expended \$339,000. At this rate, the fund will exceed its authorization over the next few months. Based on an annual tax levy of about \$59 million, the recreation expenditures are approaching the one percent limit.

## **OBJECTIVES**

Thus the Town is seeking assistance to analyze recreation financing and recommend a model that makes sense including the following options.

1. To continue under the provisions of MGL Chapter 53E½ to operate as a municipal revolving fund.
2. To accept the provisions of Chapter 44, Section 53D to operate as a recreation revolving fund.
3. To accept the provisions of Chapter 44, Section 53F½ to operate as an enterprise fund.

The analysis will look at the presentation of revenues and expenditures based on FY 2014 actual numbers under each of the three scenarios and will also present the pros and cons on each of the three options. In addition, this analysis will address the following questions:

- Can the Recreation Fund pay back the salaries and indirect costs that the town general fund is expecting for the past two fiscal years (are their enough funds and was this a legal agreement from the beginning)?
- If the Recreation Fund is required to pay back those salaries, will that set a precedent in the years moving forward? Will fees likely need to be increased?

- What is the actual NET surplus or deficit from the Revolving Fund each year after subtracting all program expenses from what was brought in from program fees based on an annual matching of revenues and expenditures?
- Clarify exactly what indirect costs are being deducted from the Revolving Fund each year to go to the General Fund and if those transfers are feasible with the current fee structure of programming. Does transferring funds in this manner make sense for the town vs. having some expenses (salaries) come out of the General Fund for both Recreation and Park employees? What is the difference to tax payers – increase in fees they would pay for programs vs. increase in taxes?
- Confirm the process by which the Town should manage funds moving forward with each possible plan outlined under the three scenarios.

It is my hope that this report will assist the Town to make an informed decision on the future of the Recreation Revolving fund.

## **MUNICIPAL ACCOUNTING OPTIONS**

One of the most fundamental principles of municipal finance in Massachusetts is established by M.G.L. Ch. 44 Sec. 53. It creates the basic rule that all revenues from any source are unrestricted general revenues available for expenditure for any valid municipal purpose after appropriation by the municipality's legislative body. Any analysis of the treatment of a particular receipt begins with this statutory presumption that any money received by any department or officer in the regular course of municipal business belongs to a common pool of financial resources referred to as the general fund, and spending priorities for those resources are established through the budget and appropriation process.

There are many exceptions that permit particular receipts to be segregated into a separate, special fund. However, any exception to M.G.L. Ch. 44 Sec. 53 must be created by another statute, either a general law or special act that applies to the particular city or town. A special fund cannot be created by the selectmen, finance director, or department head, town meeting, or bylaw or ordinance. Three related special funds are discussed:

1. MGL Chapter 53E½ to operate as a municipal revolving fund.
2. Chapter 44, Section 53D to operate as a recreation revolving fund.
3. Chapter 44, Section 53F½ to operate as an enterprise fund.

## **Municipal Revolving Funds**

A departmental revolving fund is a place to set aside revenue received, through fees and charges, for providing a specific service or program. The revenue pool is, in turn, a source of funds available to use by a department without further appropriation to support the particular service or program.

Most frequently, cities and towns create general departmental revolving funds under M.G.L. Ch. 44 Sec. 53E½. The fund is created with an initial town meeting authorization that identifies which department's receipts are to be credited to the revolving fund and specifies the program or purposes for which money may be spent. It designates the department, board or official with authority to expend the funds and places a limit on the total amount of the annual expenditure. To continue the revolving fund in subsequent years, annual approval of a similar article is necessary. Managers are also required, each year, to report on the fund and program activities. However a detailed budget is not presented to Town Meeting.

Under Sec. 53E½, any expenditure from a revolving fund is restricted to the then current fund balance or to the authorized spending limit, which cannot exceed one percent of the most recent tax levy. The combined authorized expenditures for all revolving funds cannot exceed ten percent of the levy.

If a revolving fund balance remains after total spending has reached the authorized limit, the balance carries over to the next fiscal year. Interest that accrues on a revolving fund balance under Sec. 53E½ reverts to the general fund. However, if the revolving fund is not reauthorized, any remaining balance closes to free cash, unless it is transferred by town meeting to another revolving fund. Including Ch. 53E½, Massachusetts General Laws allow revolving funds for about a dozen specific, non-school related purposes. Another 13 apply to schools, but are not discussed here.

### **53D Recreation Revolving Fund**

A town may establish a revolving fund which shall be kept separate and apart from all other monies by the treasurer and in which shall be deposited the receipts received in connection with the conduct of self-supporting recreation and park services. The principal and interest thereon shall be expended at the direction of the town authority, commission, board or official without further appropriation, but only with the written approval of the selectmen in towns and only for the purpose of operating self-supporting recreation and park services. The town accountant is required to submit annually a report of the revolving fund to the board of selectmen for their review and a copy of the report to the director of the bureau of accounts. The revolving fund cannot be used for the purpose of paying any wages or salaries for full-time recreation and park employees and the unreserved fund balance cannot exceed ten thousand dollars at the close of each fiscal year. The unreserved fund balance is calculated by adding all current years' revenues and other financing sources to the beginning fund balance and subtracting current years' expenditures and other financing uses. The unreserved fund balance amounts in excess of ten thousand dollars revert to the general fund. The fund is not presented to Town Meeting for appropriation similar to other town budgets.

A town which has accepted the provisions of this section may, in like manner, revoke its acceptance. Any town may require by by-law or ordinance that the provisions of this section may be subject to annual authorization by a vote of the annual town meeting.

## **Enterprise Funds**

Increasingly, communities are establishing enterprise funds for their business type services (e.g., water, sewer, trash disposal, ambulance services, skating rinks, pools, golf courses, airports, dock and wharf facilities). By vote of the city council with the approval of the mayor or by town meeting, an enterprise is adopted. An enterprise fund (MGL Chapter 44, Section 53F½) establishes a separate accounting and financial reporting mechanism for municipal services for which a fee is charged in exchange for goods or services. Under enterprise accounting, the revenues and expenditures of the service are segregated into a separate fund with its own financial statements, rather than commingled with the revenues and expenses of all other governmental activities.

Enterprise accounting allows a community to demonstrate to the public the total cost of providing a service. With all the direct and indirect costs (e.g., interdepartmental support, health and insurance costs), debt service and capital expenditures associated with providing the service in a consolidated fund, the community will be able to readily identify the true cost of the service. To support the service, a community may choose to recover total costs through user charges (rates), through a partial subsidy from the tax levy (e.g., a Proposition 2½ debt exclusion) or from other available funds.

At year-end, the performance of an enterprise fund is measured in terms of positive (surplus) and negative (deficit) operations. An operating surplus is the result of revenue collected in excess of estimates and appropriation turnbacks, and translates into retained earnings that are maintained in the fund rather than closing to the general fund. Retained earnings of an enterprise fund are certified by the Director of Accounts as an available fund after the submission of a June 30th balance sheet to DLS.

Once certified, retained earnings may be appropriated *only* for expenditures relating to the enterprise fund. Conversely, if during the year, the enterprise fund incurs an operating loss, the loss must be raised in the subsequent year's budget.

With the consolidation of all related revenues and costs of the service and information on the operating performance (positive or negative) of the fund, the community will have useful information to make decisions on user charges and other budgetary items. The community will be able to analyze how much the user fees and charges support the service and to what extent if any the tax levy or other available revenues are needed to subsidize the enterprise fund. The community will also be able to include the fixed assets and infrastructure of the enterprise as assets in the financial statements and recognize the annual depreciation of these assets.

Establishing an enterprise does not create a separate or autonomous entity from the municipal government operation. Like every other department, a budget is prepared that is reviewed and analyzed by the finance committee. The budget, as well as any transfers among the enterprise fund's line item appropriations, requires action by the town meeting. And, the municipal



Ms. Jessica Brodie, CPRP  
Recreation Director  
February 4, 2015  
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department operating the enterprise service continues to fulfill financial and managerial reporting requirements.

### **WAYLAND'S MUNICIPAL RECREATION 53 E ½ REVOLVING FUND**

Since 2006, Wayland has operated its recreation programs through a revolving fund under the provisions of Chapter 44 Section 53E½. In recent years, Town Meeting has voted:

“That the Town continue for Fiscal Year 2015 the revolving fund established by vote of the 2006 Annual Town Meeting pursuant to Chapter 44, Section 53E½ of the Massachusetts General Laws for use by the Recreation Commission for recreation programs and activities, to be funded by user fees collected; and that the amount to be expended not to exceed the sum of \$450,000”

The balance of Recreation expenditures are appropriated by Town Meeting in the general fund. The general fund appropriation has been for the full time salaries of two to three individuals and town administrative and fringe benefit costs incurred by the general fund on behalf of the recreation fund and in recent years, OPEB costs retroactive to 2008, the year OPEB was recognized on the Town's books.

Because the Town records Recreation activity in two funds, it is difficult to understand the total revenues, expenditures, results of operations and the financial position of the recreation programs. The following tries to present the total revenues and expenditures of the Recreation programs. These numbers are supported by a workbook containing several Town financial reports obtained from the Finance Director. Refer the tabs on the workbook for details. Note that while these numbers have been reviewed with the Finance Director, they are not validated at this time.

#### **FY14 Revolving Fund Results**

Based on the Finance Director's FY14 YTD Budget Summary Report for the Recreation Revolving fund, the following summarizes FY14 results, as adjusted:

| <b>DESCRIPTION</b>                             | <b>AMOUNT</b> |
|--|---------------|
| TOTAL FY14 REVENUES                            | (827,158.23)  |
| TOTAL FY14 EXPENSES                            | 737,858.72    |
| EXCESS OF FY14 REVENUES OVER FY14 EXPENDITURES | (89,299.51)   |

Note that FY14 expenses significantly exceeded the \$450,000 authorization amount voted by Town Meeting and the 1% limit of the tax levy (1% of \$59 million). The Town may increase the authorization amount with the approval of the Board of Selectmen and the Finance Committee. The Town has not been penalized for over expending the authorization; the over expenditure has

not been deducted from free cash nor has the amount been required to be provided for on the recap sheet.

**FY14 General Fund Results**

The general fund accounts for the full time salaries of recreation staff and indirect costs not accounted for or budgeted within the Recreation Revolving Fund. In FY14 this amounted to \$244,885.01.

| Description               | Amount               |
|---------------------------|----------------------|
| SALARIES                  | \$ 170,510.10        |
| FRINGE BENEFITS-INDIRECTS | \$ 74,374.91         |
| <b>TOTAL</b>              | <b>\$ 244,885.01</b> |

**FY14 Total Results**

Thus, the Recreation Department incurred over \$860,000 of expenditures for FY14.

| Description    | Amount               |
|----------------|----------------------|
| Revolving Fund | \$ 615,858.72        |
| General Fund   | \$ 244,885.01        |
| <b>TOTAL</b>   | <b>\$ 860,743.73</b> |

**FY 2015 Estimates**

Note that it is difficult to compile a Recreation budget from the Town's financial reports. The general fund amounts for full time salaries and indirect costs are budgeted and appropriated by Town Meeting. However, the Recreation Revolving Fund does not have a formal budget; in fact the Recreation department does not prepare a budget for the upcoming fiscal year. MUNIS records the cash balance at the previous June 30 as a budget adjustment in the subsequent fiscal year.

A second way to estimate total general and Recreational Revolving fund expenditures is to base that estimate on FY15 expenditures through December 31, 2014. The following table summarizes those numbers:

| <b>Total Expenditure Estimate</b>                                    | <b>Amount</b>     |
|--|-------------------|
| July 1 - December 31, 2014 revolving fund expenditures actual        | \$ 339,169        |
| Revolving fund estimated expenditures January - June 2015 (linear)   | \$ 339,169        |
| General fund salaries July 1 - December 31, 2014 actual expenditures | \$ 73,419         |
| General fund estimated expenditures January - June 2015 (linear)     | \$ 73,419         |
| FRINGE BENEFITS-IND General Fund                                     | \$ 91,645         |
| Parks Salaries FY14 actual   | \$ 74,000         |
| <b>Total Estimate</b>  | <b>\$ 990,821</b> |

As of December 31, 2014, the revolving fund incurred \$339,169 in expenditures. The general fund incurred \$73,419. Assuming the last six months of FY15 are expended similar to the first six months and the fringe benefits and the two Park employees that are budgeted in the Recreation department are expensed, the total estimated FY15 expenditures exceed \$900,000. In reality, the Recreation Department spends more in the first six months of the fiscal year (summer period) than the last six months. Thus it is fair to say that the total Recreation expenditures (general fund and Recreation Revolving fund) range from \$860,000 to \$1 million and may exceed the higher amount. It is important that the Town agree as to the total amount expended in both funds.

### **Recreation Summary**

Between the general fund and the Recreation Revolving fund, the Recreation Department spends \$860,000 - \$1,000,000 per year (direct and indirect costs) and brings in about \$827,000 a year for an excess of total expenditures in excess of revenues of about \$33,000 to \$173,000. Thus their program revenue structure does not fully fund their direct and indirect costs when all funds are considered.

### **Excess of Revenues over Expenditures**

The Recreation Revolving fund has a cumulative excess of revenues over expenditures for the past three years, FY12 – FY14 as follows.

| Description                        | FY 2012                | FY 2013                | FY 2014                | Totals                   |
|------------------------------------|------------------------|------------------------|------------------------|--------------------------|
| <b>Revenues</b>                    |                        |                        |                        |                          |
| Sudbury Reimbursement              | \$ (44,092.34)         | \$ (33,260.76)         | \$ (44,930.46)         | \$ (122,283.56)          |
| Fees/GF Offset                     | \$ 355,000.00          |                        |                        | \$ 355,000.00            |
| Beach                              |                        |                        | \$ (19,165.15)         | \$ (19,165.15)           |
| Field Permits                      |                        |                        | \$ (111,009.00)        | \$ (111,009.00)          |
| Summer Camps                       |                        |                        | \$ (3,572.00)          | \$ (3,572.00)            |
| Youth Programs                     |                        |                        | \$ (6,256.32)          | \$ (6,256.32)            |
| Adult Programs                     |                        |                        | \$ (23,893.33)         | \$ (23,893.33)           |
| Miscellaneous Revenues             | \$ (740,165.28)        | \$ (744,106.93)        | \$ (748,331.97)        | \$ (2,232,604.18)        |
| <b>Total Revenues</b>              | <b>\$ (429,257.62)</b> | <b>\$ (777,367.69)</b> | <b>\$ (957,158.23)</b> | <b>\$ (2,163,783.54)</b> |
| <b>Adjustment</b>                  |                        |                        | \$ 130,000.00          |                          |
| <b>Net Revenues</b>                |                        |                        | <b>\$ (827,158.23)</b> |                          |
| <b>Expenditures</b>                |                        |                        |                        |                          |
| Salaries                           | \$ 136,571.63          | \$ 130,815.96          | \$ 152,935.59          | \$ 420,323.18            |
| Overtime                           | \$ 240.75              | \$ 76.70               | \$ 251,464.84          | \$ 251,782.29            |
| Contractual Services               | \$ 219,327.20          | \$ 216,748.68          | \$ 123,761.73          | \$ 559,837.61            |
| Supplies                           | \$ 83,150.26           | \$ 78,009.43           | \$ 204,412.56          | \$ 365,572.25            |
| <b>Total Expenditures</b>          | <b>\$ 439,289.84</b>   | <b>\$ 425,650.77</b>   | <b>\$ 732,574.72</b>   | <b>\$ 1,597,515.33</b>   |
| <b>Excess (Shortfall) Revenues</b> | <b>\$ (10,032.22)</b>  | <b>\$ 351,716.92</b>   | <b>\$ 224,583.51</b>   | <b>\$ 566,268.21</b>     |
| <b>&gt; Expenditures</b>           |                        |                        |                        |                          |

Thus over the past three years the Recreation Revolving Fund has a cumulated excess of revenues over expenditures of about \$566,000. The actual balance brought forward by MUNIS for FY15 was \$534,858 (a combination of cash balances and encumbrances).

Questions have been raised about the use of surplus. The Recreation staff and Commission would like to keep the surplus as part of the fund in order to provide working capital for its programs. For example, the Department receives receipts in June for programs that begin in July. Under the UMAS accounting system, these receipts are recorded on the cash basis and are not deferred until the subsequent year. Others believe there is an understanding that the Recreation Revolving fund balance should pay the general fund for costs appropriated in the general fund on behalf of the recreation fund (full time salaries and indirect costs).

As shown in the above table, the Recreation Revolving fund absorbed \$355,000 of general fund costs in FY12. These expenditures were transferred to the Recreation Revolving fund presumably based on discussions on Town Meeting floor. However the same offset was not applied in FY13 and FY14; while there may be verbal representations that monies should be transferred, there is no evidence of a formal vote by Town Meeting to make those transfers. The

same is true for FY15; there is no evidence of a formal vote by Town Meeting to make those transfers.

In addition, the Recreation Department incurs costs on behalf of the general fund. The following are examples of activities performed by the Recreation Department on behalf of the general fund for which the Department incurs costs that are not reimbursed by the general fund.

- Schedule all Town playing fields, including school property fields
- Oversee the care and management of all Town fields – master planning, capital budget improvement requests, etc.
- Oversee the planning and care of all recreational properties in Town
  - Playgrounds – playground inspections, best new equipment to add, etc.
  - Courts – basketball, volleyball, tennis court care and maintenance
  - Dudley Woods – Walking trails for passive recreation – design and construction, and management after built
  - Loker Recreation and Conservation Area – care, management, and planning for future property use
  - Nike Site – care, management, and planning for future property use.
  - Beach – all care, management, programming, and planning for site
  - Rail Trail and Community Center – planning for these projects

It is beyond the scope of this study to estimate the associated costs with these activities.

In addition, \$25,000 was transferred from the Recreation Revolving account to DPW for field maintenance. This was not voted at the 2014 Town Meeting for the FY15 budget. Therefore DPW may currently be operating without \$25,000 of needed funds. How does the Town want to address this \$25,000?

Therefore the following questions need to be raised and hopefully answered:

1. Is it the intent of the Town for the Recreation Revolving fund to reimburse the general fund for FY13, FY14, and FY15 related costs?

There is no evidence of a Town Meeting vote to transfer FY13, FY14, and FY15 Recreation Revolving fund balances to the general fund or to transfer related general fund expenditures to the Recreation Revolving fund. Monies or expenditures to be transferred will require a Town Meeting vote.

2. Should the general fund reimburse the Recreation Revolving fund for costs incurred on behalf of the general fund? Should there be an accounting of those costs?

Assuming the Recreation Revolving fund is performing work on behalf of the general fund there should be an accounting of these costs and a transfer of funds from the general fund would be appropriate as a transfer or an offset to indirect costs.

3. Does the Town want the Recreation fund to be self-sustaining?

Based on FY14 results, the Recreation Revolving fund generates sufficient revenues to pay Recreation Revolving fund expenditures. However the Recreation Revolving fund does not generate sufficient revenues to pay Recreation Revolving and general fund expenditures. Recreation fees would need to be increased by about \$33,000 - \$173,000 to attain self-sufficiency. Self-sufficiency can also be achieved through increased fees, general fund reimbursements, and/or expenditures reductions.

4. Can the fund be self-sustaining?

What will a \$33,000 - \$173,000 increase in fees due to Recreation programming? How competitive will Recreation programs be with increased fees? Can programming be changed to better match revenues and expenditures? How much working capital does the fund need? Would the cost incurred by the Recreation Revolving fund on behalf of the general fund equal the difference between recreation revenues and expenditures and thus become self-sustaining or close to it? These are questions beyond the scope of this study that need to be discussed.

## **WHAT ACCOUNTING OPTION MAKES SENSE GOING FORWARD**

### **44:53E½**

The current fund structure is not viable, unless the cap is increased. The 1% ceiling limits the ability of the Department to operate a municipal revolving fund under Chapter 44 Section 53E½. The Department cannot continue to exceed the \$450,000 Town Meeting authorization. The Town can with the approval of the Board of Selectmen and the Finance Committee raise the Recreation Revolving fund authorization to \$590,000. But for the 44:53E½ to be viable, the cap will need to be increased by special legislation. The Town of Brookline raised its 44:53E½ to 2.5% of its levy through a special act, a process that took four years to complete.

### **44:53D**

Chapter 44 Section 53D allows a town to establish a recreation revolving fund, provided that full time salaries are not charged to that fund, and provided further that any unreserved fund balance greater than \$10,000 reverts to the general fund. There are about 117 44:53Ds based on DOR 2014 data.

This structure is similar to the current structure where the Town utilizes a revolving fund without further appropriation and the general fund with a general fund appropriation for Recreation purposes. The differences are that (1) the 53D retains interest, (2) the 53D is not intended to allocate/ recover indirect costs and (3) would transfer any unreserved fund balance to the general fund if that balance exceeded \$10,000. The 53D option allows the Department the flexibility to budget in a manner consistent with current practices. There is no certification of a 44:53D unreserved fund balance. However, the Recreation Department like any department must spend within Town Meeting authorizations.

#### **44:53F ½**

Chapter 44 Section 53F½ allows a town to establish a recreation enterprise fund. There were about 20 recreation enterprise funds bases on 2010 Department of Revenue Data. The following presents the major highlights with an enterprise fund:

- 1) Interest is retained in the fund
- 2) A balanced revenue and expenditure budget is to be presented to the Town Administrator within 120 days of the start of a fiscal year. This budget must identify (1) all direct enterprise fund costs, (2) indirect costs incurred in the general fund and allocated to the enterprise fund for funding and (3) any subsidy provided by the general fund
- 3) Indirect costs are to be calculated in a fair and reasonable manner and are to be documented
- 4) Balances are retained in the enterprise fund. Retained earnings are certified by the Department of Revenue. Monies can be spent from retained earnings for any legal purpose only after certification by DOR
- 5) The enterprise fund is not required to recover its costs with enterprise generated revenues

The major difference with an enterprise fund for the Recreation Department is that this will require the Department to budget its program expenditures and corresponding revenues in January as part of the town budget process for the next fiscal year. This would present a challenge to the way the Recreation Department currently budgets. Nonetheless, the Recreation Department like any department must spend within Town Meeting authorizations.

#### **General Fund**

The Town always has the option of funding Recreation entirely through the General Fund with fees as local receipts.

#### **Recommended Method**

The recommended method reverts back to the objectives of the Town.

- If it is the Town's objective to have a full presentation of the revenues and expenditures of the Recreation Department including indirect costs, potential offsets, and any subsidies, then the enterprise fund structure makes the most sense. This option would present the full Recreation budget annually to Town Meeting. Given the nature of Recreation programs, the Recreation Department may request additional appropriations at the spring town meeting for the then current budget year based on increased revenues and programming decisions. If there is no spring town meeting, the Recreation Commission would not be in a position to adjust its budget through a town meeting vote.
- If it is the Town's objective to maintain a structure consistent with how the Recreation Department currently budgets and accounts, and not account for indirect costs or potential offsets, then the 44:53D structure makes the most sense. This option would present the general fund full time salaries to Town Meeting for appropriation, not the full Recreation budget. This option would not include indirect costs and would require any unreserved fund balance greater than \$10,000 to revert to the general fund.
- The issue of whether recreation should be self-sustaining is a separate issue. The Town may have a Recreation enterprise fund that has a subsidy from the general fund.

Whatever method is selected, the Town should:

- Consider establishing program orgs within MUNIS for the Department's major programs with a set of revenue and expenditure accounts assigned to each org. This would provide a more rational way to budget and account for Recreation revenues and expenditures.
- Consider transferring the two Parks employees currently in the Recreation Department to the DPW; any use of these employees on behalf of the Recreation Department would be accounted for as an indirect cost.
- Reconsider the fringe benefit allocation to be based on the Recreation employees that receive benefits rather than the fee based program amount.
- Consider charging the general fund for costs incurred by the Recreation Department on behalf of the general fund.

#### **Place Holder**

The Town may want to consider the following place holder in case it wishes to consider an enterprise fund.

To see if the town will accept the provisions of Chapter 44, § 53F½ of the Massachusetts General Laws establishing recreation as an enterprise fund effective fiscal year 2016.

This vote should include language as to the disposition of the undesignated fund balance of the Recreation Revolving fund that the balance carries forward to the enterprise fund or reverts to the general fund.



Ms. Jessica Brodie, CPRP  
Recreation Director  
February 4, 2015  
Page 14

The Town may want to consider the following place holder in case it wishes to consider a 44:53D revolving fund.

To see if the town will accept the provisions of Chapter 44, § 53D of the Massachusetts General Laws establishing recreation as an revolving fund effective fiscal year 2016.

This vote should include language as to the disposition of the undesignated fund balance of the Recreation Revolving fund that the balance carries forward to the recreation fund or reverts to the general fund.

Should the Town select the enterprise fund option, the a second warrant article would be needed for the FY16 enterprise fund budget showing the direct costs of the enterprise fund, the indirect costs incurred by the general fund on behalf of the enterprise and allocated to the enterprise fund for funding and a listing of revenue sources and amounts to fund the direct and indirect costs. This would be submitted by the Recreation Commission.

#### Summary

In summary, the Town needs time to develop a workable solution. The best option would be a 53E½ with an expanded cap to 2% or 2.5% of the levy, similar to the Brookline special act. However, a special act would take time to implement. Thus the Town should consider the following:

- The Town should raise the 44:53E½ cap with the approval of the Board of Selectmen and Finance Committee.
- The Recreation Commission should develop a FY 2015 and FY 2016 revenue and expenditure budget and should be able to spend within these limits.
- The Town should consider expanding the 44:53E½ cap to 2% or 2.5% of the levy through a special act consistent with the Brookline model.

\* \* \* \* \*

I am pleased to assist the Town of Wayland on this important and challenging project. I will be pleased to discuss this report with you at your earliest convenience.

Sincerely yours,



Mark D. Abrahams, CPA  
President

# Loose Change

Loose Change is a Wayland based non-profit organization which builds and equips schools in remote mountain villages in Peru. Over the last 4 years, 17 donations have been made, with 6 more schools planned for summer 2015. Each year a group of students, teachers and parents travels there to help.

The work is funded by the town of Wayland coming together and collecting their lost and forgotten coins. From pre-schoolers to the elderly, residents bring in their coins and so far we have raised \$65,000. This is a testament to what a wonderful town Wayland is, and the benefits both to our community and to villagers in far-away Peru are unfathomable.

This year's campaign will be February 28<sup>th</sup> – March 8<sup>th</sup>.

I request coming before the Board of Selectmen at a future meeting in order to present our work and the impact we are having in our town. I would request 10 minutes but can be flexible.

Thank you, Antonia Hieronymus

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FEB - 4 2015

Board of Selectmen  
Town of Wayland

6

**TOWN OF WAYLAND  
ANIMAL CONTROL SUMMARY REPORT  
JANUARY, 2015**

**TOTAL NUMBER CALLS HANDLED 43**

---

|                           |    |
|---------------------------|----|
| # Complaint Calls         | 7  |
| # Lost Dog Calls          | 5  |
| # Lost Cat Calls          | 1  |
| # Other Cat related calls | 1  |
| # Animal / Wildlife Calls | 1  |
| # Miscellaneous Calls     | 24 |

**TOTAL # DOGS PICKED UP**

Total # not licensed  
Total # dogs not claimed  
# still in dog officer custody  
#surrendered to Humane Shelter

**TOTAL # HUMAN BITE CALLS 1**

**TOTAL # ANIMAL -> ANIMAL BITE**

|                                      |                     |
|--------------------------------------|---------------------|
| 10 Day Quarantine Order -Human Bite  | ISSUED 1 / RELEASED |
| 10 Day Quarantine Order -Animal Bite | ISSUED / RELEASED   |
| 45 Day/6 Month Quarantine Orders     | ISSUED 2 / RELEASED |

**TOTAL # CITATIONS ISSUED**

# No license citations  
# Leash Law/Dog not under owner control  
# Other Offense  
# Court summons processed



# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

BoS

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

## Wayland Board of Health Director's Report February 3, 2015

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FEB - 4 2015

Board of Selectmen  
Town of Wayland

Septic work and building approvals- Septic system installations, soil testing and field work have basically ended for this stretch of the winter due to cold winter conditions. We do have some emergency repairs and continue to have a push on the backlog of septic and building plan reviews (with the help of consultants). We are also working on winter office organization.

Fincom BoH budget presentation-I presented our FY16 Operations budget to the Finance Committee on 1/13/15. BoH Chair, Tom Klem and Department Assistant Patti White also attended. There were some questions and discussion regarding our Health Nuisance Expense line item which may be reduced by Fincom.

Wayland Cares-As a member of the Executive Committee, I am included in these meetings and unfortunately I missed the meeting that was held last month which included their budget discussion for the grant application. The meeting this month was postponed until March.

NStar 2015 Operational Plan-We were on copy of this plan as provided by Nstar. According to the plan they will be doing touch-up herbicide treatments in the 8-2 Right of Way. A copy of the 2015 YOP is printed along with reference documents for anyone interested in reviewing the paperwork and plans. We do not have any new private wells (or "sensitive areas") located on or near this Right of Way.

Storm preparation-Office staff stocked up the MRC trailer with emergency supplies in case a shelter was needed due to the blizzard (on 1/26). The trailer was then moved by DPW to the Middle School which is the designated shelter location for the town. I also attended a storm prep meeting as facilitated by the Police Chief, along with other town officials in attendance.

Respectfully,

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

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# Wayland Fire Department

Public Safety Building  
38 Cochituate Road  
Wayland, MA 01778



Vincent J. Smith  
Chief of Department  
Email: [vsmith@wayland.ma.us](mailto:vsmith@wayland.ma.us)

Business Phone 508-358-7951  
Chief's Office 508-358-6910  
Business Fax 508-358-6920

## Monthly Report to the Town Administrator January 2015

### Furnace Vent

On January 4<sup>th</sup> we received *another* complaint from a Glen Oaks condo owner who is unhappy with the way a neighbor's furnace is vented. We explained again that there was nothing that the Wayland Fire Department could do since it had already been determined that the venting was done according to code and inspected by the gas inspector. Also, there is no indication of improper furnace operation or dangerous gases are being vented.

### Sudbury House Fire

On January 5<sup>th</sup> we sent an engine and crew to cover the Route 20 Sudbury fire station during a structure fire in Sudbury.

### Freezing Weather and Water Problems

-On January 11<sup>th</sup>, we respond to a Pemberton Road home where water was coming out from under the siding. The building was found to be under renovation and unsecured. The water service was shut off at the meter and the furnace was also shut down by using the emergency switch.

-Personnel were called to Claypit Hill Road where a leak was found in a guest house on the property. Unfortunately, there was already about 18 inches of water in the basement. A submersible pump was put in operation to remove the water to the outside. The boiler was shut down which stopped the flow of water and NSTAR disconnected the power to the guest house. The homeowner notified a plumber who drained and winterized the rest of guest house.

-On the 15<sup>th</sup>, we responded to a George Street home where water was leaking inside a home that was to be demolished soon.

-A burst washing machine hose on Harrison Street caused some minor flooding on multiple floors. The water was shut off and an electrician was checking the affected circuits for water damage. It is unclear if this hose froze and ruptured or failed without freezing.

-On the 19<sup>th</sup>, we were called to a water leak in an unoccupied house on Crest Road. On arrival we found water leaking through the floor into a crawl space. The water service was shut off.

-A realtor reported a water leak in a Barley Lane home. It was clear that the home had not been winterized as the realtor suggested. A major leak in the basement caused water to accumulate on the floor. The water service was shut off and the water was pumped out of the basement.

-An outside, underground water pipe on Hasting Way which supplies the fire sprinklers in multiple condo units ruptured, probably due to the extreme cold weather. The break was outside, but water was running into one condo unit through a basement window well. The resident's furnishings were moved away from the water. We were then successful in re-directing the water so that it did not enter the condo until the flow could be shut off. A repair contractor was called to repair the break.

### **Proposed Private Hydrant Testing Bylaw**

On January 12<sup>th</sup>, I appeared before the BOS to explain the proposed private fire hydrant testing bylaw. Basically, I believe that the private hydrants in town (typically in condominium and commercial property areas) should be maintained and tested yearly to be sure they are operational when needed. The maintenance and test reports should be sent to the WFD. The DPW flows and maintains all the public hydrants in town. Shortly after the BOS meeting, I attended the Board of Public Works (BoPW) meeting to speak about the same subject. During the meeting, the BoPW voted to "sponsor or co-sponsor" the proposed private hydrant bylaw. By the time this report is released, I will have attended the Fin Comm's warrant article hearing, too.

### **WFD Promotional Assessment Center**

On January 13<sup>th</sup>, a panel of local Fire Chiefs conducted an assessment center of three WFD Lieutenants who recently passed the written examination. All three candidates did an excellent job in the assessment center and have been placed on a list for promotion to Captain. Congratulations to Lieutenants James Gemelli, Gregory Halfpenny, and Kenneth McGuire.

### **Open Burning Season Starts**

A press release was prepared to notify residents about open burning season regulations. Announcements were placed on the Town's website and permits are available on-line. Assistance is provided to anyone who does not have internet access. There is no charge for the permits.

### **Fireplace/Fire Alarm**

A fire alarm was received from a Plain Road home on the 18<sup>th</sup>. Responding crews found a moderate smoke condition inside the entire house. The resident reported that she was burning furniture in the fireplace when smoke filled the home and set off the alarm. The burning furniture was taken from the fireplace and brought outside, away from the home. Fans were used to clear the smoke from the house. Originally, a high carbon monoxide reading was found in the home which was reduced to zero before the WFD left the house,

### **Gas Stove Carbon Monoxide**

A malfunctioning gas stove on Rice Road was responsible for a carbon monoxide alarm received on January 18<sup>th</sup>. The oven was shut off and the homeowner was advised to call a service/repair person before using the stove again.

### **Child Car Seat Installation Class**

In mid-month, a training class was held to certify personnel in proper child car seat installation. It is very different from the old days...proper installations are complicated and very complex. The class included didactic sessions and our apparatus area was used when the practical part of the class had the student installing the seats in multiple make/model vehicles. One of our personnel, Firefighter Douglas Williams attended the class and became a certified installer. Working with the Wayland Police Department installers through appointments at the Public Safety building, Doug will help the public install these seats properly.

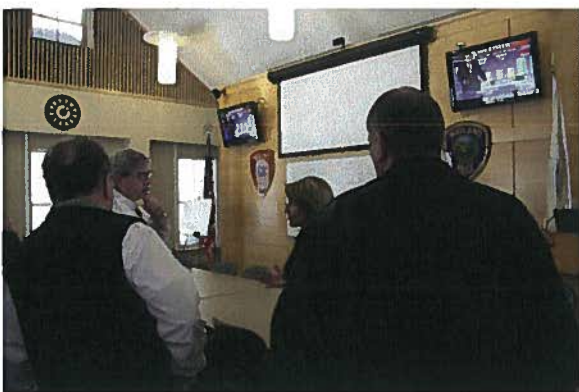


### **Dishwasher Fire**

On January 26, we responded to a dishwasher fire on Main Street. The fire was extinguished, without any extension to nearby combustibles.

### **Dignitaries Visit Wayland's Emergency Operations Center**

At the height of the storm on January 27<sup>th</sup>, State Fire Marshal Stephen Coan and Lt. Governor Polito stopped by the EOC and spoke to Chief Irving and me about the storm response. Luckily with the light-weight snow, power outages were not a problem in Wayland and all requests for assistance were being handled without a problem.



### **Emergency Drug Prescription Run**

After it was determined that a Route 20 Pharmacy was staffed and operating, a resident of Glen road was transported to the pharmacy to have a prescription refilled and then returned home. We do it all!

### **Car Fire**

On the 28th, people just passing by reported a car fire at a Route 20 gas station with many 911 calls. Luckily the car was not parked near the gasoline pumps. The driver of the car had stopped inside the station to buy lottery tickets. The fire was quickly extinguished, but the engine compartment was completely destroyed. The damage estimate was set at \$2000. It is unclear if scratch ticker lottery winnings would cover the loss.

### **Hydrant Shoveling**

Hydrant shoveling was started on the 29th, continued for a couple of days, and resumed after the following storm. With almost 700 hydrants in town, it will take a while to complete all the snow shoveling, but we'll get to all of them eventually. We appreciate the help of residents and some Boy Scouts who assist us with this job. We also depend on the heavy equipment and personnel of the DPW who assist with cul-de-sacs where the hydrants may be buried by many, many feet of snow.



## WFD Incident Statistics This Month

Incident Types Actually Found- These figures include outgoing mutual aid incidents.

### **3 Fires**

- 1 *Building Fires*
- 0 *Mutual Aid, Engine/Ladder Truck Response*
- 0 *Structure Fire, Not A building*
- 0 *Cooking fire (confined to container)*
- 1 *Chimney Fire (confined)*
- 0 *Burner/boiler Malfunction (confined)*
- 1 *Vehicle Fires (passenger vehicles)*
- 0 *Brush Fires*
- 0 *Vehicle Fire (watercraft)*
- 0 *Dumpster/Trash Fires*
- 0 *Outside Equipment Fire*
- 0 *Special Outside Fire, Other*

### **0 Overpressures, Ruptures**

- 0 *Overpressure, Rupture, Explosion, Overheat, Other*

### **113 Rescue and Emergency Medical Service**

- 90 *EMS Calls*
- 10 *Mutual Aid Ambulance (non-motor vehicle accident)*
- 3 *Mutual Aid Ambulance (motor vehicle accident)*
- 7 *Vehicle Accident With Injuries*
- 0 *Motor Vehicle Accident (no injuries)*
- 1 *Lock Ins*
- 0 *Rescue, Emergency Medical Call (EMS), Other*
- 0 *Search for person on land*
- 2 *Well Being Checks*

### **28 Hazardous Conditions (no fire)**

- 0 *Oil or Other Combustible Liquid Spill*
- 12 *Carbon Monoxide Incidents (includes CO investigation)*
- 0 *Heat from Short Circuit (wiring defective, worn)*
- 11 *Wires Down, Arcing*
- 0 *Arcing, shorted electrical equipment*
- 0 *Explosive/Bomb Removal*
- 5 *Hazardous Conditions (other)*

### **56 Service Calls**

- 10 *Lock outs*
- 10 *Water or Steam Leak*
- 2 *Smoke or Odor Removal*
- 0 *Animal Problems*
- 1 *Assist Police or Other Governmental Agency*
- 1 *Public Service*
- 11 *Assist Invalid*
- 0 *Unauthorized Burning*
- 0 *Cover assignment, standby, move up*
- 1 *Mutual Aid Covering Assignment*
- 20 *Service Call, Other*

**3 Good Intent Calls**

- 1 Dispatched & Canceled En Route*
- 0 Wrong Location, Not a malicious false alarm*
- 0 Authorized, Controlled Burning*
- 2 Smoke Scare, Odor of Smoke*
- 0 Steam, vapor, fog or dust thought to be smoke*
- 0 Good Intent Call, Other*

**22 False Alarm and False Calls**

- 0 Municipal Alarm System, Malicious False Alarm*
- 0 Bomb Scare, No Bomb*
- 1 Sprinkler Activation Due to Malfunction*
- 0 Sprinkler Activation, no fire, unintentional*
- 2 Smoke Detector Activation Due to Malfunction*
- 11 Smoke Detector Activation, No Fire, Unintentional*
- 0 Heat Detector Activation Due to Malfunction*
- 2 Alarm System Sounded Due to Malfunction*
- 0 Carbon Monoxide Activation Due to Malfunction*
- 1 Sprinkler Activation, No Fire, Unintentional*
- 2 Detector Activation, No Fire, Unintentional*
- 2 Alarm System Sounded, No Fire, Unintentional*
- 0 Carbon Monoxide Detector Activation, No CO Found*
- 1 False Alarm or False Calls, Other*

**0 Severe Weather & Natural Disasters**

- 0** Lightning Strike (no fire)

**116 Other**

|    |   |
|----|---|
| 0  | <i>Citizen Complaints</i>                     |
| 20 | <i>Fire Alarm Work (from dispatch)</i>        |
| 9  | <i>Details</i>                                |
| 6  | <i>Error (or training) Incidents</i>          |
| 0  | <i>Fire Alarm System Maintenance</i>          |
| 22 | <i>Fire Alarm Disconnection/Reconnections</i> |
| 2  | <i>Fire Drills</i>                            |
| 18 | <i>Inspections (Sale of home)</i>             |
| 0  | <i>Inspections (follow up)</i>                |
| 2  | <i>Inspections (demolition)</i>               |
| 0  | <i>Inspections (LP Gas)</i>                   |
| 3  | <i>Inspections (Occupancy)</i>                |
| 1  | <i>Inspection, Oil Burner</i>                 |
| 2  | <i>Inspections (Placement)</i>                |
| 0  | <i>Inspections (Quarterly)</i>                |
| 5  | <i>Site Inspections</i>                       |
| 4  | <i>Inspections (Tank Removal)</i>             |
| 0  | <i>Inspections (Tank Truck)</i>               |
| 1  | <i>Mechanical Work</i>                        |
| 0  | <i>Mutual Aid – Fire Investigation</i>        |
| 2  | <i>Mutual Aid (Non-Fire)</i>                  |
| 3  | <i>Public Education Sessions</i>              |
| 3  | <i>Smoke Detector Installations</i>           |
| 1  | <i>Special Type of Incidents</i>              |
| 12 | <i>Training Sessions</i>                      |

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**341 Total Incidents**

**WFD Response Times For The Month**

These figures include all emergency incidents, including outgoing mutual aid incidents. The time range that is considered is from the time the Fire Department was notified that a response is necessary until the first Fire Department personnel arrive at the scene.

**Cumulative percentages**

|                      |        |
|----------------------|--------|
| Less than 1 minute   | 7.8%   |
| Less than 2 minutes  | 39.1%  |
| Less than 3 minutes  | 62.6%  |
| Less than 4 minutes  | 85.2%  |
| Less than 5 minutes  | 89.6%  |
| Less than 6 minutes  | 91.3%  |
| Less than 7 minutes  | 96.5%  |
| Less than 8 minutes  | 99.1%  |
| Less than 11 minutes | 100.0% |



# WAYLAND POLICE DEPARTMENT

WAYLAND, MASSACHUSETTS 01778



ROBERT IRVING  
CHIEF OF POLICE

## Monthly Update

### January 2015

On January 6<sup>th</sup>, officers responded to a reported burglary on Rich Valley Road. The homeowner had come home and discovered that forced entry had been made into their home. Officers secured the house and did a thorough search to insure the perpetrators were not still inside. Jewelry and cash were targeted in the burglary. Detectives are following up on the investigation and ask anyone that may have seen anyone suspicious on January 6<sup>th</sup> to contact the police department.

On January 11<sup>th</sup>, a report was received regarding a suspicious male in Hamlin Woods Conservation Parking Lot. Officers located the male just as the department was receiving a second complaint that a person had threatened them with a knife at the same location. After speaking with the victim, it was determined that the man being detained was the same individual with the knife. He was taken into custody and charged with Assault with a Dangerous Weapon. There were no injuries as a result of this incident.

There were two arrests for Operating Under the Influence of Alcohol during the month. On January 16<sup>th</sup>, a Marlborough man was arrested for O.U.I. (second offense) after a motorist reported erratic operation on Route #20. On January 19<sup>th</sup>, a Newton woman was charged with O.U.I. after she was observed operating erratically by a patrol officer.

The Wayland Police Department was out in full force during the blizzard of 2015. Two officers used snowmobiles to access small unplowed roads throughout town. The storm had little impact on Wayland as a whole, as there were no reported power outages and the Governor's ban on vehicular traffic kept most people off the road. This limited accidents or people becoming stuck. Lt. Governor Karyn Polito visited the Emergency Operations Center during the storm.

Two new police recruits began the Boylston Police Academy on January 26<sup>th</sup>. Colin Fitzpatrick and Justin Kazan were chosen in November after an extensive selection process. The two recruit officers will attend the police academy for five months followed by two to three months of field training. Their hiring brings the department to its fully authorized strength of 23.

A handwritten signature in blue ink, appearing to read 'Robert Irving', with a long horizontal flourish extending to the right.

Robert Irving  
Chief of Police

**Wayland Police Department Detective Division Report for January 2015**

**INVESTIGATIONS**

Unattended death – Lincoln Road  
Unattended death – Cochituate Road  
Unattended death – Bradford Street  
Threats – Woodridge Road  
Larceny over \$250 – Lakeview Road  
Larceny over \$250 – Forest Hill Road  
Residential Break & Entering – Rich Valley Road  
Suspicious Emails – Boston Post Road

**MEETINGS/TRAININGS**

Mentoring Violence Prevention Training – Boston  
ALICE Training – WMS  
CBJ Meeting  
Search Warrant Training  
Acton Area Detective Meeting  
Legal Liability Update Training – MIIA - Charlton

**MISCELLANEOUS**

Framingham District Court – Criminal/MV Hearings  
Bullet Proof Vest Grant  
Accreditation Evidence



The Commonwealth of Massachusetts  
 EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY  
 STATE 911 DEPARTMENT  
 1380 Bay Street, Building C - Taunton, MA 02780-1088  
 Tel: 508-828-2911 - TTY: 508-828-4572 - Fax: 508-828-2585  
 www.mass.gov/e911



**CHARLES D. BAKER**  
 Governor

**ANDREA J. CABRAL**  
 Secretary of Public Safety  
 and Security

**KARYN E. POLITO**  
 Lieutenant Governor

**FRANK POZNIAK**  
 Executive Director

January 15, 2015

Chief Robert Irving  
 Wayland Police Department  
 38 Cochituate Road  
 Wayland, MA 01778

Dear Chief Irving,

\$10,000

The Commonwealth of Massachusetts, State 911 Department would like to thank you for participating in the FY 2015 State 911 Department Training Grant and EMD / Regulatory Compliance Grant program.

For your files, attached please find a copy of the executed contract. Please note your contract start date is January 15, 2015 and will run through June 30, 2015. Please keep in mind that there shall be no reimbursement for costs incurred prior to the effective date of the contract and all goods and services MUST be received on or before June 30, 2015.

Reimbursement requests should be submitted to the Department within **thirty (30) days** of the date on which the cost is incurred. We have made the request for payment forms available on our website [www.mass.gov/e911](http://www.mass.gov/e911). For any questions related to this process, please contact Michelle Hallahan at 508-821-7216. Please note that funding of reimbursement requests received more than six (6) months after the close of the fiscal year under which costs were incurred cannot be guaranteed.

If, in the future, you would like to make any changes to the authorized signatory, the contract manager, and/or the budget worksheet, please e-mail those proposed changes to [911DeptGrants@state.ma.us](mailto:911DeptGrants@state.ma.us). Grantees are strongly encouraged to submit final, year-end budget modification requests on or before April 30, 2015.

Sincerely,

Frank P. Pozniak  
 Executive Director

cc: FY 2015 Training Grant and EMD / Regulatory Compliance Grant File



# WAYLAND POLICE DEPARTMENT

WAYLAND, MASSACHUSETTS 01778



## Memorandum

ROBERT IRVING  
CHIEF OF POLICE

1/23/2015

**To: Sgt. Ed Walsh, Officer Tim Henderson, Officer Chris Custodie, Youth Officer Shane Bowles, Dispatcher William Reed, Dispatcher Courtney Philbrick**

**From: Robert Irving, Chief of Police**

**Subject: No Sick Leave Bonus**

---

A review of attendance records reveals that you did not use any sick days from July 1<sup>st</sup> through December 31<sup>st</sup>, 2014. In accordance with Article 18, Section 5 of the Police Collective Bargaining Agreement, Sgt. Walsh will receive an incentive of 1 and 1/2 days' pay. Officer Henderson, Officer Custodie and Youth Officer Bowles will receive an incentive of 1/2 days' pay. In accordance with Section 19-11 of the Dispatcher's Collective Bargaining Agreement, Dispatcher Reed and Dispatcher Philbrick will receive an incentive of 1/2 days' pay. Your excellent record of attendance is commendable and an example of the dedication that you have each demonstrated towards your job with the Wayland Police Department and Joint Communications Center.

I wish you continued good health in 2015.

cc: Lisa Dana  
Personnel Files



Dear Wayland Police Department,

Thank you for your generosity and kindness that you gave my sister [redacted] and her son [redacted] this holiday season. It is kind acts like this that keep the true Christmas spirit alive. I was told that he had a wonderful Christmas day.

Sincerely,

[redacted]



TOWN OF WAYLAND  
MASSACHUSETTS  
01778  
**CONSERVATION COMMISSION**

TOWN BUILDING  
41 COCHITUATE ROAD  
TELEPHONE: (508) 358-3669  
FAX: (508) 358-3606

January 30, 2015

Michael Miller  
6 Cross Street  
Wayland, MA 01778

Re: DETERMINATION OF APPLICABILITY [D-854] - WETLANDS PROTECTION ACT (WPA)  
and Chapter 194 Permit – 6 Cross Street, Wayland

Dear Mr. Miller:

Enclosed please find the original Wetlands and Water Resources Protection Bylaw Permit (Chapter 194) and a Determination of Applicability issued by the Wayland Conservation Commission regarding the approved tree cutting project at 6 Cross Street in Wayland. The Chapter 194 Permit allows the project subject to the conditions specified in the Permit. The Determination of Applicability issued pursuant to the WPA is shorter, deferring to the Chapter 194 Permit. No other work is permitted by this decision.

If you have any questions, please contact me at (508) 358-3669. Thank you.

Sincerely,

Brian J. Monahan  
Conservation Administrator

Enclosure

cc: Building Department w/enc.  
Town Clerk w/enc.  
DEP – NERO w/enc.  
Board of Selectmen  
Board of Health  
Planning Board  
Abutters  
File

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FEB - 3 2015

Board of Selectmen  
Town of Wayland

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TOWN OF WAYLAND  
MASSACHUSETTS  
01778  
**CONSERVATION COMMISSION**

TOWN BUILDING  
41 COCHITUATE ROAD  
TELEPHONE: (508) 358-3669  
FAX: (508) 358-3606

January 30, 2015

Jay Yuan  
14 Lundy Lane  
Wayland, MA 01778

Re: DETERMINATION OF APPLICABILITY [D-853] - WETLANDS PROTECTION ACT (WPA)  
and Chapter 194 Permit – 14 Lundy Lane, Wayland

Dear Mr. Yuan:

Enclosed please find the original Wetlands and Water Resources Protection Bylaw Permit (Chapter 194) and a Determination of Applicability issued by the Wayland Conservation Commission regarding the approved tree cutting project at 14 Lundy Lane in Wayland. The Chapter 194 Permit allows the project subject to the conditions specified in the Permit. The Determination of Applicability issued pursuant to the WPA is shorter, deferring to the Chapter 194 Permit. No other work is permitted by this decision.

As a reminder, a member of the Commission and I will be visiting your property to determine the location and measurement of the trees in question before work proceeds.

If you have any questions, please contact me at (508) 358-3669. Thank you.

Sincerely,

Brian J. Monahan  
Conservation Administrator

Enclosure

cc: Building Department w/enc.  
Town Clerk w/enc.  
DEP – NERO w/enc.  
Board of Selectmen  
Board of Health  
Planning Board  
Abutters  
File

RECEIVED

FEB - 3 2015

Board of Selectmen  
Town of Wayland

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**TOWN OF WAYLAND**  
MASSACHUSETTS  
01778  
**BOARD OF APPEALS**

*Selectman*

TOWN BUILDING  
41 COCHITUATE ROAD  
TELEPHONE: (508) 358-3600  
FAX: (508) 358-3606

A public hearing will be held on FEBRUARY 24, 2015 at the TOWN BUILDING, 41 COCHITUATE ROAD, WAYLAND on the following application at the time indicated:

8:20 p.m. Application of NIKLAS and KATHRYN ANDERSSON for any necessary approvals, special permit, and/or variance as may be required to change, alter, extend a pre-existing, nonconforming structure by more than 20% (demolish existing carport and construct 2-car garage with master bedroom suite above) within required side yard setback under the Town of Wayland Zoning By-Laws Chapter 198 Sections 201, 203, 401.1.2, 401.1.3.2, 702.1, 703.2, 1604.2 and 801-Table of Dimensional Requirements (side yard). The property is located at 65 GLEZEN LANE which is in a SINGLE RESIDENCE DISTRICT and AQUIFER PROTECTION DISTRICT. (15-02)

At the conclusion of the hearings on the aforementioned applications, the Board may then meet for the purpose of deciding on or deliberating toward a decision on any applications previously heard by it and to which no decision has yet been filed or any other public business before the Board.

**BOARD OF APPEALS**

E. Michael Thomas  
Eric Goldberg  
Aida Gennis  
Thomas White  
Michael Connors

**RECEIVED**

**FEB - 4 2015**

Board of Selectmen  
Town of Wayland

(13)



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

✓  
**RECEIVED**  
**FEB -3 2015**

Board of Selectmen  
Town of Wayland

D.T.C. 14-4

January 23, 2015

Petition of Comcast Cable Communications, LLC to establish and adjust the basic service tier programming, equipment, and installation rates for the communities in Massachusetts served by Comcast Cable Communications, LLC that are currently subject to rate regulation.

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**NOTICE OF PUBLIC HEARING ON CABLE BASIC SERVICE TIER RATES**

The Department of Telecommunications and Cable (“Department”) pursuant to G.L. c. 166A, § 15, and 207 C.M.R. § 6.03, will hold a public and evidentiary hearing to investigate proposed basic service tier programming, equipment, and installation rates of Comcast Cable Communications, LLC (“Comcast”). The hearing will take place at:

Department of Telecommunications and Cable  
Hearing Room 1E  
1000 Washington Street  
Boston, Massachusetts 02118-6500  
Wednesday, April 22, 2015 at 10:00 A.M.

This proceeding has been docketed as D.T.C. 14-4, and is a formal adjudicatory proceeding conducted under G.L. c. 30A and 801 C.M.R. § 1.00 *et seq.* of the Standard Adjudicatory Rules of Practice and Procedure.

Any person who desires to participate in this proceeding must file a written petition for leave to intervene or to participate with:

Sara J. Clark  
Secretary of the Department  
Department of Telecommunications and Cable  
1000 Washington Street, Suite 820  
Boston, MA 02118-6500

Petitions for leave to intervene must be received by 5:00 P.M. on Wednesday, April 1, 2015. Such petition must satisfy the substantive requirements of 801 C.M.R. § 1.01(9). Petitioners should submit the petition to the Department in electronic format by e-mail attachment to [dtc.efiling@state.ma.us](mailto:dtc.efiling@state.ma.us). The text of the e-mail or written petition must specify: (1) the name of the cable operator; (2) the docket number; (3) the name of the person submitting the filing; (4) that person’s municipal title, if any; and (5) a brief descriptive title of the document (e.g., petition to intervene or participate). The petition should also include the name, title, and telephone number of a person to contact in the event of questions about the filing.

14



# COMMONWEALTH OF MASSACHUSETTS

## Department of Telecommunications and Cable

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

✓

CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

RECEIVED

FEB - 3 2015

Board of Selectmen  
Town of Wayland

JAY ASH  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN  
UNDERSECRETARY

KAREN CHARLES PETERSON  
COMMISSIONER

January 23, 2015

**RE: Petition of Comcast Cable Communications, LLC to establish and adjust the basic service tier programming, equipment, and installation rates for the communities in Massachusetts served by Comcast Cable Communications, LLC that are currently subject to rate regulation, D.T.C. 14-4.**

Dear Issuing Authority:

The Department of Telecommunications and Cable ("Department") will hold a public and evidentiary hearing, pursuant to G.L. c. 166A, § 15 and 207 C.M.R. § 6.03, to investigate the proposed basic service tier programming, equipment, and installation rates for all of the rate regulated communities in Massachusetts served by Comcast Cable Communications, LLC ("Comcast"), in response to its filings. The hearing will be held at 10:00 A.M. on Wednesday, April 22, 2015, in Room 1E at 1000 Washington Street, Boston, Massachusetts, and is a formal hearing conducted under G.L. c. 30A and 801 C.M.R. § 1.00 *et seq.* of the Standard Adjudicatory Rules of Practice and Procedure. Comcast, as the cable operator serving your community, is required to arrange for notice of the hearing, both by newspaper publication and by cablecasting. G.L. c. 166A, § 15; 207 C.M.R. § 6.05; 207 C.M.R. § 2.02. The proceeding is docketed as D.T.C. 14-4. A copy of the hearing notice that was provided to Comcast for publication is enclosed for informational purposes.



Better businesses. Smarter consumers.



As the issuing authority for a municipality served by Comcast, you may want to participate in this hearing. Please note that under Massachusetts regulations, issuing authorities are not automatically parties to rate proceedings. 801 C.M.R. § 1.01(9). While our proceedings allow for full public input from all interested persons, an interested person may participate as a party only if the person files a petition to intervene and such petition is subsequently granted by the Department. *Id.* The petition to intervene must state with specificity how the petitioner is substantially and specifically affected by the rate proceeding. *Id.*

An issuing authority that is granted party status has the right to participate fully in the proceeding, including the right to cross-examine the cable operator's witnesses at the hearing, the right to receive all correspondence and documents provided by the cable operator to the Department, and the right to appeal the Department's Rate Order. 801 C.M.R. §§ 1.01(5)(f); 1.01(10)(f); 1.01(13). An intervenor is also allowed to participate in discovery. 801 C.M.R. § 1.01(8)(a). For example, the intervenor may submit to the cable operator prior to the hearing written questions related to the rate proceeding, which the cable operator is required to answer. A party that wishes to intervene must file its petition to intervene with the Department by 5:00 P.M. on Wednesday, April 8, 2015.

If you have any questions or comments regarding the hearing procedures, please contact me at [michael.scott@state.ma.us](mailto:michael.scott@state.ma.us) or (617) 368-1114.

Sincerely,



Michael Scott  
Hearing Officer

