

PACKET

OCT 23

2017



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

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

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

BOARD OF SELECTMEN
Monday, October 23, 2017
7:15 p.m.
Wayland Town Building
Large Hearing Room
41 Cochituate Road Wayland

Proposed Agenda

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

- 7:15 pm 1.) Call to Order by Chair
- Review Agenda for the Public; Announcements
- 7:20 pm 2.) Public Comment
- 7:25 pm 3.) Rivers Edge: Vote to extend period for Land Disposition Agreement
- 7:30 pm 4.) Private Roads: Presentation, discussion, and public comment on maintenance and plowing policies; Potential vote to adopt a policy on private roads and vote to designate for snow removal private roads open to public use
- 8:30 pm 5.) Special Town Meeting Articles: Discuss and vote positions and revisions, including but not limited to:
- Article 1: Pay Previous Fiscal Years Unpaid Bills
 - Article 11: Synthetic Turf Field at Loker Conservation and Recreation Area Design Fees
 - Article 14: Appropriate Funds to Install Weston Aqueduct Pedestrian Crossings
- 8:45 pm 6.) Minutes: September 27 and October 2
- 8:50 pm 7.) Consent Calendar: Review and Vote to Approve (See Separate Sheet)
- 8:55 pm 8.) Review Correspondence (See Separate Index Sheet)
- 9:00 pm 9.) Report of the Town Administrator
1. Correspondence
 2. Payroll
 3. Cable Advisory Committee
 4. Council on Aging letters
 5. FY19 Budget Process
- 9:15 pm 10.) Selectmen's Reports and Concerns
- 9:20 pm 11.) Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any
- 9:25 pm 12.) Adjourn

③ Rivers Edge

DATE: OCTOBER 23, 2017
TO: BOARD OF SELECTMEN
FROM: NAN BALMER, TOWN ADMINISTRATOR
RE: RIVERS EDGE: LAND DISPOSITION AGREEMENT - AMENDMENT #1

ACTION:

VOTE TO AUTHORIZE THE TOWN ADMINISTRATOR TO SIGN FIRST AMENDMENT TO LAND DISPOSITION AGREEMENT IN SUBSTANTIALLY THE SAME FORM AS PRESENTED (ATTACHED)

BACKGROUND:

The following update was provided by Paul Brinkman, Town Engineer:

1. Current Actions: LDA Amendment #1. The current Land Development Agreement's due diligence period expires on October 24, 2017. Wood Partners has been prevented from completing the due diligence work as a result of the discovery of asbestos containing materials (ACM) in the soil stockpile on the site. The amendment will provide a near term extension of the LDA to allow the completion of permitting for the removal of the ACM.

2. Ongoing Actions: The Town Engineer has obtained a quote for initial clean-up activities of ACM at the site and is developing a contract to allow the work to be completed. The Town Engineer is negotiating a contract with VERTEX (Wood Partners' Licensed Site Professional) to provide assistance in the engineering and environmental oversight of the ACM removal process. Once the VERTEX contract is executed, the Non-Traditional Asbestos Work Plan (NTAWP) will be submitted to MassDEP for approval. The MassDEP has a ten day approval process and may require revisions.

3. Future Actions: Upon approval of the NTAWP, a second Amendment to the LDA will be required to finalize the cost sharing details and identify a final extension to the due diligence period under which Wood Partners will be required to complete the due diligence process. Due diligence will resume and depending upon the date of NTAWP approval, it should be completed in February/March of 2018.

**FIRST AMENDMENT TO
LAND DISPOSITION AGREEMENT**

This First Amendment to Land Disposition Agreement (this "Amendment") is made and entered into by and between **TOWN OF WAYLAND**, acting by and through its Board of Selectmen (hereinafter "Seller"), a Massachusetts municipal corporation, and **WP EAST ACQUISITIONS, L.L.C.**, a Delaware limited liability company (hereinafter "Buyer").

Recitals:

A. Seller and Buyer previously entered into that certain Land Disposition Agreement with an effective date of July 28, 2017 (hereinafter referred to as the "Contract") for the purchase and sale of those certain parcels of land located 484-490 Boston Post Road, Wayland, Massachusetts (the "Property"), as more fully described in the Contract.

B. The current Due Diligence Period under the Contract expires on October 26, 2017 (the "Inspection Date").

C. During the course of Buyer's investigations of the Property, Buyer and its Massachusetts Licensed Site Professional ("LSP"), The Vertex Companies, Inc. ("Vertex"), encountered a possible reportable quantity of asbestos-containing materials ("ACM") in a pile of soil and debris located at the Property.

D. Since Buyer's discovery of the Reportable Condition (as such term is defined below) on August 10, 2017, it has ceased all physical due diligence activities at the Property.

E. Representatives of the Buyer and Vertex later notified the Seller of the discovered ACM, and the parties agreed that the ACM represented a reportable quantity for asbestos (the "Reportable Condition") pursuant to Massachusetts Department of Environmental Protection ("MassDEP") guidelines and pursuant to relevant statutory requirements and regulations promulgated thereunder, including the Massachusetts Contingency Plan, 30 CMR 40.0000, et seq. (collectively, "Legal Requirements").

F. Seller submitted a Release Notification and an Immediate Response Action to the MassDEP on October 12, 2017, which details a plan for analyzing, managing, sampling, containing, transporting, abating, communicating with MassDEP and otherwise addressing (collectively such activities are referred to herein generally as "Address" or "Addressing") the Reportable Condition.

G. A subsequent submittal to MassDEP of a Non-Traditional Asbestos Work Plan ("NTAWP"), which reiterates the requirements of Immediate Response Action for

Addressing the Reportable Condition to an acceptable level or condition pursuant to relevant Legal Requirements, is anticipated to be submitted by Seller in November, 2017.

H. While the parties work to finalize the NTAWP submittal, await MassDEP's approval of the NTAWP, and work to finalize the terms of a more detailed amendment to the Contract to address the parties respective rights and obligations as it relates to Addressing the Reportable Condition and payment of costs related to same, the parties wish extend the current Inspection Date.

Terms and Conditions:

In consideration of the mutual covenants, agreements, and undertakings set forth in the Contract and in this Amendment, the sufficiency of which is hereby acknowledged, and intending to be legally bound, Seller and Buyer agree as follows:

1. Capitalized Terms; Recitals. All capitalized terms used herein but undefined shall have the meaning as defined in the Contract. The foregoing Recitals are hereby incorporated as agreements of the parties hereto.

2. Extension of Due Diligence Period. The parties hereby agree that the current Inspection Date of October 26, 2017 shall be extended until December 31, 2017, so that the expiration of the Due Diligence Period for all purposes under the Contract shall be 5:00 p.m. Boston, Massachusetts time on December 31, 2017.

3. Addition of Business Day Convention. The following is hereby deemed added as Section 11.13 of the Contract.

11.13 Date For Performance. If the time period or date by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday in the State where the Land is located or of the Federal Government, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day.

4. Ratification. Except as expressly amended by this Amendment, the Contract remains in full force and effect and is hereby expressly ratified and confirmed in its entirety by the parties hereto.

5. Multiple Counterparts. An executed facsimile or "PDF" of this Amendment is an acceptable form of acceptance of this Amendment and the parties may execute this Amendment in counterparts. This Amendment shall from this date forward be considered a part of the Contract.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed under seal by persons duly empowered to bind the parties to perform their respective obligations under this Amendment to be effective on the last date set forth below.

BUYER:

WP EAST ACQUISITIONS, L.L.C.,
a Delaware limited liability company

By: _____

Name:

Title:

Date: _____

SELLER:

TOWN OF WAYLAND

By: _____

Name:

Title:

Date: _____

④ Private Roads

DATE: OCTOBER 23, 2017
TO: BOARD OF SELECTMEN
FROM: NAN BALMER, TOWN ADMINISTRATOR
RE: PRIVATE ROADS (Large Hearing Room)

ACTION: VOTE TO ADOPT A POLICY ON PRIVATE ROADS AND VOTE TO DESIGNATE PRIVATE ROADS OPEN TO PUBLIC USE FOR SNOW REMOVAL

BACKGROUND:

The Board of Public Works requests that the Selectmen adopt a policy and list of private roads that will be plowed by the Town. The adoption of the policy and list would mean 14 locations on which about 45 residences exist would not be plowed. Residences that would be affected by this policy were notified of this public meeting through a flyer delivered to each household on 10/16 and 10/17 as well as through the normal meeting posting. The DPW Director, a representative of the Board of Public Works and Town Counsel will make presentations and public comment will be allowed. Attached are: 1) PowerPoint Presentation, 2) Draft Private Road Policy and 3) List of Private Roads in Wayland, 4) Private Roads: Comparison of Policies (Neighboring towns).

SUMMARY OF TOWN COUNSEL ADVICE:

- The Town accepted G.L. c. 40, s. 6C on March 4, 1968. This statute allows a Town to plow private ways open to public use as may be designated by the Selectmen. There are two necessary characteristics of any road in question:
 1. The road must be "open to the public use;" and
 2. The road must have been "designated" by the Board of Selectmen for snow and ice removal.
- These prerequisites indicate that not every private road in any town will qualify for the expenditure of public funds for plowing, sanding and so forth, and that the Board of Selectmen may exercise its reasonable discretion in deciding whether and how to expend the limited funds available to it for this purpose.
- As to the first requirement set out in the statute, that the road must be "open to the public use," this term has been held by the Supreme Judicial Court of Massachusetts (SJC) to mean that the way is "actually susceptible of use by the public other than for purposes that are merely incidental to the use of the way by the owner thereof, and also that the way is open to the public at large for purposes of travel, not merely incidental to its use by the owner thereof, in a manner similar to the ordinary use for purposes of travel of a public way of the same general nature".
- The designation by the Board of Selectmen which G. L. c.40, §6C requires must, therefore, at the least, be based upon the determination that by design and in fact, the road is adequate to accommodate general public traffic, and does in fact carry such public traffic. In addition, however, because public funds are finite and variable from year to year, a road which qualifies pursuant to Section 6C may nevertheless be excluded from plowing, even if plowed in a previous year. The statute charges the Board of Selectmen with making choices among the total number of roads which qualify for plowing under the Section 6C standard, depending on available funding, and, presumably, traffic patterns at the time of the Board's decision.

DRAFT

Private Roads Policy: Snow & Ice Removal



Review of Policy Recommendations
From Board of Public Works & DPW
To the Board of Selectmen

October 23, 2017

History: Plowing Private Roads

How we got here...

- We used to plow church parking lots long ago.
- In 1968 we adopted M.G.L. Chapter 40 sections 6C and 6D enabling towns to plow private ways having public use.
- Our insurer: Wayland isn't covered for damages on private ways.
- In 2015 we discontinued plowing on some short driveways/roads which lacked turnarounds.
- There were others we missed & we decided Wayland should have a uniform policy.
- Town Counsel gave us the legal basis for plowing private roads and said the Selectmen make the decision on which roads.
- Selectmen asked us for a draft policy & list of roads for 2017 season.

What do other towns do?

- Varies Considerably...

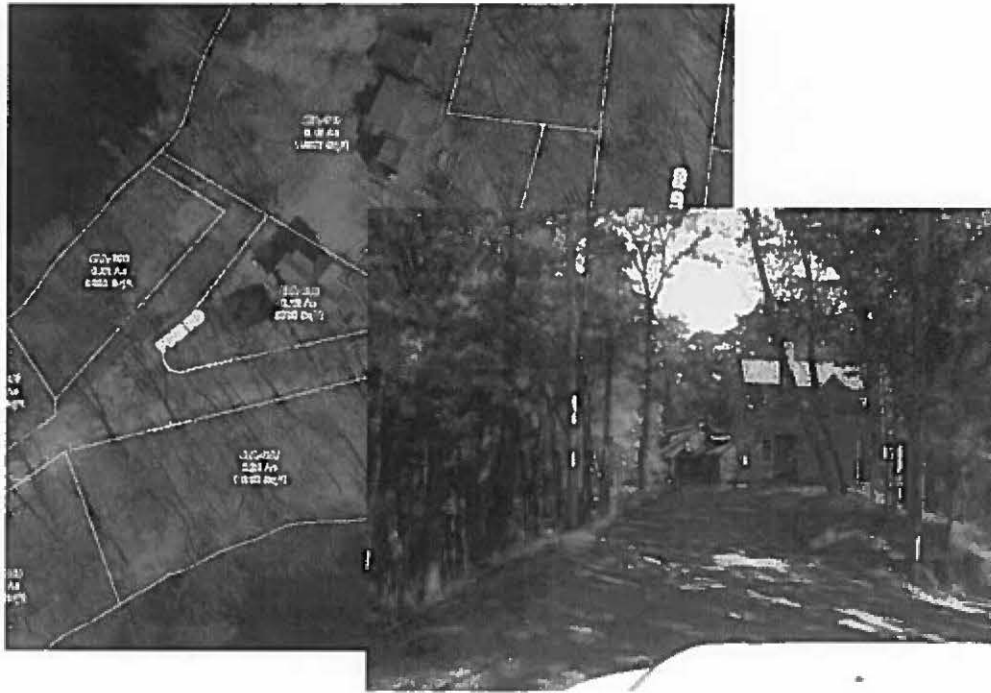
<u>Town</u>	<u>Snow & Ice Removal – Private Roads</u>
Framingham	Yes to limited few who are open to Public Use
Franklin	No
Hingham	No, only streets built to be public
Lincoln	No
Littleton	Open to Public Use - 3 Dwelling Min - If Paved
Medway	No
Natick	Yes, only those open to Public Use
Sudbury	No - Currently under Discussion
Wellesley	Yes per website FAQ
Weston	Yes

Consideration:
Safety

- Our #1 concern is maximizing safety of DPW staff and other drivers.
- Backing up a large snow plow during a snow storm is difficult.
- Backing up into a travelled road can be dangerous.
- Narrow roads, curving roads, and drop-offs are dangerous.

Consideration: Safety - examples

Pine Road



Steep, narrow, no turn around, drop-off to pond
– truck slipped here.

Curtiss Rd



One home, truck backs up into
Main Street

Consideration: **Legalities**

- **Plowing:** Wayland accepted G.L. c. 40, s. 6C on March 4, 1968. This statute allows a Town to plow private ways open to public use as may be designated by the Selectmen.

NOTE: Town obligations may be limited by subdivision agreements, permits or deeds.

DRAFT

RESIDENTIAL PRIVATE ROAD SNOW & ICE POLICY
TOWN OF WAYLAND, MASSACHUSETTS

Accepted by Board of Public Works October 10, 2017

Accepted by Board of Selectmen _____

Policy Effective November 1, 2017

DEFINITIONS for the purpose of this policy:

'Road' or 'Way'	An open way for the passage of vehicles.
'Residential'	Having at least half of the linear length of the road owned or rented for residential use.
'Private Road'	A road or portion of a road where the abutters have deeded rights of ownership, access, control, and maintenance responsibility.
'Public Road'	A road or portion of a road where right-of-way owned and maintained by the Town of Wayland or the Commonwealth of Massachusetts.
'Driveway'	A private access, owned by abutter(s) from a road to one to three properties.

indicate that not every private road will qualify for the expenditure of public
plowing and sanding.

becomes a public road after it's layout has been accepted by the Board of Public
Works after it has been accepted as a public road by town meeting.

The Town Clerk maintains a list of Public and Private Roads, which is updated after Town
meetings.

The Town GIS has a layer of information which depicts public and private roads, and another
layer which depicts driveways.

The Board of Selectmen as a general matter has no power to expend municipal funds or to utilize funds for
the repair of a private road. If the Town uses public resources to repair or plow private roads
the owners of the road clearly receive a benefit. It follows from this restriction that

prerequisites
funds for plow

- A road becoming a public road requires the approval of the Board of Public Works, and a
- The Town Clerk's Meeting action
- The Town GIS layer which c
- The Town as the benefit of the owner or

the Town has no inherent power to spend municipal funds or use municipal resources to maintain private roads. The Department of Revenue holds that public funds may not be expended for the benefit of private parties unless there is a definite public purpose and/or benefit to the public at large.

IN GENERAL:

- Responsibility for the care, maintenance, and snow removal of a road or driveway is the responsibility of the entities that own the road or driveway.
- The Town does not plow nor maintain driveways except those owned by the Town.
- Pursuant to G.L. c. 40, § 6C, the Town may plow private residential roads as authorized by the Selectmen provided the roads serve the general public, have more than one connection to public roads, and can be plowed without undue risk.
- The Town may perform specific, one-time, temporary repairs to private roads initiated by abutter requests and voted by the Board of Public Works or if requested by Public Safety Officials.

SPECIFIC PROVISIONS:

1. If it can be demonstrated that a private residential road is
 - a) *is not a driveway, and*
 - b) *is open to public use, and*
 - b) connects two public roads or has more than three homes, *and*
 - c) can be plowed without undue risk,

then the Board of Selectmen may, on an annual basis, direct that snow and ice be removed from the private road.

2. Not every private residential road in the Town will qualify for the expenditure of public funds. The Board of Selectmen may exercise its reasonable discretion in deciding how to expend the limited funds available for this purpose.
3. It must be demonstrated that the private residential road under consideration is open to public use and is actually susceptible to use by the public other than for purposes that are merely incidental to the use of the private residential road by the owner or owners thereof. Furthermore, the private residential road must be open to the public at large for purposes of travel, not merely incidental to the use by the owner or owners thereof, in a manner similar to

the ordinary use for purposes of travel of a public road of the same general nature.

4. The designation by the Board of Selectmen must therefore, at least, be based upon the determination that by design and in fact, the private residential road is adequate to accommodate general public traffic, and does in fact carry such public traffic.
5. The Board of Selectmen will determine among the total number of private roads which qualify for care, maintenance, and snow removal, depending on available funding and public usage at the time of their decision.
6. Abutters who own private residential roads who believe their road qualifies as open for public use may apply, in writing, to the Board of Selectman for snow and ice removal. The application should state the reasons why the road qualifies for the expenditure of Town funds for snow and ice removal in the next winter season.
7. Notwithstanding the above, snow and ice removal and maintenance of some private roads is controlled by special permit from the Town or development agreement with the Town. Such agreements are controlling.
8. DPW will continue its protocol to respond to a plowing request from Public Safety Officials for First Response necessities.

K.P. LAW - GUIDANCE TO THE SELECTMEN

"Open to the public use" has been held by the Supreme Judicial Court of Massachusetts to mean that the way is actually open to use by the public for purposes of travel, not merely incidental to its use by permission of the owner(s). Money raised by taxation can be used only for public purposes and not for the advantage of private individuals, therefore, the road must be of such design and location that the general public is able to use the road, other than as a guest or invitee of abutters to that road."

Opinion of the Justices to the Senate, 313 Mass. 779, 783 (1943).

In determining sufficient design, the qualifying factors are:

- The road must be a minimum of 15 feet wide.
- Roadside clearance of any obstacles, including vegetation, shall be at least two (2) feet from the edge of the road surface on each side.
- Height clearance shall be no less than fourteen (14) feet from the road surface.
- The road surface must be paved or hard packed gravel and capable of being plowed without causing damage to plowing equipment. The road must be free of defects (potholes or rutting) exceeding three (3) inches in depth. Defects in the road surface must not deviate from grade more than three (3) inches including manhole covers, catch basins, and roots. All potholes and ruts shall be filled to the approximate level of the surrounding roadway by the owners prior to any plowing taking place.
- There must be a turnaround area sufficient to accommodate a snow plow truck, if needed.
- There must be a designated area for the placement of plowed snow that is not on private property unless written permission and waivers are provided by the property owners.
- The road may not be a shared driveway.

PRIVATE ROADS

10/10/2017

Road	Dirt	Length (Ft)	No Plow Date	Access	# of Homes
Adelaide Ave		565		Access Lakeshore & West Plain	6 Homes
Amey Rd				Fuller Rd No Turn Around	11 Homes
Audubon Rd		785		Standish Rd No Turn Around	2 Homes
Bennett Rd				Boston Post Rd. Limited Turn Around	13 Homes
Birch Rd				Sycamore Rd - Hawthorne	2 Homes
139 Boston Post Rd	X		2015	Boston Post Rd	2 Homes
Carroll Ct	X	211		Commonwealth Rd. No Turn Around	1 Home
Cedar Crest Rd	X			Indian Rd. Limited Turn Around	8 Homes
Center St (partial)	X			Center St. Hill St.	1 Home
Chesnut Rd	X	264		Hawthorne Rd - Sycamore Rd	3 Homes
Cormans Ln	X	317		Main St. No Turn Around	2 Homes
Covered Bridge Lane					
Crest Road (partial)					
Cross St	X	98		Doran Rd No Turn Around	1 Home
Curtiss Rd		122		Main St.	1 Home
Doran Rd	X	792		Main St. - Mathews Dr	9 Homes
Dudley Rd (partial)				Dudley Rd Turn around	
Dunster Ave		350		East Plain. No Turn Around	3 Homes
Elizabeth				Access Rice Rd with Turn around	2 Homes
Ellie Lane				Access Lincoln Rd	2 Homes
Erwin Rd	X	450			6 Homes
Fields Lane				Access Plain Rd No Turn Around	1 Home
Glen Rd				Access Boston Post Rd & Millbrook	11 Homes
Hammond Rd			2015	East Plain No Turn Around	1 Home
Heard Rd				Pelham Island Rd Turn Around Consv. Area	5 Homes
Hemlock Rd	X	270		Lakeshore Dr No Turn Around	2 Homes
Hereford Rd			2015	Alpine Rd No Turn Around	2 Homes
Herland Way	X			Old Conn Path West - Coch Rd	2 Homes
Highfields Rd					6 Homes
Hill St	X	528		East Plain, South St. Center St.	2 Homes
25,27,29 High Rock			2015	High Rock No Turn Around	3 Homes
33,35,37 High Rock			2015	High Rock No Turn Around	3 Homes
Jennison Rd	X	212		Main St. No Turn Around	2 Homes
Lakeshore Drive (partial)				Multiple Access	
Lewis Path				Access Concord Road w/Turn around	4 Homes
Lundy Ln				White Rd - Rich Valley - Sylvan Way	7 Homes
Maple St	X	370		Main St. No Turn Around	1 Home
Mathews Ave	X			Main St. Mathews Dr	5 Homes
Mathews Dr	X			Main St. Pond	7 Homes
Mayflower Path	X			Pineridge Rd Limited Turn Around	7 Homes
Mitchell St (Rear)			2015	Mitchell St. No Turn Around	1 Home
Old Oxbow Rd	X			Oxbow Rd Both Ends	7 Homes
Pesce Dr				Access Oxbow Rd w/Turn around	6 Homes
Pine Rd		160		Dudley Rd No Turn Around	2 Homes
Pond Dr (partial)	X	1056		Main St. Crest Rd	4 Homes
Priscilla Path	X	423		Maiden Lane both	7 Homes
Quincy Rd	X	317		Pemberton Rd. No Turn Around	3 Homes
Ravine Rd				Access off Wallace No Turn Around	2 Homes
Reservoir Rd Ext.		400		Access Reservoir Rd No Turn Around	4 Homes
River Terrace		110		Old Stonebridge No Turn Around	1 Home
Rose Hill Ln				Access off Glezen No Turn Around	2 Homes

Rowan Field Rd				Access Draper Rd	2 Homes
Sequin Path	X	106			
Shaw Dr (partial)				Access Old Conn Path, Fox Meadow	
15 Shawmut Ave Ext	X	245	2015		
Shawmut Ave Ext	X			Pemberton Rd. Town Beach Lot (seasonal)	9 Homes
Stanton St				Damon St. - Commonwealth Rd	9 Homes
Sweet Grass (partial)					
Sycamore Rd	X			Old Conn. Path - Chesnut,	
Trudeau Ter					1 Home
Wampum Path		634		Lakeshore Dr No Turn Around	2 Homes
Weir Meadow Path				Access off Oxbow No Turn Around	1 Home
Wildflower Lane				Access of Plain Rd No Turn Around	3 Homes
Willard St				Main St - Winter St	6 Homes
Winthrop Place		188		Winthrop Place No Turn Around	2 Homes
Woodland (partial)					
2,4,6,8 Plain Rd				Plain Rd No Turn Around	4 Homes
201 West Plain		255	2015	West Plain No Turn Around	3 Homes
231,229,227,225,223,221 Concord				Concord Rd No Turn Around	6 Homes
235,239,243 Concord Rd				Concord Rd No Turn Around	3 Homes
298,300,302 Concord Rd				Concord Rd No Turn Around	3 Homes
Yeager Way				Access Cochituate Rd w/Turn around	4 Homes

LEGEND

Public access or more-than-three Homes - Currently Plowed

No defined public access or proper turn around proposed to discontinue maintenance

No defined public access or proper turn around currently not maintained

4

Private Ways - Comparison

<u>Town</u>	<u>Plow</u>	<u>Maintain</u>
Framingham	Yes to limited few who are open to Public Use	No
Franklin	No	No
Hingham	No, only streets built to be public	No
Lincoln	No	No
Littleton	Open to Public Use-3 Dwelling Min-Paved	Undetermined
Medway	No	No
Natick	Yes, only those open to Public Use	Pothole Repair
Sudbury	No-Currently under Discussion	No-Currently under Discussion
Wellesley	Undetermined	Only those open to Public Use as determined by BoPW
Weston	Yes	Only if Paved - For a Fee if Resources allow

⑤ Special Town Meeting Articles

DATE: OCTOBER 23, 2017
TO: BOARD OF SELECTMEN
FROM: NAN BALMER, TOWN ADMINISTRATOR
RE: SPECIAL TOWN MEETING ARTICLES

REQUESTED ACTIONS:

VOTE TO TAKE POSITIONS ON SPECIAL TOWN MEETING WARRANT ARTICLES

VOTE REVISION TO SPECIAL TOWN MEETING ARTICLE: ARTICLE 1 - UNPAID BILLS

BACKGROUND:

Attached is the final Special Town Meeting Warrant as submitted to the printer which will be signed by the Board of Selectmen on October 30th.

Please note the following:

- Article 1: Unpaid Bills – REVISED
- Article 11: High Synthetic Turf Field at Loker: POTENTIAL VOTE ON POSITION
- Article 14: Fund Weston Aqueduct Crossing: NEW INFORMATION
 - Please see attached opinion from Town Counsel that the project is CPA eligible.

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Town of Wayland

***** WARRANT *****

To any of the Constables of the Town of Wayland, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify all such residents of Wayland to meet in the Field House of the Wayland High School on

TUESDAY, NOVEMBER 14, 2017, AT 7:00 P.M.

to act on the following Articles:

ARTICLE 1: PAY PREVIOUS FISCAL YEARS UNPAID BILLS

Proposed by: Board of Selectmen

Estimated Cost: \$13,008.77

To determine whether the Town will vote to:

- (a) pay the bills of the prior fiscal years,
- (b) appropriate a sum of money for the payment of the foregoing bills of prior fiscal years; and
- (c) provide for such appropriation by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by borrowing, or otherwise.

Fiscal 2016 and Fiscal 2017 liabilities to be paid using Fiscal 2018 appropriations:

1) Town Office – W.B.Mason-FY16	\$269.80	Fiscal 2018 Town Office Budget
2) Town Office – W.B.Mason-FY16	\$211.87	Fiscal 2018 Town Office Budget
3) Town Office – W.B.Mason-FY16	\$57.98	Fiscal 2018 Town Office Budget
4) DPW – JP Noonan Transportation-FY17	\$673.20	Fiscal 2018 DPW Budget
5) DPW – Amazon.com-FY17	\$495.44	Fiscal 2018 DPW Budget
6) School Budget – David Nickerson-FY17	\$1,089.25	Fiscal 2018 School Budget
7) School Budget – South Shore Generator-FY17	\$170.25	Fiscal 2018 School Budget
8) School Budget – Needham Electric-FY17	\$167.34	Fiscal 2018 School Budget
9) School Budget – WhiteWater-FY17	\$9,817.04	Fiscal 2018 School Budget
10) Information Technology – Employee-FY 17	\$56.60	Fiscal 2018 IT Budget

FINANCE COMMITTEE COMMENTS: Occasionally, bills are not paid at the end of a fiscal year for a number of reasons, including late submission. The unpaid bills from Fiscal Years 2016 and 2017 are summarized in the article and will be paid using funds appropriated for the FY 2018 budget.

1) Town Office – W.B.Mason-FY16	\$269.80	Chair mat / Labels
2) Town Office – W.B.Mason-FY16	\$211.87	Office supplies
3) Town Office – W.B.Mason-FY16	\$57.98	Office supplies
4) DPW – JP Noonan Transportation-FY17	\$673.20	Leachate
5) DPW – Amazon.com-FY17	\$495.44	Camera and supplies
6) School Budget – David Nickerson-FY17	\$1,089.25	Equipment rentals
7) School Budget – South Shore Generator-FY17	\$170.25	Heating equipment
8) School Budget – Needham Electric-FY17	\$167.34	Electrical equipment
9) School Budget – WhiteWater-FY17	\$9,817.04	Wastewater repair
10) Information Technology – Employee-FY17	\$56.60	Employee Reimbursement

ARGUMENTS IN FAVOR: This is a standard Article that allows the Town to pay bills for the previous fiscal years.

ARGUMENTS OPPOSED: The Finance Committee is not aware of any.

RECOMMENDATIONS: The Finance Committee will provide its recommendation at Special Town Meeting. The Board of Selectmen recommends approval of this article. (Vote: 5-0-0)

QUANTUM OF VOTE: Nine-tenths – see Massachusetts General Laws Chapter 44, Section 64.

For more information about this article, contact Brian Keveny, Finance Director, at (508) 358-3611, or email bkeveny@wayland.ma.us.

ARTICLE 2: CURRENT YEAR TRANSFERS

Proposed by: Board of Selectmen

Estimated Cost: \$35,655

To determine whether the Town will vote to appropriate a sum or sums of money for the operation and expenses of various Town Departments for the current fiscal year; to determine whether such appropriations shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by funds received as grants from the Commonwealth or federal government, by borrowing, or otherwise; and to determine which Town officer, board, or committee or combination of them, shall be authorized to expend the money or monies appropriated therefor; and to determine whether the Town will vote to amend the amount previously appropriated under Article 6 of the April 2017 Town Meeting by reducing the amount appropriated for the Septage budget under line item 77 from \$45,405 to \$0 for a new department total for Septage for FY18 of \$0.

ARTICLE 11: SYNTHETIC TURF FIELD AT LOKER CONSERVATION & RECREATION AREA DESIGN FEES*Sponsored by: Recreation Commission**Estimated Cost: \$154,000*

To determine whether the Town will vote to:

- a) Appropriate a sum of money of up to \$154,000 to be expended under the direction of the Wayland Recreation Commission for design services for development of a synthetic turf field at the Loker Recreation site per the Wayland Recreation Commission Field Development Master Plan. (*See Appendix F*); and
- b) determine whether said appropriation should be provided by taxation, transfer from un-appropriated funds, transfer from available funds already appropriated for other purposes, by borrowing, or otherwise, provided that not more than \$154,000 of the funds so appropriated be transferred from the Recreation Stabilization Fund for recreational use.

FINANCE COMMITTEE COMMENTS: The purpose of this article is to provide funding for development of a synthetic turf field at the Loker Recreation area, which is accessible from Route 30, just east of the intersection of Route 30 and Rice Road. The source of funds is intended to be the Recreation Stabilization Fund, which has a balance of \$342,618 (as of 9/22/17). The Town has owned this parcel of land for many years and its use is restricted by deed to certain conservation and recreational uses. The property is also limited in its use from environmental contamination caused by the previous landowner. The environmental condition has been and continues to be monitored by that prior landowner, and the professionals overseeing that have determined that recreational use at this property is not a health hazard to users. The proposed project would include a large multi-sport synthetic turf field with lighting, and appropriate parking.

According to Wayland's Recreation Commission, the major reasons that they are promoting this project are the following:

- 1) To provide appropriate fields to meet the current demand of Wayland users.
- 2) To alleviate the overuse of existing recreation facilities in Wayland. Currently, all Wayland fields are overused by three or more hours per day.
- 3) The addition of a turf field, with lighting, would allow more evening hours on the field which will become increasingly important if Wayland Public Schools follow the national trend to shift school start times to later in the day.
- 4) To allow for the rehabilitation of existing recreation fields that need repair. Existing conditions are deteriorating and deficient. Rehabilitation would ensure safer playing venues for all Town residents.
- 5) To provide continuity of programming for practice and competition within the Town during the period the High School athletic facilities and fields may be under construction (see Articles 9 and 10 in this Warrant).
- 6) To allow the Recreation Department to enhance and expand current program offerings for preschool, adult and senior groups.

Wayland acquired the Loker Recreation Parcel in 2000 for Recreation and Conservation purposes. The Loker site was included in the 2010 Town-Wide Athletic Field Master Plan provided by Gale Associates, Inc., (Appendix F) where the Gale Report referenced a dire need for a second turf field to support the needs of Wayland.

At 2013 Annual Town Meeting, the Town voted and approved the Recreation Commission's article to develop fields at the Loker site with funds from the Community Preservation Committee (CPC) in the amount of \$92,000. During this process, the Recreation Commission engaged consultants to conduct research regarding this project, including a Wetlands Study, Historical Artifact Study and two

Licensed Site Professional (LSP) Reviews.

Included in the design process of laying out potential fields, the Recreation Commission conducted Well Investigation and Fracture Trace analysis, to determine the possibility of drilling wells to irrigate grass fields. It was determined that wells would be cost prohibitive, and the initiative to develop grass fields at Loker was abandoned. All funds not spent on the project were returned to CPC, in the amount of \$65,000. At the time, there was a restriction through a bylaw on irrigation/watering source, but since then the bylaw has been rescinded.

The 2010 Gale Report indicated that this site was ideal for a synthetic turf field, but because the initial CPC design money was allocated for grass field development, the Recreation Commission felt it was appropriate to return the funds to CPC and pursue a synthetic turf field at a future Town Meeting.

Weston and Sampson, Inc. (engineering firm that has done significant work for the Town) has provided a current estimated cost of a Synthetic Turf Field at the Loker Recreation site of \$2.0 million, which includes the overall costs of the field, parking, lighting, etc.

The request in this article is a continuation of that Town Meeting vote from 2013, but it now asks the Town to consider a specific development project for the site that would have significant cost and the nature of the project has raised objections from some Town residents.

The Recreation Commission makes cogent arguments as to the benefits of a synthetic turf field. The arguments are compelling that it materially increases the availability of field usage in Wayland, a Town in which the demand for playing fields is strong. Both the Recreation Commission and the Schools have indicated that the number of residents requesting field usage in Wayland has been increasing. While the cost of developing a synthetic turf field is estimated to be two to two and one-half times the cost of a grass field, this additional upfront cost is more than offset by: i) a combination of the benefits of lower annual maintenance costs; ii) the need for fewer synthetic turf fields than grass fields; and iii) the ability to attain significantly greater playing time on synthetic turf fields than on grass fields. The level of overall cost savings varies, depending upon assumptions such as the number of additional hours for which synthetic turf can be played upon compared to grass fields and the actual annual maintenance cost for each; however, such arguments suggest that the cost savings is by a factor of 1.5 to 3.0 times for synthetic turf over grass, over an estimated 10-year life of a synthetic turf field. (see Appendix E)

In the short term, one of the arguments for this project is that if Wayland High School's playing fields are redeveloped over the next 12 to 24 months, this synthetic turf field will serve many of the needs of high school teams over an estimated three playing seasons (see Article 9 set forth in this Warrant). This is likely to reduce the cost of leasing fields from other towns and it is likely to significantly reduce the additional cost of busing high school athletes to other towns, rather than busing them to the Loker Recreational area. The savings have been estimated at \$20,000 to \$30,000 per season over three or four seasons. In addition, there may be cost efficiencies in both design services and construction costs if the high school and Loker fields are designed and constructed as part of an overall athletic field redevelopment at these two locations.

The major reasons that this proposed project is concerning to residents are: i) health concerns raised by many across the United States with regard to the potential that materials in the synthetic turf may be carcinogens; ii) health concerns caused by synthetic fields becoming too hot in summer months; iii) environmental concerns from the runoff of water from the turf fields; and iv) the impact upon residents who live near the facility and could be impacted by traffic, noise and lights.

At a hearing held by the Recreation Commission, their consultant, Weston & Sampson, included a toxicologist as part of their staff on this project. The toxicologist indicated that most or all of the

synthetic turf fields of which they are aware in Massachusetts, use a material known as crumb rubber as the fill for these fields. There are many articles that are available on the internet and through other sources that claim that crumb rubber is or might be a carcinogen and that athletes who have performed on synthetic turf fields have developed cancers that they believe to be caused by the crumb rubber. According to those who attended that meeting, including Weston and Sampson and some who raised the concern that it might be a carcinogen, there were no claims that scientific studies have determined that crumb rubber is a carcinogen. The decision for Town residents is one in which they must determine if the unconfirmed risk is high enough, without scientific evidence that they would vote to not have a synthetic turf field, despite the economic benefits and the positive impact on athletic and recreational programs. Wayland's Board of Health voted to recommend against the use of crumb rubber in a meeting discussing the potential use of that material as a replacement to the current synthetic turf field at Wayland High School. A member of that Board communicated a general concern about the use of that material in the meeting with Weston & Sampson, referenced above.

The Recreation Commission has stated that the final field design could include alternative materials to crumb rubber, if it is determined in the design process that these alternative materials are feasible and do not create similar health concerns.

The Finance Committee has discussed that they feel this design process should take into account a choice of synthetic surfaces, including the cost and benefits of these various materials. As noted above, the Recreation Commission has stated that they plan for the design process to include an assessment of various synthetic materials.

It has been shown that synthetic turf fields can become extremely hot in hot weather to a level at which athletes can be harmed if the fields are used at such temperatures. The counter arguments to this concern are that: i) there are few days in New England when this is a problem; ii) the days when this might be of concern are in the summer when the fields are least used; and iii) athletic events would not be scheduled on the fields if the temperatures were such that there was a health risk.

As with all fields, there will be water runoff that may impact wetland areas near the playing fields. Some have raised a concern that the materials used in the turf fields may be harmful to the environment, and that we should not build them for that reason. Others argue that if there are negative impacts from water runoff taking harmful chemicals into nearby wetland areas, these can be mitigated by installing reasonable drainage basins that serve to keep many materials from water runoff from reaching wetland areas. There is also an argument that if the Town were to develop a grass field in this area it might be just as potentially harmful due to the runoff and leaching from fertilizers that are needed to maintain the grass fields.

Residents who live near the Loker Recreation area have voiced concerns that an increase in traffic, noise and lighting would be detrimental to their neighborhood and their quality of life. This is certainly a valid concern that is raised in all neighborhoods in which athletic fields and other amenities and Town uses are developed. One of the benefits of this site is that its entrance is from a major road, Commonwealth Road (Rte. 30), so that while there will be increasing traffic, it will be concentrated on one of the most travelled roads in the Town. There is likely to be increased traffic on Rice Road which could be detrimental to neighbors. The Recreation Commission plans to have a traffic study done as part of the planning process. Neighbors voiced a concern that this traffic study takes into account the possibility of a short-term increase in parking requirements if the new field is used by Wayland High School during the proposed field renovation at that facility. Noise from traffic, athletes playing on the fields, referees' whistles and cheering spectators are likely to negatively impact those who live in close proximity to the proposed field. Lighting is also likely to impact those who live in close proximity to the proposed field, although the many trees that surround the area should serve to dissipate that impact.

The Commission held a forum with neighbors on September 25, 2017 to hear their concerns and it would be standard practice for additional public hearings to take place prior to moving forward with the project.

The Recreation Commission is in the process of interviewing for a new department head. This will be an important position to be filled in the process of developing a new field, as the design and use of the field will be under the purview of the new department head. The Recreation Commission plans to include funding for a construction manager to oversee the project, if funding is approved at a future Town Meeting.

The Finance Committee is generally reluctant to support “money articles” at Special Town Meetings, preferring to handle all “money articles” at the Annual Town Meeting, unless there are extenuating circumstances. The argument to include this article as part of Special Town Meeting, as it might help to defray the costs of the schools while developing new athletic facilities was questioned by members of the Finance Committee, and some felt this article could have waited until Annual Town Meeting in the spring of 2018.

In conclusion, while this article’s purpose is to request funding from existing funds in the Recreational Stabilization Fund, and not via taxation, it is relevant that we have examined the impact of the project to be planned, as that is what the residents of Wayland will be asked to fund if the plans for a synthetic turf field are approved.

ARGUMENTS IN FAVOR:

- Maintenance of synthetic turf fields is less costly than maintenance of grass fields, as they do not require watering, fertilizing or mowing.
- Synthetic turf fields are available for play for significantly more hours each year than grass fields, for multiple reasons, including: i) they can be used during and after rain, resulting in fewer weather cancellations; ii) they extend a playable season by many weeks, when grass fields are not playable, typically due to mud and snow; iii) they do not need the downtime required by grass fields, to allow the grass to recover from heavy usage.
- It is estimated by the Recreation Commission that three grass fields would be required for each synthetic turf field to provide for comparable hours of play over multiple years, for the reasons set forth in the prior bullet point.
- Lighting a field would increase the hours of usage on this field, and this will be especially important if Wayland Public Schools follow the national trend to shift school start time later in the day, causing teams to need practice facilities when the hours of daylight decrease.
- The availability of this synthetic turf field will reduce usage on Wayland’s grass fields, thereby providing them with the down-time that they require and that they currently do not get, thereby providing good quality safe playing venues for all Town residents.
- The Recreation Commission indicates that the addition of this synthetic turf field will allow them to enhance and expand current program offerings for preschool, adult and senior groups.
- An additional turf field might allow programming for practice and competition within the town during the period the High School athletic facilities and fields may be under construction. It is anticipated that this would reduce the cost of transporting athletes to other communities and avoid the cost of renting other fields during this period of construction at the High School.

ARGUMENTS OPPOSED:

- The results of a highly anticipated study on the potential health hazards of synthetic fields with “crumb” rubber in fill material, sponsored by the EPA, Federal Research Action Plan on Recycled Tire Crumb Used on Playing Fields and Playgrounds (<http://bit.ly/1YwgrHu>), is

currently underway and due in late 2017. Some would argue that we should await the results of that study.

- Synthetic turf fields can become too hot for safe usage when temperatures are high, which could be a safety factor and would impact usage in summer months.
- Some have raised concerns of potential leaching of infill material that could impact wetland resources.
- Some argue that there are other large capital projects in Town that are requesting funding at this time and the Town cannot afford to support them unless they are funded over multiple years.
- Neighbors have raised concerns about the negative impact of increasing traffic, noise, and lighting.
- Some have questioned whether an athletic field is the correct use for this site, as in the past it has been proposed for an indoor athletic facility, a skating rink and other potential uses.

RECOMMENDATIONS: The Finance Committee recommends approval of this article. (Vote: 3-1-1) The Board of Selectmen did not take a position on this article prior to the Warrant going to press. The Recreation Commission recommends approval of this article. (Vote: 5-0-0)

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 7. For appropriations from the Recreation Stabilization Fund, two-thirds – see Massachusetts General Laws Chapter 40, Section 5B.

For more information about this article, contact Asa Foster, Chair, Wayland Recreation Commission, at (508) 397-9130, or email asabfoster@gmail.com.

ARTICLE 12: NON-MEDICAL/RECREATIONAL MARIJUANA MORATORIUM – SIX MONTH MORATORIUM ZONING BYLAW AMENDMENT

Sponsored by: Youth Advisory Committee

To determine whether the Town will vote to amend Chapter 198 of the Town Code, the Town's Zoning Bylaw, by adding a new definition for "Marijuana Establishment" and establishing a temporary moratorium on the use of land, buildings or structures for said Marijuana Establishments in all zoning districts in the Town of Wayland, as follows:

1. Section One

Amend Section 104.2 by adding the following new definition:

Marijuana Establishment – as defined in Section 1 of Chapter 94G of the General Laws, meaning a "marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business."

11. Section Two

Amend Section 803.5 by adding the following new subsection:

Section 803.5.8 There shall be a temporary moratorium on Marijuana Establishments until December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana

Balmer, Nan

From: Katharine L. Klein <KKlein@k-plaw.com>
Sent: Monday, October 16, 2017 12:24 PM
To: Balmer, Nan
Cc: Carolyn M. Murray
Subject: Wayland - MWRA Aqueduct (CPA Funds)

ARTICLE 14
LEGAL OPINION:
CPA FUNDING /
AQUEDUCT

Nan:

You have requested an opinion concerning the use of Community Preservation Act (“CPA”) funds for costs associated with the creation of three pedestrian crosswalks connecting portions of the Weston Aqueduct public access path (the “aqueduct path”) located in the Town of Wayland, which is under the care, custody and control of the Massachusetts Water Resources Authority (“MWRA”). I have been provided with a copy of the MWRA 8(m) Permit No 16-1784, dated May 2016 (the “Permit”), pursuant to which the Town is granted permission to use certain portions of the MWRA property for the purpose of “[e]stablishing, operating and maintaining passive recreational trails.” The Permit contains a number of terms and conditions, including that the Town “shall be responsible for any street crossing enhancements deemed necessary by local, state, and federal authorities, including but not limited to the striping of crosswalks and signage in order to insure the safety of the users of the trail and the general public.” Special Terms and Conditions, Paragraph 6. It is my understanding that the crosswalks would not otherwise be installed were it not for the desire to provide safe passage for the public using the aqueduct path, and that, while there may be some use of the crosswalks by persons not using the recreational trail, this use would be minimal.

In my opinion, the Community Preservation Commission (“CPC”) may determine that the installation of the crosswalks constitutes the creation of land for recreational use consistent with the plain language of G.L. c. 44B, and, therefore, CPA funds may be used in connection with such a purpose. Pursuant to G.L. c. 44B, §5, the CPC may make recommendations to Town Meeting “for the acquisition, creation and preservation of open space; . . . for the acquisition, creation, preservation, restoration and rehabilitation of land for recreational use . . .” The CPC may, in my opinion, recommend the use of CPA funds in this case, as the proposed crosswalks facilitate the use of the recreational aqueduct path. It is up to the CPC, however, based upon its knowledge of the Town and of the proposed project, to determine whether such proposal is consistent with the CPA, and, if consistent, whether to recommend the same to Town Meeting.

It is clear that walking and running constitute recreational activities. For that reason, in my opinion, a project that facilitates the purposes of walking and running, such as the connecting of the aqueduct path, is the creation of recreational land for purposes of the statute.

General Laws Chapter 44B, §2 defines “recreation” as:

active or passive recreational use including, but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground or athletic field. “Recreational use” shall not include horse or dog racing or the use of land for a stadium, gymnasium or similar structure.

The statutory definition of recreation is not limiting, in that it includes, “but is not limited to,” the stated purposes. As the plain language of the definition provides, recreation for purposes of the CPA includes both passive recreation and even more “active” recreation such as noncommercial youth and adult sports, and the use of land as a park, playground or athletic field. Crosswalks facilitate both passive recreational activity, i.e., bird

watching and observation of natural elements including trees, flowers, other plant life, landscapes, brooks, streams and other natural elements, as well as “active” recreational activity such as walking and running. The Supreme Judicial Court, in discussing the benefit of parks, notes that, “The healthful and civilizing influence of parks in or near congested areas of population is of more than local interest and becomes a concern of the State under modern conditions. It relates not only to the public health in its narrow sense, but to broader considerations of exercise, refreshment, and enjoyment.” Higginson v. Treasurer and School House Commissioners of Boston, 212 Mass. 583, 590 (1912). This concept, in our modern world, appears equally applicable to the existence of recreational paths. In my opinion, therefore, the CPC could determine, based upon its own observations of the use and purposes of recreational paths generally and the general health benefits of activities such as walking and running, that connecting the aqueduct path constitutes the creation of land for recreational use.

In my opinion, the facts and circumstances presented here are distinguishable from those before the Plymouth Superior Court in its decision in Donald A. Mauch et al. v. Town of Norwell (2015). In the Norwell case, the court held that the town could not use CPA funds to construct a pedestrian and bicycle path along a busy stretch of a state highway where the predominant purpose of the project was to construct a public sidewalk rather than a recreational pathway. The Plymouth Superior Court’s decision in Norwell is not an appellate level decision. As such, in my opinion, the case does not have precedential value, and has no direct impact on the Town of Wayland. Where there are so few cases construing the CPA, however, it is useful to consider the facts at issue and the court’s decision thereon.

The Norwell town meeting appropriated \$1.5 million in CPA funds to construct a pedestrian and bicycle pathway or walkway along Main Street/Route 123. According to the town, the purpose of the project was to provide for recreational opportunities to residents for walking and jogging and to connect with other existing paths, ultimately forming a 5-mile loop. The path would also connect schools, recreation areas, sport fields, open space areas, a community farm, historic properties and the town center. A 10-taxpayer lawsuit brought against the town challenged the use of CPA funds for the project.

The Norwell court found that although the walkways could provide an incidental recreational use, the use of CPA funds as proposed was not proper. Instead, the court concluded that the town was undertaking a significant municipal roadway improvement project, and the use of CPA funds in conjunction therewith was not truly intended to provide recreational opportunities. In particular, the court noted that at the same town meeting at which CPA funds were appropriated for the walkway project, town meeting also appropriated \$3.3 million in non-CPA funds to construct roadway improvements to a different portion of Main Street, including the creation of sidewalks. Statements made by the town suggested that the town was using CPA funds because the town may have reached its limit to borrow non-CPA funds for the project. Moreover, although the town argued that the path was to provide “recreational opportunities,” the town also admitted that the residents would find the path unsafe and that the path may not in fact be used by residents for recreational purposes. Therefore, it appeared to the Norwell court that the use of CPA monies was an “after-the-fact attempt to take advantage” of the spirit of the CPA.

The Norwell court recognized that specific CPA projects to install or restore walkways might be appropriate if the principal underlying intent was to promote recreational uses; the walkways would in fact be utilized for such purposes; and the use of CPA funds for such purposes was not an attempt to supplement capital improvements having a merely tangential recreational use.

The proposed crosswalks in Wayland are an integral part of the MWRA aqueduct path. The objective is to install pedestrian crosswalks to provide continuous recreational paths – not sidewalks which primarily serve roads. As noted, the Permit from the MWRA places the burden for connecting the path upon the Town. The MWRA, it is apparent, deems safe passage along the path to be a critical component of the recreational use referenced in the Permit.

It is my understanding that the Town may consider other sources of funds, e.g., DPW monies, for this project, if CPA funds are not used. In my opinion, this intention, in and of itself, does not disqualify the use of CPA funds. The use of non-CPA funds does not alter the nature of the project. The paths inherently provide opportunities for recreation. The factors which provide evidence of this purpose, including the location of the crosswalks, the deliberate attempt to create an integrated network or trails, and the fact that the crosswalks will be used almost exclusively for recreational purposes, do not change if alternate funding is being considered.

It is important to note that the CPA has not been tested significantly in the courts. For that reason, it is always possible that if a decision to use CPA monies for the purpose at issue was appropriately challenged by 10 taxpayers, a reviewing court could reach a conclusion different than that set forth herein. In this case, however, it is my opinion that the CPC could find that the purpose of the project is to create recreational opportunities, and recommend an expenditure of CPA funds.

Please let me know if you have further questions concerning this matter.

Very truly yours,

Katie

Katharine Lord Klein
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borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 7.

For more information about this article, contact Gretchen Schuler, Chair, Community Preservation Committee by email at ggschuler@verizon.net or 508-358-7980.

ARTICLE 14: APPROPRIATE FUNDS TO INSTALL WESTON AQUEDUCT PEDESTRIAN CROSSINGS

Sponsored by: Conservation Commission

Estimated Cost: \$98,500

To determine whether the Town will vote to:

- a) appropriate a sum of money to be expended by the Conservation Commission for the costs of construction to install pedestrian crossings at the locations where the Weston Aqueduct trail crosses roadways:
 1. Old Connecticut Path
 2. Pine Brook Road
 3. Stonebridge Road
- b) determine whether such appropriation shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by borrowing in compliance with Massachusetts General Laws Chapter 44§§7 or 8 or other enabling authority, or otherwise;
- c) authorize the Treasurer with the approval of the Board of Selectmen, to borrow said sum pursuant to G.L. c. 44, §§7 or 8 or any other enabling authority, and issue bonds or notes of the Town therefor; and
- d) authorize any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, to be applied to the payment of costs approved hereunder in accordance with G.L. c.44, §20, thereby reducing by a like amount the amount authorized to be borrowed to pay such cost.

FINANCE COMMITTEE COMMENTS: The Town of Wayland applied for and was granted public access to the Weston Aqueduct by the Massachusetts Water Resources Authority (MWRA) on June 1, 2016. The Conservation Commission has been working with the MWRA to establish a passive recreational trail from the Weston town line to the Framingham town line. The permit requires the Town to construct the necessary pedestrian crossings to insure the safety of the users of the trail. The urgency of being a regulatory requirement by the MWRA allows the article to be included in this fall Special Town Meeting versus waiting until the spring.

The Weston Aqueduct crosses public streets in five locations. The crossings at the Routes 126 and 27 intersections were completed with a portion of the trail routed along the existing sidewalk. The crossing at the Old Connecticut Path (adjacent to #274) will use the existing crosswalk at the high school. The remaining three will tie the entire public way. The design has been completed and paid with prior period Conservation Department funds.

- a) The two crossings at Old Connecticut Path (adjacent to #40) and Pine Brook Road: Pavement, striping and signage - \$44,700.
- b) The crossing at Stonebridge Road: Pavement, striping and signage - \$44,600.
- c) Crosswalk at Stonebridge: Additional charge for special imprinted crosswalk - \$9,200.

After several months of urging by the Board of Selectmen, in June 2016 the MWRA agreed to open the Wayland section of the aqueduct for pedestrian use with the condition that the town would make necessary crossing improvements. The Town Administrator signed the agreement as authorized by the Selectmen.

The article is presented by the Conservation Commission because of a concern for pedestrian safety on trails overseen by the Commission. The aqueduct as it exists encourages walkers, including the Wayland High School Cross Country Team to cross unsafely, mid-block on busy roads. The Wayland Department of Public Works (DPW) has noted that the project is not Chapter 90 eligible. However, the crosswalk installation will be overseen and maintained by the DPW. This project does not qualify for Community Preservation Funds.

ARGUMENTS IN FAVOR:

- The pedestrian crossings are the responsibility of the Town to construct for the public safety of users on the trail. The trails cannot be officially opened until these pedestrian crossings are installed.
- The crosswalks provide connectivity to the established aqueduct trails in Weston and Framingham.
- Because the designs for the crosswalks are already completed, passage of this article at this Special Town Meeting means that construction can begin in early spring.

ARGUMENTS OPPOSED:

- The funds appropriated for these pedestrian crossings could be used for other public safety expenses.
- Some may argue that all Town crossings are installed and managed by the DPW and so should this one. The DPW will be responsible for all future maintenance and so this project should be part of their business plan and budget.
- Others feel that the project will not be able to start until the spring so why not wait until the Annual Town Meeting with the other money articles. It would only delay the installation a few months.

RECOMMENDATIONS: The Finance Committee recommends approval of this article. (Vote: 3-0-2) The Board of Selectmen recommends approval of this article. (Vote: 4-0-0) The Conservation Commission recommends approval. (Vote: 5-0-0)

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B and Chapter 44, Section 53. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 7.

For more information about this article, contact Linda Hansen, Conservation Administrator, at 508-358-3669 or LHansen@wayland.ma.us

ARTICLE 15: 107 OLD SUDBURY ROAD DEMOLITION

Sponsored by: Board of Public Works

Estimated Cost: \$100,000

Appropriate, transfer from the Water Enterprise Fund, or borrow a sum of money of up to \$100,000 to be expended by the Department of Public Works for the demolition of the structure and appurtenances at 107 Old Sudbury Road for the purpose of water resource protection and potential upgrade of the Town's Baldwin Pond water treatment plant;

to meet said appropriation, authorize the Treasurer with the approval of the Board of Selectmen, to



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

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN

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

DRAFT

Board of Selectmen
Meeting Minutes
September 27, 2017
8:15 a.m.

Wayland Town Building, Selectmen's Meeting Room
41 Cochituate Road, Wayland

Attendance: Lea T. Anderson, Mary M. Antes, Louis M. Jurist, Cherry C. Karlson, Douglas A. Levine
Also Present: Town Administrator Nan Balmer

A1. Call to Order by Chair Chair L. Anderson called the meeting of the Board of Selectmen to order at 8:20 a.m. in the Selectmen's Meeting Room of the Wayland Town Building and noted that the meeting is not being recorded by WayCAM. There were no announcements.

A2. Public Comment L. Segal, 9 Aqueduct Rd., speaking for herself, questioned what aspects of the River's Edge conversation should be held in open session versus executive session. She thought the public should have information about the general environmental clean-up mentioned in public DEP filings, understand the various roles of the Town and the potential purchaser, and be given a timeline. Secondly, she distributed the agenda of an upcoming Housing Partnership meeting which incorrectly stated that an appointment was needed for a Board of Selectmen special committee to assist the Zoning Board of Appeals.

A4. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any L. Anderson read a request to support the nomination of a Sudbury selectman to the Metropolitan Planning Organization (MPO). The deadline for responding was before the next planned Board meeting. The Board asked her to research the candidate before signing the endorsement.

A3. Enter into Executive Session Pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(6), to Consider the Purchase, Taking, Lease or Value of Real Property in Regard to the Rivers Edge Project at 484-490 Boston Post Road At 8:31 a.m., L. Anderson moved, seconded by D. Levine, that the Board of Selectmen enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(6), to consider the purchase, taking, lease or value of real property in regard to the River's Edge Project at 484-490 Boston Post Road. The Chair declared that a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town. Roll call vote: YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0. Chair L. Anderson invites attendance by Town Administrator Nan Balmer, Town Engineer Paul Brinkman, and River's Edge Advisory Committee member Rebecca Stanizzi. The Board will reconvene in open session in approximately thirty minutes solely for the purpose of adjourning.

The Board returned to open session at 9:09 a.m.

A5. Adjourn There being no further business before the Board, C. Karlson moved, seconded by M. Antes, to adjourn the meeting of the Board of Selectmen at 9:10 a.m. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

Items Distributed for Information and Use by the Board of Selectmen at the Meeting of September 27, 2017

1. Copy of Agenda for Housing Partnership meeting of October 3, 2017, from Linda Segal

Items Included as Part of Agenda Packet for Discussion During the September 27, 2017 Board of Selectmen's Meeting

1. None.



NAN BALMER
TOWN ADMINISTRATOR
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TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

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

DRAFT

Board of Selectmen
Meeting Minutes
Monday, October 2, 2017
6:30 p.m.
Wayland Town Building, Selectmen's Meeting Room
41 Cochituate Road Wayland

Attendance: Lea T. Anderson, Mary M. Antes, Louis M. Jurist, Cherry C. Karlson, Douglas A. Levine
(arrived 6:54pm)

Also Present: Town Administrator Nan Balmer

A1. Open Meeting and Enter into Executive Session Pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(6), to Consider the Purchase, Exchange, Taking, Lease or Value of Real Property in Regard to the Rivers Edge Project at 484-490 Boston Post Road; and Pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3), to Discuss Whether the Town Should Pursue Legal Proceedings with Respect to the Town's Agreement with Twenty Wayland, LLC, relative to Property and Development located off 400-440 Boston Post Road; and Pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(2), a Discussion of Strategy with Respect to Negotiations with Non-union Personnel, Town Administrator, because a Public Discussion of these Matters may have a Detrimental Effect on the Litigating, Negotiating or Bargaining Position of the Town At 6:30pm, L Anderson moved, seconded by M.

Antes that the Board of Selectmen enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(6), to consider the purchase, exchange, taking, lease or value of real property in regard to the Rivers Edge Project at 484-490 Boston Post Road; and pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(3), to discuss whether the town should pursue legal proceedings with respect to the town's agreement with Twenty Wayland, LLC, relative to property and development located off 400-440 Boston Post Road; and pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(2), to discuss strategy with respect to negotiations with non-union personnel, Town Administrator. The Chair declares that a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the town. Roll call vote: YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson. NAY: none. ABSENT: D. Levine. ABSTAIN: none. Adopted 4-0. The Chair invites attendance by: Town Administrator Nan Balmer, Assistant Town Administrator John Senchyshyn and Town Engineer, Paul Brinkman. The Board will reconvene in open session in approximately thirty minutes.

The Board returned to open session at 7:00pm.

A1 and A2 Call to Order by Chair AND Review Agenda for the Public; Announcements M. Antes announced the Library HOV and League of Women Voters are sponsoring a meeting on 10/12 dealing with the subject of communication with your legislators.

A3. Public Comment J. Milburn, Concord Road, delivered a letter for the record. Richard Turner, Nob Hill Road, stated his displeasure with the communication around the new Police Chief's swearing in ceremony. Turner was not able to attend since he did not know about it.

Gil Wolin, West Plain St., read aloud a letter from Malcolm Astley who could not attend the meeting. M. Astley requested that plow service be returned to those roads that were stopped 2 years ago.

B. Wright, Jeffrey Road, Recreation Commission, discussed the status of Oxbow Meadows project. He requested the Board's support for the project following the Zoning Board of Appeals decision.

A4. Swearing in of Firefighter Nathaniel Bachman (to be held in the Senior Center) The Board moved to the Large Hearing Room (new location) to attend the swearing in of new Firefighter Nathaniel Bachman. Following administration of the oath and pinning his badge, the Board congratulated Firefighter Bachman. The Board returned to the Selectmen's Meeting Room.

A3. Public Comment, continued Reed Newton, Haven Lane, Wayland Youth Soccer, asked for the Board's support for the articles at Special Town Meeting related to athletic fields.

A5. Meet with the Chairman of the Board of Public Works to Discuss Maintenance and the Plowing of Private Roads Chair Woody Baston came before the Board to discuss the suggestions from BOPW of private roads to be removed from the plowing list. He stated they BOPW's goal is to create a uniform policy. W. Baston discussed the history of the Town plowing private roads and stated the biggest concern is the danger to plow drivers when they are plowing these roads. He noted in an emergency, he believes emergency vehicles could respond in an adequate amount of time despite DPW having to respond and plow first. It was discussed that there is urgency in deciding this matter so residents so have enough time to prepare for the upcoming snow season. D. Levine asked about lighting on the plow trucks and if there are any public ways that we plow without turnarounds. W. Baston said yes. Mike Lowery, member of the BOPW, stated the Town needs to consider the issue of using public money for private benefit. D. Levine said it would be helpful to look at what other towns are doing, and W. Baston had a summary document of what other towns plow. L. Anderson said the Board sympathizes with the residents who will no longer have their private roads plowed, but it is reasonable to have a standard for plowing roads and to make it fair to other residents who plow their own private roads.

The Board of Selectmen asked the BOPW to draft a policy to review and vote on at its Oct. 16 meeting. The Board of Selectmen will then discuss it at a subsequent meeting.

A6. Presentation by the Chairman of the Finance Committee Finance Committee Chair Dave Watkins shared the Finance Committee's presentation with the Board. He stated the purpose of the presentation is to think about the financial process and trends, and noted the information is generally consistent with the FinCom's expectations, but the numbers are subject to change. The presentation included the Finance Committee's goals, highlights, key financial issues, socioeconomic data and peer towns and discussion of the stresses on the Town's Moody's Aaa rating. The presentation is available online.

L. Anderson remarked that many funding decisions are changed at Town Meeting, so it's the Board and FinCom's responsibility to do a better job getting the financial message out to voters. The Board thanked D. Watkins for his committee's work on the presentation.

A7. Special Town Meeting Articles: Discuss all Articles; Potential Vote to Insert Articles in Special Town Meeting Warrant and Potential Vote to Take a Position on Special Town Meeting Articles; and Meet with Article Sponsors:

- (1) **School Committee** School Committee member Jeanne Downs answered questions from the Board regarding Article J, High School Stadium Complex Renovation Design fees. C. Karlson asked if more rehabilitation work could be done instead of replacing everything. J. Downs said they did receive quotes from Weston & Sampson to compare costs, and, generally, the facility is in such disrepair that it is not worth spending the money to rehab. Repairs would not last as long as a new facility. She stated the article is written so the decision of grass or turf can be made by the School Committee at a later time. The School Committee anticipates that more information will be available to make this decision. C. Karlson asked about ADA compliance and also if the Facilities department

has enough time and staff to manage this project to an ATM article vote. N. Balmer said she doesn't think the Town has the capacity in Facilities, but this project would be emphasized, possibly at expense of other projects if the STM article is passed.

(2) **Recreation Commission** Members of the Recreation Commission came before the Board to discuss Article K, Synthetic Turf Field at Loker. Chair Asa Foster stated Town Counsel's opinion that there aren't any legal issues moving forward for the turf field at this location. N. Balmer clarified that Town Counsel used the language that they have found nothing so far. A. Foster said they held a meeting with neighbors and residents to listen to their concerns. Neighbors were notified by mail about a week before the meeting. There were questions about lights and a possible traffic study. Rec proposes to fund the design study out of its stabilization fund and to come back in the spring for a vote on whole project if this article is passed this fall. D. Levine asked about a timeline if it is grass field instead. A. Foster said the project would take a year longer for grass instead of turf.

(3) **Board of Public Works** W. Baston answered questions regarding Article L, 107 Old Sudbury Road Demolition. He stated the property has been deemed dangerous by the Fire Department. He stated if the Article passes they are hoping to go out to bid in the winter and start demolition in the spring.

DPW Director T. Holder came before the Board to discuss Article M, Aqueduct Pedestrian Crossing. He discussed the DPW's role in it. He stated the whole project is a safety issue and while the DPW can oversee installation of ADA compliant crossings, it will bid out the work. L. Anderson asked if a short-term solution of painted crosswalks would be possible. T. Holder said it is possible, but painted crosswalks give a false sense of security to pedestrians. If the STM article passes, an April construction date is possible.

C. Karlson asked the Board for suggestions on Article C (Accept Gifts of Land at Town Center) noting that the packet contains the updated version. The Finance Committee hasn't discussed this article yet. L. Anderson gave one suggestion, otherwise said it was well written.

Article B, (Current Year Transfers) was discussed and C. Karlson explained that the request for the Septage Fund expenses will be removed since the town is still discussing this with Sudbury. A revised agreement and budget will come back to Annual Town Meeting.

C. Karlson moved, seconded by M. Antes, to revise the article text for a new cost estimate of \$35,655. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

L. Anderson noted there are some changes to Article A (Pay Previous Fiscal Year Unpaid Bills).

C. Karlson moved, seconded by M. Antes, to support Article A "Pay Previous Fiscal Year Unpaid Bills" and Article B "Current Year Transfers." YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

C. Karlson moved, seconded by M. Antes, that the BOS insert Article A "Pay Previous Fiscal Year Unpaid Bills" and Article B "Current Year Transfers" into the warrant. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

C. Karson moved, seconded by M. Antes, to insert and support Article C "Accept Gifts of Land at Town Center," Article D "Change Filing Deadline for Circuit Breaker Match Program," Article E "Compensation for Town Clerk," Article F "Personnel Bylaws and Wage and Classification Plan," Article G "Town Union Collective Bargaining Agreements 2017-2020," and Article H "School Union Collective Bargaining Agreements 2017-2020." YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

M. Antes moved, seconded by C. Karlson, to insert and support Article N. "Marijuana Moratorium." YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

M. Antes moved, seconded by L. Jurist that the Board support and insert Article L "107 Old Sudbury Road Demolition", O "Stone Pillars at Castle Gate", and P "Design Funds for Part 2 of High School Plan". It was discussed that Article P is dependent on Article J.

The Board decided that each article should have its own motion.

M. Antes moved, seconded by C. Karlson, to support and insert Article L "107 Old Sudbury Road Demolition." YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

M. Antes moved, seconded by C. Karlson, to support and insert Article O "Appropriate Funds to Restore/Preserve Stone Pillars at Castle Gate Road and West Plain Street." YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

C. Karlson suggested the new Police Chief weigh in on Article M (Weston Aqueduct Crossing) in a memo. The Board agreed they were comfortable holding off on voting a position on the rest of the articles.

A8. Fiscal Year 19 Budget Discussion: Vote to Approve Capital Projects for

Departments under the Board of Selectmen N. Balmer provided some thoughts on the process and deadline for reviewing and approving capital projects and asked the Board to delay this vote.

A9. Town Administrator Review: Discuss Final Evaluation and Goal Setting The Board discussed the evaluation and L. Anderson asked for feedback. She said the final evaluation will be presented at the next meeting and she's hoping over the next week everyone can put together ideas for the Board's goals for the next year.

A10. Minutes: Review and Vote to Approve Minutes of September 18, 2017 M. Antes moved, seconded by D. Levine, to approve the minutes of September 18, 2017, as amended. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A11. Consent Calendar: Review and Vote to Approve (See Separate Sheet) C. Karlson stated she would like to add the number \$70,000 to item 2 and David Porter's job title to item 4. M. Antes moved, seconded by L. Jurist, to approve the Consent Calendar as amended. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A12. Review Correspondence (See Separate Index Sheet) The Board reviewed the Correspondence packet. M. Antes mentioned the Fire Chief's report and the idea of publishing it for better communication with residents. She will follow-up.

A13. Report of the Town Administrator

1. **Correspondence** N. Balmer stated the letter from Verizon has been forwarded to WayCam.
2. **Wastewater Management District Commission –Wayland Meadows Land Agreement and PILOB** The Conservation Administrator, Town Counsel, and the Conservation Commission are all satisfied and deem the title restrictions on Lot 8 not relevant to the Conservation Commission's intended passive use of the property. The Board agreed that N. Balmer could release the land agreement and related documents to Wayland Meadows. The PILOB Agreement was signed by the Board on 4/21/17 but was lost in the office. The WWMDC re-signed it and the BOS are being asked to re-sign. Terms will be implemented upon receipt of the Land Agreement from Wayland Meadows.

3. **Class II Auto Dealer's License** N. Balmer said this is an old issue that has come back again. Town Counsel concluded that the cars sold over the Internet also count towards the maximum number of cars for sale on the property. N. Balmer stated she has sent a letter to Wayland Automotive asking them to come up with a reasonable solution, which will be reviewed by the land use departments before their license is renewed. C. Karlson stressed the importance of working with the business to resolve this.
4. **Oxbow Meadows Contract Appeals** have been filed in Land Court and to the Zoning Board of Appeals. The ZBA will take up the matter on Oct. 10. There is risk involved but N. Balmer said she would like to hear the Board's input. The Board discussed the possible pros and cons of going forward with the project despite the appeals or waiting until the appeals are over.
5. **Executive Session – Motion for Minutes** Town Counsel advised that when reviewing Executive Session minutes, the Board can change its practice to list only the meeting dates being reviewed rather than also listing the detail of topics discussed in motions for entering Executive Session.
6. **Town Engineer: Update on River's Edge** The Town Engineer provided a written update on River's Edge for the public distribution giving information on the status of the asbestos removal. N. Balmer noted there would be additional information added to the public record about costs to remove the asbestos.

A14. Selectmen's Reports and Concerns M. Antes asked if any other Selectmen were attending the MMA's meeting on Oct. 14.

A15. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any The Chair said, "I know of none."

A16. Adjourn There being no further business before the Board, D. Levine moved, seconded by L. Jurist, to adjourn the meeting of the Board of Selectmen at 10:06 p.m. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

Items Distributed for Information and Use by the Board of Selectmen at the Meeting of October 2, 2017

1. Letter of 10/2/2017 from Ann Baker, Steven Klitgord, Judy Ling, Mike Lowery, Steve Garone to Board of Selectmen re: Vote against the proposed new library, delivered by hand by Jean Milburn
2. Overview of Neighboring Town Policies on Plowing Private Roads, from Woody Baston, BoPW
3. Email from Malcolm Astley re: Following Through on Commitments
4. Finance Committee Presentation to the Board of Selectmen: Financial State of the Town
5. Article List for November 14, 2017 Special Town meeting
6. Article for Special Town Meeting on Current Year Transfers

Items Included as Part of Agenda Packet for Discussion During the October 2, 2017 Board of Selectmen's Meeting

1. List of private roads in Wayland
2. Aerial and terrestrial photographs of select private roads in Wayland
3. Map of Wayland with proposed road maintenance and snow plow adjustments
4. Memorandum from Nan Balmer to the Board of Selectmen, re: STM Articles
5. Article List for November 14, 2017 Special Town Meeting, including sponsors and assignments
6. Article Text for all articles, excluding Finance Committee comments which are not yet prepared
7. Revised STM article, re: Previous Years Bills

8. Revised STM article, re: Current Year Transfers
9. Draft Finance Committee comments for STM Article C
10. Title research by Town Counsel, re: synthetic turf field at Loker
11. Memorandum from Elizabeth Doucette re Fiscal Year 2019 Capital Project Requests
12. Draft Minutes of September 18, 2017
13. Report of the Town Administrator for the Week Ending September 29, 2017
14. Memorandum from L. Hansen, Conservation Administrator, to the Board of Selectmen, re: Wayland Meadows land donation
15. Email dated from C. Murray, Town Counsel, to N. Balmer, re: Executive Minutes Motion
16. Memorandum from P.Brinkman, Town Engineer, to N. Balmer, re: Rivers Edge Due Diligence Update

⑨ Report of the Town Admin

TOWN ADMINISTRATOR'S REPORT WEEK ENDING OCTOBER 20, 2017

1. CORRESPONDENCE

#1: Comcast: See Cable Advisory Committee below

#2: COA: See COA Letters below

2. PAYROLL

Implementation of "outsourced" payroll was delayed at the recommendation of a municipal finance consultant. Upon further review, we learned there are important unanswered questions about the payroll process and preliminary work to be done regarding staff assignments / cross training (most staff functions do not change under with a payroll vendor), correct set-up and use of MUNIS particularly by the School Department, and the system for recording and auditing of leave time accruals. Use of a payroll vendor must be planned to be consistent with the town's efforts to move to one integrated financial management system. The use of a payroll vendor would require a new "data bridge" and/or manual processing, similar to the MUNIS / VADAR bridge for which we are working to eliminate the necessity. The use of a payroll vendor appears to increase rather than decrease costs and we must determine if there is sufficient value from the vendor to justify costs.

In summary, the value of employing a payroll vendor is to off-load the printing of checks and the management of the Treasurer's withholding and reporting functions. Although we may still use a payroll vendor, we learned there are some payroll processing questions that must be resolved regardless of whether a payroll vendor is used. After the recent resignation of the Payroll Clerk for full-time work, the Finance Director began addressing the payroll processing issues, particularly staff assignments that must be addressed regardless of whether a payroll vendor is employed by the town for parts of the payroll process.

3. CABLE ADVISORY COMMITTEE

The town's cable franchise license (under the Board of Selectmen) with Comcast expires 10/16/2020. The Board may wish to re-constitute a Cable Advisory Committee to undertake the multi-year re-licensing process. I would assign David Porter to: 1) act as liaison between the Selectmen and the Cable Committee, with regular reports to the Selectmen, 2) insure that all legal, procedural requirements are met, and 3) review and update the terms of the Town's lease and agreement with Way-Cam. As part of the licensing process, the Cable Advisory Committee would also review the terms of the Verizon license (expires in 2023). The principal terms of the current Comcast License are attached. The Town receives, in addition to one-time payments, a 4.6% franchise fee on cable revenue from local residents out of a possible 5%.

4. COA LETTERS

Please provide any direction on three letters from the Council on Aging requesting:

1. Board of Selectmen asked to re-convene COA – CC Committee to complete cost estimation. (6-8 weeks to produce warrant article by mid-January article due date)
2. Board of Selectmen to recommend support to the Finance Committee for funding for \$200,000 (or as adjusted for updated number) for FY 19 and maintain the \$5,000,000 for construction in 2020 in the 5 year capital plan.

3. Board of Selectmen to authorize (after soil testing) a contract with Kang Associates to confirm COA and Recreation space needs to prepare for warrant article and include in bid documents.

5. FY 19 BUDGET PROCESS

At the October 10th Selectmen’s meeting, the FY 19 operating budgets for departments under the Board of Selectmen were presented for the first time. The Board asked two questions:

Q: Can the departmental budget presentations be changed to better show year over year changes, especially the impact of wage increases?

A: Year over year data including and departmental wage data will be included and presented on October 30th when the Board is asked to approve and submit to the Finance Committee the FY 19 operating budgets for departments under the Board’s jurisdiction.

Q: Can the Board get a financial plan for the Town before considering and approving the details of departmental budgets? --- Knowing what the Town has available to spend is necessary to approve operating expenses.

A: On October 30th, The Finance Director will provide the Board with a presentation on the Finance Committee’s multi-year financial plan and FY 19 budget guideline.

Please note the following FY 19 Budget actions:

DATE	FY 19: BUDGET ACTIONS
10/30	FINANCE DIRECTOR MEETS WITH BOARD OF SELECTMEN TO REVIEW THE FINANCE COMMITTEE’S FY 19 BUDGET GUIDELINE AND THE FINANCE COMMITTEE’S FINANCIAL MODEL
10/30	BOARD OF SELECTMEN VOTES TO APPROVE OPERATING BUDGETS FOR THE DEPARTMENTS UNDER ITS JURISDICTION AND SUBMITS TO FINANCE COMMITTEE
11/7 OR 11/20	TOWN ADMINISTRATOR PRESENTS RECOMMENDATION TO SELECTMEN ON CAPITAL BUDGETS FOR ALL DEPARTMENTS; BOARD OF SELECTMEN APPROVES CAPITAL BUDGETS FOR DEPARTMENTS UNDER THE BOARD OF SELECTMEN
1/15	TOWN ADMINISTRATOR MAKES FINAL COMMENTS TO SELECTMEN ON ALL OPERATING AND CAPITAL BUDGETS, EXCEPT SCHOOLS
1/16	DEADLINE FOR FINANCE COMMITTEE AND OTHER BOARDS AND COMMITTEES TO REQUEST SELECTMEN PLACE A DEBT EXCLUSION QUESTION ON THE BALLOT
1/29	DEADLINE FOR BOARD OF SELECTMEN TO APPROVE THE PLACEMENT OF DEBT EXCLUSION QUESTION(S) ON ELECTION BALLOT

REQUESTED BOARD OF SELECTMEN ACTION FOR FY 20 BUDGET PROCESS:

- Before the FY 20 budget process begins, I ask that the Board work with me, the Finance Director, the Finance Committee, the Personnel Board and the Collins Center to establish (before July 1, 2018) an FY 20 budget process that is consistent with existing Town Code and which outlines the responsibilities of professional staff, the Board of Selectmen and appointed bodies.

Attached also is related correspondence from the Assistant Town Administrator to the Finance Committee.

Summary of Principal Terms of Proposed Comcast Renewal License

A. Grant of License, Term, and I-Net

- The Town grants a non-exclusive renewal license to Comcast of Massachusetts I, Inc. to provide cable TV service to all Town residences, businesses and multi-resident dwelling units.
- Term of License: 10 years (to 9/16/2020), the legal maximum, thus ending before the current Verizon license which terminates 1/21/2023.
- Comcast to discontinue carrying video return from Town and School buildings to studio over its I-Net. Town to carry video return over its fiber networks.

B. Financial Considerations

- Payments to Town for programming for local channels carrying public, educational and governmental (PEG) programming – currently provided by Wayland Cable Access and Media, Inc. (WayCAM), which oversees the local access studio.
- PEG access support (annual payments for the maintenance of the PEG access channels and related PEG costs) restructured from fixed annual amounts to percent of Gross Income, matching the Verizon license scheme.
 - Increases Comcast's effective ~ 2% support before Verizon license to 4.6%.
 - Verizon's rate, per their license, will drop from current, one year, 5% to match the 4.6% to be paid by Comcast.
 - Anticipated combined annual support – over \$180,000.
- PEG grant (for the acquisition of capital equipment and related PEG costs): \$150,000, of which \$75,000 is payable in 45 days and \$75,000 on first anniversary of license issue. Per intent of the Memorandum of Agreement between Town and WayCAM, this money is transferred to WayCAM for equipment needs.
- Compensation to Town from Comcast for ending I-Net obligation – \$50,000, payable within 60 days of agreement.
- Contribution from Verizon, by revision of Verizon's License, to help defray the cost of providing video return over the Town's fiber networks – \$30,000, payable at the end of Verizon's obligation to pay Comcast for I-Net use (when all video return is carried by the Town).
- Comcast to absorb up to \$10,000 for relocating their Fiber Link from studio to Comcast's facility in Needham as a result of new access studio location.

C. Services provided to the Town and Subscribers

- Comcast will provide three PEG channels, matching the de facto count of Verizon channels. PEG programming will be carried as part of Comcast's basic program package at no additional cost to subscribers.
- Comcast will continue to provide cable TV drops and Basic Service to public and school buildings at no cost.



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

Personnel Board
Deborah Cohen
Jessica Green
Miranda Jones
Maryanne Peabody
Phillip Schneider

John Senchyshyn
Asst. Town Administrator/HR Director
508-358-3623
jsenchyshyn@wayland.ma.us

Date: October 20, 2017
To: Finance Committee
Brian Keveny, Finance Director
From: John Senchyshyn, Asst. Town Administrator/HR Director
Re: FY 19 Staffing Requests

At its October 16, 2017 meeting, Town Departments and Committees presented the Personnel Board with their staffing requests for the FY 19 budget. These requests include both new positions and changes to hours of existing positions. Prior to meeting with the Board, each request had been approved by the respective oversight board.

The Personnel Board believes there is merit, in varying degrees, to each request, but the Board also recognizes the significant financial implications. The Board's recommendations are based on the perceived need to operations, not on the financial impact to the overall budget. In light of the comments and information received at its meeting, following are the Personnel Board's observations and recommendations for FY 19 staffing requests:

Fire – The Asst. Fire Chief Neil McPherson requested two new Firefighters. The request adds a Firefighter to 2 of the 4 shifts.

- Asst. Chief McPherson made compelling arguments for the addition of the two Firefighters. As currently staffed, the Fire Department has not been able to fully convert to a complete Advanced Life Support (ALS) service. Firefighter staffing has not changed since the 1970s, yet the demand for emergency medical services has increased dramatically. The demand for services continues to be influenced by the rise in senior living facilities in Wayland. The Fire Department cannot fully implement the ALS service without the increase in staff. Reliance on mutual aid from neighboring towns is not a viable solution as response time would likely be greater from another community. An increased in-house response to medical emergencies may also enhance ambulance revenues.

The financial commitment to add two Firefighters is substantial. When fully loaded with benefits, the annual costs exceed \$200,000. A minimal off-set to overtime is possible, but any such reduction is contingent upon call volume. However, providing a timely ALS response is a true life-safety issue. While the need is legitimate, it has to be balanced against the ability to fund the positions.

Consistent with last year's request, The Board supports increasing shift size if an adequate and sustainable funding mechanism can be determined.

Police – Police Chief Patrick Swanick requested one new Police Officer.

- Chief Swanick is again seeking to add a Patrol Officer. Overall Police Department staffing has not increased since the 1990s, yet call volume has risen substantially in recent years, much of which is attributable to Town Center. The additional Officer would balance the night shift so that 3 Officers would be on each shift. The Department would better be able to respond to emergency calls and focus additional resources to traffic enforcement.

Another significant funding commitment is required. A fully loaded position would carry an annual cost of approximately \$95,000. A potential \$6,000 reduction in overtime would help offset the cost. If funding is available, the Board supports the Police request.

Conservation – Conservation Administrator Linda Hansen requested increased hours for the Conservation Land Manager from 19 hours/week to 28 hours/week.

- The Conservation Land Manager was recently added as a 19-hour per week, non-benefits eligible position. Linda Hansen expressed the need for additional field work, clearing of trails and overall care of conservation lands as reasons for requesting increase in hours. The department owns and maintains its own mowers and is anticipating purchasing additional equipment to aide in maintenance efforts. The estimated wage increase is \$11,100. The increase in hours will make the position benefits eligible, which could add significantly more in costs.

The Board supports the request if funding is available so that existing lands and trails may be maintained and enjoyed safely by residents, but Board support is not unanimous. If Conservation continues to acquire more land, provisions for the upkeep and maintenance of the land should be made when the proposal to purchase the land is presented. Otherwise, requests for land management positions will continue.

The Board also considered an increased use of volunteers and seasonal workers as another source of relief for managing the land.

Council on Aging – Council on Aging Director Julie Secord requested increased hours for the Project Coordinator from 18 hours/week to 30 hours/week.

- The breadth and depth of programming in the Council on Aging was presented. Staffing comparisons were made with the senior centers in Sudbury and Weston. The increasing senior population was referenced as a continuing factor in the

COA's ability to offer appropriate services to the senior population. Julie Secord expressed the difficulty the staff is having in keeping pace with events. The estimated wage increase is \$18,575. The increase in hours will make the position benefits eligible, which could add significantly more in costs.

The Board acknowledges the work of the staff in managing events and programming. To maintain the level of service, additional hours seem appropriate and the Board supports the request if funding is available. However, the larger question may be the level of service the Council on Aging is providing. If programs and services continue to grow, so will requests for staffing.

DPW – Public Works Director Tom Holder requested 1 new position, Project Manager and a change in hours for the Transfer Station Heavy Equipment Operator from 19 hours/week to 40 hours/week.

- The Public Buildings Department is a joint School and Town department. There are numerous capital projects backlogged on the Department's capital agenda. Active projects total 40 of which 22 are Town projects, 12 are School projects, and 6 projects are under the Green Communities Grant. It is not feasible for one Department Head to manage this many projects. Even if the several high cost projects are established with an Owner's Project Manager, there remain too many additional projects to reasonably manage. It is not expected that the overall project load will diminish in the future.

The Town Administrator's Office has invested considerable time in evaluating the back-logged projects. In working with the Public Buildings Director and the DPW Director, and after having consulted with the School Superintendent, the Town Administrator's Office is suggesting the addition of a Project Manager position to the DPW to assist in project management. The focus of the Project Manager would be on horizontal projects, not building structure projects. The exception could be DPW related projects. The BOPW was consulted on the proposal. The BOPW was supportive of the concept by a vote of 4-1.

The cost of the position including benefits is estimated at \$117,000. The Board sees the proposal as a viable alternative for project management and also supports the concept if an adequate and sustainable funding mechanism can be identified. Without this position it is not realistic to expect that the Public Buildings Department will be able to see all 40 of the projects through to completion.

- The second request is to increase the hours of 1 of the 2 part-time Heavy Equipment Operator positions at the Transfer Station from 19 hours/week to 40 hours/week. This position is currently vacant and has been filled for the past year with various DPW employees who have been re-deployed from their regular assignments. Having 2 part-time positions does not provide adequate staffing for the Transfer Station. Even when filled, there was a reliance on moving other DPW workers to the Transfer Station on overtime to cover scheduled absences. The estimated wage increase is \$23,400. The increase in hours will make the

position benefits eligible, which could add up to an additional \$20,000 in benefit costs. Approximately \$13,000 in off sets to the overtime account are expected by not backfilling the current vacancy on Saturdays. The position and the benefits would be funded through the Transfer Station revolving account. The Board was advised that sufficient funds are available to fund the request on an on-going basis. Given that the funding does not affect the operating account, the Board supports this request.

WWMDC – Commissioners Fred Knight and Rick Green sought to increase the hours of the Account Specialist from 19 hours/week to 24 hours/week.

- Fred Knight spoke to a cooperative effort that has been underway with the DPW Engineer assisting the WWMDC with his wastewater expertise. With the increase in accounts and the reported level of responsibility of the Account Specialist, additional hours were requested. The estimated wage increase is \$10,000. The increase in hours will make the position benefits eligible, which could add significantly more in costs. Any increases would be funded from the wastewater enterprise fund.

What is not clear is the potential structure of wastewater staff in the future. Given the WWMDC's continuing talks with the BOPW and DPW, there is the possibility of incidental to significant changes in the manner in which staff is used address wastewater operations. Until there is a more definitive staffing plan for the future, the Board does not recommend increasing the hours of the Account Specialist.

CC: N. Balmer
Personnel Board



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

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN

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

BOARD OF SELECTMEN

Monday, October 23, 2017
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road Wayland

CONSENT CALENDAR

1. Vote the question of approving and signing the weekly payroll and expense warrants
2. Vote the question of approving the invoice for Mark J. Lanza, dated September 30, 2017, for legal services rendered through September 29, 2017: \$457.94
3. Vote the question of approving the invoice for Deutsch Williams, dated October 5, 2017, for legal services rendered through September 30, 2017, Invoice No. 193: \$1,562.63
4. Vote the question of approving the placement of two temporary sandwich board signs from November 12 through November 18, 2017, at the intersection of Old Connecticut Path and Routes 126 and 27, and Route 20 at the Weston Town Line advertising the Wayland High School Scholarship, sponsored by the Wayland High School Scholarship Committee

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 - 9/30/2017

SUMMARY

FEE CALCULATION: 2.6 HOURS X \$175.00 PER HOUR =	\$ 455.00
DISBURSEMENTS (See below for detail)	2.94
TOTAL 9/30/17 INVOICE.....	<u>\$ 457.94</u>

DISBURSEMENTS

Postage	1.44
Copying	1.50
Total Disbursements	<u>\$ 2.94</u>

DEUTSCH WILLIAMS BROOKS
 DeRENSIS & HOLLAND, P.C.
 ONE DESIGN CENTER PLACE, SUITE 600
 BOSTON, MASSACHUSETTS 02210-2327
 (617) 951-2300
 Fax (617) 951-2323

 INVOICE FOR LEGAL SERVICES

Page 1

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

10/05/2017
 Account No. 5673-01M
 Invoice No. 193

RECEIVED
 OCT 11 2017
 Board of Selectmen
 Town of Wayland

Attn: Town Administrator

Labor

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
J. Foskett (JF)	0.30	\$200.00	\$60.00
Elizabeth B. Valerio (EBV)	6.45	200.00	1,290.00
Aaron Swinderman (AS)	0.90	180.00	162.00

Mileage expense	47.45
Photocopying	1.80
Postage	1.38
TOTAL EXPENSES THRU 09/30/2017	50.63
TOTAL CURRENT INVOICE	1,562.63
BALANCE DUE	\$1,562.63

David Porter

From: JOHN morgan <cmorgan15@comcast.net>
Sent: Wednesday, October 18, 2017 9:56 PM
To: David Porter
Subject: WHS Scholarship Committee Sandwich Board temporary placement request

Hi David,

My name is Carole Morgan and I am on the board of WHS Scholarship Committee. I recently took over the responsibilities surrounding the 2 sandwich boards from Andi Jenny. I just came from our board meeting this evening and am reaching out to you to seek approval to place (2) Two WHS Scholarship sandwich boards temporarily at the following locations:

*Intersection of Old Conn. Path and Cochituate Road

*Rte 20/Old Conn Path by Coach Grill Restaurant

Ideally we would like to put them up the week of November 12th - 18th. Please let me know if/when you get approval.

Many thanks in advance and I look forward stopping by and introducing myself.

Sincerely,

Carole Morgan



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

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN
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DOUGLAS A. LEVINE

**PUBLIC DOCUMENTS PROVIDED TO THE BOARD OF
SELECTMEN FROM OCTOBER 6, 2017, THROUGH AND
INCLUDING OCTOBER 19, 2017, OTHERWISE NOT
LISTED AND INCLUDED IN THE CORRESPONDENCE
PACKET FOR OCTOBER 23, 2017**

Items distributed to the Board of Selectmen – October 6-October 10, 2017

1. None

**Items distributed for information and use by the Board of Selectmen at the
Meeting of October 10, 2017**

1. Flier "What do YOU think 5 Concord Road should become?" advertising October 19 community forum sponsored by the Library Planning Committee
2. Three letters from Bill Sterling, re: Council on Aging / Community Center
3. E-mail from Town Counsel, C. Murray, re: Wayland – Loker/DOW Conservation Recreation area – Further Opinion
4. Email from John G. Kelly, re: Wayland Plowing Issue
5. 2018 Annual Town Election / Annual Town Meeting Schedule
6. Wayland Town Administrator 2017 Evaluation
7. Council on Aging – FY19 Budget Detail

**Items included as part of Agenda Packet for discussion during the October 23, 2017
Board of Selectmen's Meeting**

1. Amended Rivers Edge Land Disposition Agreement
2. Memorandum from N. Balmer, re: Private Roads
3. Draft PowerPoint Presentation, Board of Public Works & DPW, "Private Roads Policy: Snow & Ice Removal," October 23, 2017
4. Draft "Residential Private Road Snow & Ice Policy"
5. List of Private Roads in Wayland
6. Chart of comparative policies on plowing and maintaining private roads in peer communities
7. Memorandum from N. Balmer, re: Special Town Meeting Articles
8. Draft of Special Town Meeting Article 1: Pay Previous Years Unpaid Bills
9. Draft of Special Town Meeting Article 11: Synthetic Turf Field at Loker Conservation & Recreation Area Design Fees
10. Email from Town Counsel, K. Klein, re: CPA funding for pedestrian crossings at Weston Aqueduct
11. Draft of Special Town Meeting Article 14: Appropriate Funds to Install Weston Aqueduct Pedestrian Crossings
12. Draft Minutes – Board of Selectmen, September 27, 2017
13. Draft Minutes – Board of Selectmen, October 2, 2017
14. Town Administrator's Report for Week Ending October 20, 2017
15. Summary of Principal Terms of Proposed Comcast Renewal License



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

TOWN OF WAYLAND

41 COCHITUATE ROAD
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BOARD OF SELECTMEN
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BOARD OF SELECTMEN
Monday, October 23, 2017
Wayland Town Building
Selectmen's Meeting Room

CORRESPONDENCE

Selectmen

1. Three letters from B. Sterling, Vice-Chair of Council on Aging, re: CoA/Community Center
2. Letter from M. Patterson, Chairman of the Wayland Community Fund, re: planned retirement
3. Email from N. McPherson, Assistant Fire Chief, re: Fire at Public Safety Building
4. Email from C. Balben, re: Private Roads
5. Letter and attachments from M. Gilbreath and H. Podell, re: plowing Jennison Road
6. Email from J. Lipcon, L. Lipcon, J. VanRooyen, and M. VanRooyen, re: plowing Audubon Road
7. Email from B. O'Herlihy, Treasurer of the Housing Trust, re: 11 Hammond Road
8. Letter from K.L. Klein of K.P. Law, re: 11 Hammond Road (with enclosures)
9. Letters from B. Boggia, Executive Director of Wayland Housing Authority, to J. McLeod, re: annual affordable unit homeowner yearly certification
10. Letter from B. Gould, Principal of CMG Environmental Inc., re: Notice of Immediate Response Action, River's Edge Development
11. Letter from Town Counsel, A. Kwesell, to Conservation Commission Chair, Sherre Greenbaum, re: Nelson v. Town of Wayland Conservation Commission (with enclosure)
12. Email from Friends of Oxbow Meadows, re: Proposed Athletic Field at Oxbow Meadows (with enclosures: Letter to ZBA and Opinion letter regarding potential residual contamination)
13. Letter from E. Town and A. Harris, co-chairs of Energy & Climate Committee, re: Incorporating green features in the proposed library building design
14. Email from A. Taleb, re: Wayland Automotive & Disturbing Activities
15. Email from M. Astley, re: Community walk and vigil for domestic violence awareness
16. Dudley Pond Association Newsletter, Fall 2017

Minutes

17. None

State and Regional

18. Letter from S. Clark, Massachusetts Department of Telecommunications and Cable, re: License Expiration Notice (with attachment)
19. Email from K. Adelman, Coordinator of MetroWest Regional Collaborative, re: MetroWest LandLine Kickoff

10.5.2017

Bill. Sterling
14 Morse Rd.
Wayland, MA 01778

Nan Balmer, Town Administrator
Town Hall
Wayland, MA 01778

Re: 5400.58-2-NB-funding

Dear Nan,

On Tuesday, October 3, the CoA requested that I write a letter to the Board of Selectmen to request the Finance Committee to: a) maintain the \$5,000,000 placeholder for construction of a CoA/ Community Center in the 2020 Capital Improvement Plan (CIP) and, b) retain the \$200,000 line item in the 2019 CIP, but adjusted to the actual fee amount recommended by the CoA/CCAC final study results.

Sincerely,



Bill Sterling, Vice-Chair
Wayland CoA

10.5.2017

Bill. Sterling
14 Morse Rd.
Wayland, MA 01778

Nan Balmer, Town Administrator
Town Hall
Wayland, MA 01778

Re: 5400.58-2-NB-reconvene

Dear Nan,

On Tuesday, October 3, the CoA requested that I write a letter to the Board of Selectmen to request the Board of Selectmen to reconvene the CoA/CC Advisory Committee to complete the program, design and cost estimating tasks outlined in its original charge. This step two charge was to commence as soon as the BoS determined the testing of the site resulted in favorable findings that confirmed the site suitable for the proposed use as a community center for people of all ages. As you may recall this conclusion was already declared by the Phase One testing results.

It may require 6-8 weeks to complete that task. With the intention of placing an Article in the ATM Warrant for the spring of 2018, we will need results by mid January. The more time the committee has, the better prepared we will all be to make a good case for going forward with the public meetings necessary to inform the voters of the details of the proposed Article. We suggest no later than mid November for reconvening the committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Sterling", with a stylized flourish extending to the right.

Bill Sterling, Co-Chair
CoA

10.5.2015

Bill. Sterling
14 Morse Rd.
Wayland, MA 01778

Nan Balmer, Town Administrator
Town Hall
Wayland, MA 01778

Re: 400.58-2-NB-Kang Associates

Dear Nan,

On Tuesday, October 3, the CoA requested that I write a letter to the Board of Selectmen to request the Board of Selectmen to authorize Kang Associates to complete its work using already appropriated funds once the BoS determines that the soil testing of the site confirms the municipal site at the Town Center is suitable for the proposed use as a community center for people of all ages.

Kang Associates completed a program of space needs that will need to be confirmed with both the CoA and the Recreation Department, This program may then be used to make slight modifications to the earlier layout of the rooms in the building, prepare an outline specification and cost estimate. This information will be critical in drafting an Article for the 2018 ATM Warrant for preparation of bid documents for fiscal 2020 construction.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Sterling", with a long horizontal flourish extending to the right.

Bill Sterling, Co-Chair
CoA

To the Wayland Commissioners of Trust Funds

September 11, 2017

After twenty years I will retire from the Wayland Community Fund at the end of December 2017.

In the 1990s Wayland received a bequest from the late Suzanne Leavitt. The bequest was intended to assist Wayland residents who were in financial need and was specifically focused on providing residents with "the necessities of life."

At the time Wayland received the bequest I was Chairman of the Commissioners of Trust Funds. The Commissioners quickly put together a working group who wrote a charter establishing the Wayland Charitable Committee, later renamed the Wayland Community Fund, and in December 1997 it opened for business.

In the ensuing years the WCF has provided well over \$500,000 helping Wayland residents with rent, utilities, food, children's clothes and many other items. Many of the recipients were single parents, people with life threatening illnesses, grandparents raising small children, teenagers who had lost all economic or family support and individuals with very limited income who had taken in children at risk.

It has been a demanding twenty years but I take great satisfaction with the work the WCF and its five volunteer members have done. Wayland like many suburban communities lacks the public resources and support found within the cities. Thus, the WCF has played a unique role in helping to provide a safety net where less public help exists.

It has been a pleasure and honor to have served Wayland and its residents in this manner and I thank our community for the opportunity.

Sincerely,



Michael B. Patterson, Chairman

Wayland Community Fund

cc: Wayland Board of Selectmen

David Porter

From: Balmer, Nan
Sent: Wednesday, October 18, 2017 4:45 PM
To: David Porter
Subject: FW: Fire at Public Safety Building - 38 Cochituate Rd

Correspondence

From: McPherson, Neil
Sent: Wednesday, October 18, 2017 4:25 PM
To: Balmer, Nan
Cc: Swanick, Patrick
Subject: Fire at Public Safety Building - 38 Cochituate Rd

Nan,

Here is the latest update on the Public Safety Building.

We are operational, but there is some repair work that needs to be completed. This includes:

- Replacement of the surge protectors for the electrical panels (will likely be completed by the end of the week)
- Generator testing

I spoke with John yesterday and we are going to submit a claim with MIAA and Eversource so that they can work out who will be paying for the damage and subrogation.

It appears that the total damage will be in the \$7,500 – \$9,000 range with the vast majority of the cost coming from the replacement of (2) surge protection units for the electrical panels. They cost \$2500 each.

A special thanks goes to pat Morris for all of his help.

Thanks Neil

Neil W. McPherson
Assistant Fire Chief

Wayland Fire Department
38 Cochituate Road
Wayland, MA 01778
Office: (508) 358 – 6914

From: McPherson, Neil
Sent: Tuesday, October 17, 2017 4:17 PM
To: Senchyshyn, John
Cc: Chief Houghton; Swanick, Patrick
Subject: Fire at Public Safety Building -38 Cochituate Rd

John,

Thanks for your time earlier today.

Provided below are some of the details about the recent fire at the Public safety Building which may allow MIAA to start a claim.

Location of fire: Public Safety Building - 38 Cochituate Street, Wayland, MA

Scope of damage: The fire was contained to an electrical room in the rear of the building where (2) surge protectors melted due a significant power surge. One of the destroyed surge protectors melted which caused the plywood backing to catch fire.

There is other damage to building contents in the form of electronic devices that were damaged as a result of the power surge.

Possible Cause: Eversource did have a problem with their grid on River Road which caused a power outage. The damage to the building did occurred when the power grid came back on.

Preliminary damage estimates:

Surge protectors in electrical room - \$5,000

Electrical repair work - \$2,000 - \$3,000.

Replacement of damaged electrical appliances within building- \$500 - \$1000

Respectfully submitted,

Neil

Neil W. McPherson
Assistant Fire Chief

Wayland Fire Department
38 Cochituate Road
Wayland, MA 01778
Office: (508) 358 – 6914

David Porter

From: Balmer, Nan
Sent: Friday, October 20, 2017 10:26 AM
To: David Porter
Subject: FW: Private Roads

Correspondence

From: cbalben6@aol.com <cbalben6@aol.com>
Sent: Tuesday, October 17, 2017 7:23 PM
To: Anderson, Lea
Subject: Private Roads

Dear Ms. Anderson,

My name is Cathy Balben I live on Quincy in-fact, four generations of Balben's have lived in this house and paid taxes on or before 1955. At the entrance to Quincy Road at Pemberton Road there is a water ravine which is on my property. it contains the run off water coming from Pemberton Road. I receive very little maintenance from DPW but some plowing from the town is required to keep gathering /puddling water at the end of the Road from becoming a hazard. Plowing the roadway at Quincy Road helps alleviate the hazardous gathering of water . Plowing helps water egress to the water ravine on my property. In short the plowing makes both roadways safer. The past practice of plowing has been continuous. The agenda item of not plowing private roads was reviewed in 1984 and found to be discriminatory, and hazardous for emergency vehicles.

Thank You for your consideration.

Respectfully,

Catherine Balben Resident and Tax payer of 9 and 7 Quincy Road
(774-279-6903)

David Porter

From: J. Michael Gilbreath <gildell@mac.com>
Sent: Thursday, October 19, 2017 12:27 AM
To: David Porter
Cc: Malcolm Astley; malcolmastley@icloud.com; Hope G Podell
Subject: Jennison Road
Attachments: Podell & Gilbreath Jennison Road.pdf

Mr. Porter

As you requested, my wife, Hope Podell, and I are sending the attached letter and maps to serve as material relevant to the hearing regarding continued maintenance of private roads, scheduled to take place this coming Monday, October 23rd. We believe that it accurately outlines our reasonable expectation of continued plowing services on Jennison Road.

Michael

Michael Gilbreath
gildell@mac.com

"One cannot level one's moral lance at every evil in the universe. There are just too many of them. But you can do something, and the difference between doing something and doing nothing is everything." Daniel Berrigan

Hope G. Podell
HGP D.O.B 5/4/50
gildell@comcast.net
(508) 942-8595

J. Michael Gilbreath
JMG D.O.B. 1/26/52
gildell@mac.com
(508) 942-8095

7 Jennison Road Wayland

Mr. Porter

We have resided at 7 Jennison Road for nearly 21 years and are writing concerning the notice we received on October 17th regarding Jennison Road which noted that it is designated as a Private Road (We have attached two property maps to identify the road in question.)

This road is slightly less than 232 feet in length on the south boundary. Jennison Road serves as the only vehicular access point to the public road system (Rt. 27/Main Street) for three residences, #7 and #12 Jennison, and the property at 249 Main St. (occupied by renters) is served only by a driveway that lets out on to Jennison Road.

Until recently no one had officially informed us that this road was designated as a private way. Indeed, throughout the entire time we have lived in our home the highway department regularly and reliably has plowed Jennison road, clearly reinforcing the notion that the town had responsibility for it.

Only when Comcast called the Town offices 3 years ago, to ask the town to trim trees along the bottom third of Jennison Road abutting 241 Main St. (our neighbor to the west) and clear a path to access and remove, dead wires and remove temporary lines, did we learn that the road was designated as private. At that time the town said NO, it is a Private Rd, we don't do work on Private roads. This was the first time we were officially notified of the road's status.

We are writing to object in the most strenuous terms to the proposal to cease maintenance and plowing on Jennison Road. In the case of our street, this actually refers ONLY to plowing. The town has NEVER provided any maintenance services on our road other than plowing.

As noted above, the town never informed us that our road was private. Plowing took place regularly, indeed when plows didn't appear and we called to inquire, we were always assured that the plows would "be there soon". And they always were.

A decision to change this behavior at this point in time, after nearly 21 years, would clearly be a move to deprive us of an acknowledged right. But the problem is more serious than this. The construction of this road (nearly

30-degree incline) is such that it is only the heavy equipment of the highway department that is capable of plowing the road, and this is only compounded in icy conditions. And, as others who reside on roads like ours have noted failing to have the road plowed would create a serious hazard for emergency vehicles (fire or ambulance). In fact, in the case of fire service, the nearest hydrants are on the west side of Main St. (Rt. 27), or through the woods on Joyce St. belonging to other property owners. In the absence of a plowed street, fire service to our home would require running hoses ACROSS Main St. (Rt. 27!) or WELL OVER 150 feet through the woods. As senior citizens (I am 65 and my wife 67), imposing this risk on us would manifestly create a health hazard for us and our neighbors. And it would prevent the fire department from fulfilling its mission, to protect our homes.

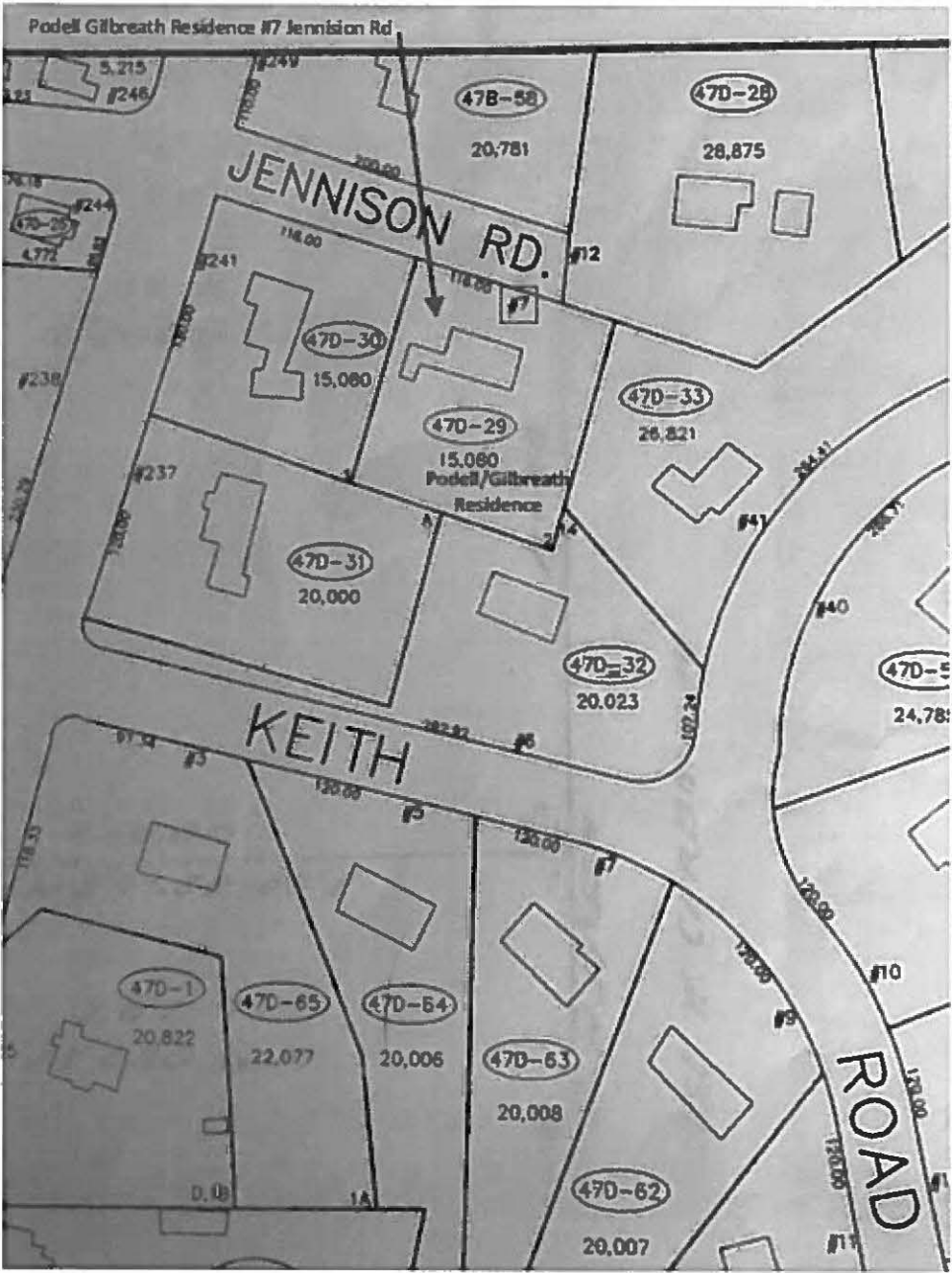
In addition, Jennison Road provides the only access to #7 & #12 by foot. This is relevant because when our street is not plowed effectively or treated appropriately with Ice Melt in ice storms, we are forced to find on street parking, potentially blocking plow access to public ways, and walk up the unplowed street to access our home on foot. Placing us at risk walking on treacherous streets (Joyce road and Keith St.) or a slippery, high traffic street like Main. Again, creating a direct physical hazard for us to simply access our property on foot.

In short, we believe that any decision to restrict or terminate the limited maintenance that the town provides on Jennison Road, which amounts only to plowing, will create a direct physical threat to our well-being and the safety and security of our home, and that of our neighbors. Further it would appear to us that given actual volume of work involved in plowing our 232-foot street, this is a pennywise and pound foolish decision. Finally, as property owners in Wayland, we pay the same tax rate as everyone else, a rate believed by many to already be too high, and in return for which we can rightly expect the same level of services as other property owners. Terminating plowing services on Jennison Road would violate that reasonable expectation.

Hope G. Podell

J. Michael Gilbreath





David Porter

From: Balmer, Nan
Sent: Friday, October 20, 2017 10:25 AM
To: David Porter
Cc: Anderson, Lea
Subject: FW: Plowing Audubon Road

For correspondence – or if too late as handout Monday since its about private roads

From: "Jesse Lipcon" <jesse@lipcon.org>
Subject: Plowing Audubon Road
Date: October 19, 2017 at 10:35:01 PM EDT
To: <lea@anderson.name>
Cc: "Lynne Lipcon" <lynne@lipcon.org>, <juliavanrooyen@gmail.com>

To the Wayland Board of Selectmen:

We, the residents of Audubon Road, write to provide our input in advance of Monday's hearing concerning plowing of private roads in Wayland. Audubon Road is a two-lane well-paved road, with turnaround at the end. It has been plowed by the town for at least the last 30 years, and to the best of our knowledge, since its construction in the 1960s. There has never been any issue with the ability of the plows to traverse the road or to make the U-turn at the end. The road provides access to our homes, to conservation land on the southwest side, to the Weston Town Forest adjacent to our properties, and to a fire hydrant protecting all of these. It is a well-travelled walking route in the wintertime, allowing walkers to avoid traffic on nearby through roads. Keeping it well-plowed is a matter of public safety.

Sincerely,
Lynne and Jesse Lipcon
Julie and Mike VanRooyen

David Porter

From: Balmer, Nan
Sent: Wednesday, October 18, 2017 4:45 PM
To: David Porter
Subject: FW: 11 Hammond Road

correspondence

From: btoherlihy@verizon.net [mailto:btoherlihy@verizon.net]
Sent: Wednesday, October 18, 2017 4:12 PM
To: Holder, Thomas
Cc: Balmer, Nan; Antes, Mary
Subject: Re: 11 Hammond Road

Tom:

On behalf of the other Trustees and myself, I greatly appreciate your team's efforts in removing overflow debris from 11 Hammond Road.

Each contribution, such as that made by DPW, makes our job to preserve and create quality affordable housing in Town that much easier.

Please pass along my thanks to whomever handled the work.

Brian O'Herlihy
Trustee & Treasurer

✓
LEGAL FEE

October 12, 2017

Katharine Lord Klein
kklein@k-plaw.com

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

RECEIVED
OCT 16 2017
Board of Selectmen
Town of Wayland

Re: 11 Hammond Road

Dear Ms. Klein:

Enclosed please find copies of the following documents relative to the acquisition by the Wayland Municipal Affordable Housing Trust Fund of property located at 11 Hammond Road:

1. Municipal Lien Certificate, filed with the Middlesex Registry District of the Land Court as Document 1770781;
2. Certificate of Good Standing for 150 Main Street, LLC, filed with the Middlesex Registry District of the Land Court as Document 1770782;
3. Quitclaim Deed from 150 Main Street, LLC to the Town of Wayland Municipal Affordable Housing Trust Fund, dated September 16, 2017, filed with the Middlesex Registry District of the Land Court as Document 1770783; and
4. Trustee's Certificate, filed with the Middlesex Registry District of the Land Court as Document 1770784.

I recommend these documents be retained with the land records for the Town.

Very truly yours,



Katharine Lord Klein

KLK/jsh
Enc.
cc: Board of Selectmen ✓
Affordable Housing Trust Fund
594203/WAYL/0255

The Commonwealth of Massachusetts
Office of the Collector of Taxes
Town of Wayland
Municipal Lien Certificate

Number: 9654
9/12/2017

Town of Wayland
41 Cochituate Rd
Wayland, MA 01778

I Certify from available information that all taxes, assessments, and charges, now payable that constitute liens as of the date of this certificate on the parcel of real estate specified in your application received on 9/12/2017 are listed below:

DESCRIPTION OF PROPERTY

Parcel Identifier	051B-034	Assessed Owner	150 MAIN ST LLC
Account	524	Additional Owner	
Location of Property	11 HAMMOND RD	Supposed Present Owner	
		Legal Reference	Book 1434
Acreage	17859	Square Feet	Page 124
			Deed Date 5/22/2013

Lot A

VALUATION									
FY 2018	Residential	Rate1	Open Space	Rate 2	Commercial	Rate 3	Industrial	Rate 4	Exempt
	441,800	18.14	0	18.14	0	18.14	0	18.14	0

ASSESSMENT							
	2018 1st Quarter	2018 2nd Quarter	2018 3rd Quarter	2018 4th Quarter	FY 2017	FY 2016	
Preliminary Tax	\$2,053.65	\$2,053.65	N/A	N/A	\$3,852.41	\$3,988.61	
Preliminary Other Land Tax	\$23.83	\$23.83			\$44.45	\$45.69	
Actual Tax					\$4,181.84	\$3,528.28	
Actual Other Land Tax					\$48.55	\$41.05	
Interest To Date	\$0.00	\$0.00			\$0.00	\$0.00	
Credits	\$2,077.48				\$8,107.25	\$7,603.63	
Interest Credit	\$0.00				\$0.00	\$0.00	
Per Diem	\$0.00	\$0.00			\$0.00	\$0.00	
Balance Due	\$0.00	\$2,077.48			\$0.00	\$0.00	

Property Tax Interest Per Diem \$0.00
Committed Tax Balance \$2,077.48

Misc Receivable	Balance	Interest	Per Diem	
Cap Improvement	\$0.00	\$0.00	\$0.00	Please call for a payoff figure for any Assessments listed above
Final Fee	\$50.00	\$0.00	\$0.00	
Water	\$20.88	\$0.00	\$0.00	
Water Admin	\$0.00	\$0.00	\$0.00	
Misc. Totals	\$70.88	\$0.00	\$0.00	



Bk: 01434 Pg: 124 Cert#: 253939
Doc: MLC 09/19/2017 01:36 PM

All of the amounts listed above are to be paid to the Collector. I have no knowledge of any other lien outstanding.
INFORMATION ON THIS CERTIFICATE IS COMPLETE AS OF 9/19/2017

Zoe Pierce

Collector of Taxes

2017
9/19/2017

W. J. ...
2017

Doc: 01770781

Southern Middlesex Land Court
Register District

RECEIVED FOR REGISTRATION

On: Sep 19, 2017 at 01:36P

Document Fee 65.00

Receipt Total: 250.00

NOTED ON: CERT 253939 BX 01634 PG 124

ALSO NOTED ON:

617-778-5100

KP LAW PC

NAME	TEL
STREET ADDRESS	
CITY OR TOWN	ZIP



The Commonwealth of Massachusetts
Secretary of the Commonwealth
State House, Boston, Massachusetts 02133

William Francis Galvin
Secretary of the
Commonwealth

September 6, 2017



2017 01770782
Bk: 1434 Pg: 124 Cert#: 253939
Doc: CERT 09/19/2017 01:36 PM

TO WHOM IT MAY CONCERN:

I hereby certify that a certificate of organization of a Limited Liability Company was filed in this office by

150 MAIN STREET, LLC

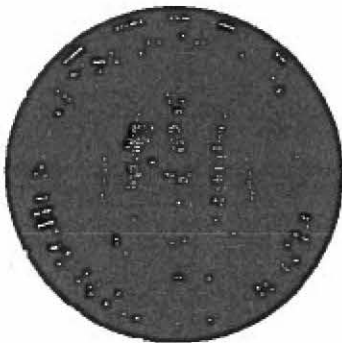
in accordance with the provisions of Massachusetts General Laws Chapter 156C on **December 28, 2010.**

I further certify that said Limited Liability Company has filed all annual reports due and paid all fees with respect to such reports; that said Limited Liability Company has not filed a certificate of cancellation or withdrawal; and that said Limited Liability Company is in good standing with this office.

I also certify that the names of all managers listed in the most recent filing are: **JESSE ADELMAN, MATTHEW T. LEVY**

I further certify, the names of all persons authorized to execute documents filed with this office and listed in the most recent filing are: **JESSE ADELMAN, MATTHEW T. LEVY**

The names of all persons authorized to act with respect to real property listed in the most recent filing are: **MATTHEW LEVY**



In testimony of which,
I have hereunto affixed the
Great Seal of the Commonwealth
on the date first above written.

William Francis Galvin

Secretary of the Commonwealth

Processed By: LL

2017 01770782

Doc# 01770782

Southern Middlesex Land Court
Registry District

RECEIVED FOR REGISTRATION

On: Sep 19, 2017 at 01:33p

Document Fee 75.00

Receipt Total: 1340.00

NOTED ON: CERT 253939 BK 01-34 PG 124

ALSO NOTED ON:

104

Deed

150 Main Street

QUITCLAIM DEED

150 Main Street, LLC, a Massachusetts limited liability company with an address c/o of 5 Heathstone Circle, Wayland, Massachusetts 01778, in consideration of Three Hundred Ninety Thousand and 00/100 (\$390,000.00) DOLLARS, hereby grants to **Mary M. Antes, Stephen A. Greenbaum, Michael Staiti, Brian T. O'Herlihy, Robert Duffy and Susan Weinstein, Trustees of the Town of Wayland Municipal Affordable Housing Trust Fund**, in accordance with a Trustee's Certificate pursuant to G.L. c. 184, §35, dated September 15, 2017, filed herewith, having an address of 41 Cochituate Road, Wayland, Massachusetts 01778, with **QUITCLAIM COVENANTS**, that certain parcel of land in Wayland, Massachusetts, bounded and described as follows:

11 HATHORN WAY, WAYLAND

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

Said parcel is shown as lot A on said plan.

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

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

For title see deed filed with the South Registry District of Middlesex County as Document No. 01641275.



2017 01770783

Bk: 1515 Pg: 130 Cert#: 266039
Doc: DEED 09/19/2017 01:36 PM

2017-09-19

Executed as a sealed instrument this 16th day of September, 2017.

150 Main Street, LLC

Matthew T. Levy
By: Matthew T. Levy
Its: Manager

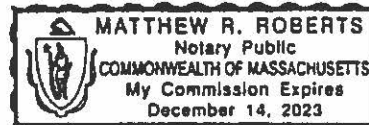
COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 16th day of September, 2017, before me, the undersigned notary public, personally appeared Matthew Levy, proved to me through satisfactory evidence of identification, which was [his driver's license and/or [] _____, to be the person whose name is signed on the preceding or attached document; and acknowledged to me that he signed it voluntarily for its stated purpose.

see next page XV

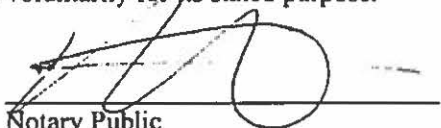
[Signature]
Notary Public
My Commission Expires:



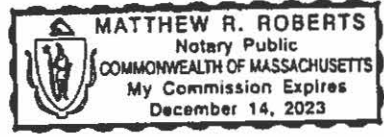
COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 16th day of September, 2017, before me, the undersigned notary public, personally appeared Matthew Levy, in his capacity as Manager of 150 Main Street LLC, proved to me through satisfactory evidence of identification, which was [] a driver's license and/or [] _____, to be the person whose name is signed on the preceding or attached document; and acknowledged to me that he signed it voluntarily for its stated purpose.



Notary Public
My Commission Expires:

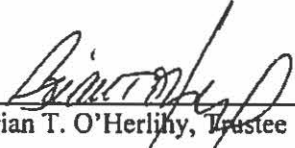


Done:
Chair (EC)

ACCEPTANCE

The Trustees of the Town of Wayland Municipal Affordable Housing Trust Fund hereby accept the foregoing deed from 150 Main Street, LLC, and the powers conferred pursuant to G.L. c. 44, §55C, and in accordance with the Trustee's Certificate filed herewith, this 15th day of September, 2017.

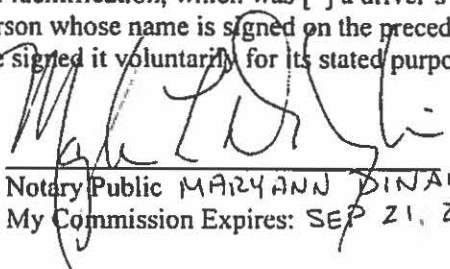
TOWN OF WAYLAND MUNICIPAL
AFFORDABLE HOUSING TRUST FUND

By: 
Brian T. O'Herlihy, Trustee

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 15 day of September, 2017, before me, the undersigned notary public, personally appeared Brian T. O'Herlihy, Trustee of the Town of Wayland Municipal Affordable Housing Trust Fund, proved to me through satisfactory evidence of identification, which was [] a driver's license and/or personal recognition, to be the person whose name is signed on the preceding or attached document; and acknowledged to me that he signed it voluntarily for its stated purpose.


Notary Public MARYANN DINAPOLI
My Commission Expires: SEP 21, 2018

DOCUMENT 01770783

Southern Gloucester Land Trust

RECORDS DISTRICT

RECEIVED FOR REGISTRATION

2nd Sep 197017 at 01:56F

Document Fee:	120.00
Receipt Total:	120.00

MEMO UNIT NUMBER BR 02010 PG 1.0

DATE: 2017-09-02 AM 14:24 PG 174

1.11.17

Town of Wayland Municipal Affordable Housing Trust Fund

Trustee's Certificate Pursuant to G.L. c. 184, §35

I, Brian T. O'Herlihy, a Trustee of the Town of Wayland Municipal Affordable Housing Trust Fund (the "Trust"), a municipal affordable housing trust created pursuant to G.L. c. 44, §55C and adopted pursuant to the vote taken under Article 12 of the 2014 Annual Town Meeting, under Declaration of Trust dated October 8, 2014, hereby certifies as follows:

1. That I am a Trustee of the Trust, together with Mary M. Antes, Stephen A. Greenbaum, Michael Staiti, Robert Duffy and Susan Weinstein, and the Trust is in full force and effect as of the date hereof and has not been revoked or terminated.
2. That no beneficiary is a minor, a corporation selling all or substantially all its Massachusetts assets, or a personal representative of an estate subject to estate tax liens, or is now deceased or under any legal disability.
3. That the Trustees have the authority under the Declaration of Trust to "accept and receive property, whether real or personal, tangible or intangible, by gift, grant, devise, or transfer from any person, firm, corporation" and to "purchase and retain real or tangible or intangible personal property."
4. That the Trustees voted on July 18, 2017, to acquire from 150 Main Street, LLC, a Massachusetts limited liability company, for consideration of \$390,000.00, the property located at 11 Hammond Road, Wayland, shown as "Lot A" on a subdivision plan, approved by the Court, filed in the Registry of Deeds for the South Registry District of Middlesex County in Registration Book 404, Page 97, with Certificate 60465 (the "Property").
5. That the Trustees further voted, on September 14, 2017, to authorize Brian T. O'Herlihy, as Trustee of the Trust to execute an acceptance to the deed to the Property and any other documents necessary to effectuate the acquisition of the Property on behalf of the Trust.
6. That the actions which we have taken as Trustees are taken pursuant to and in accordance with the Trust.
7. There are no facts which constitute conditions precedent to acts by the Trustees or which in any other manner are germane to affairs of the Trust.

[Signature Page Follows]



2017 01770784

Bk: 1515 Pg: 130 Cert#: 286039

Doc: TRNOT 09/19/2017 01:36 PM

M

WITNESS my hand and seal this 15th day of September, 2017.

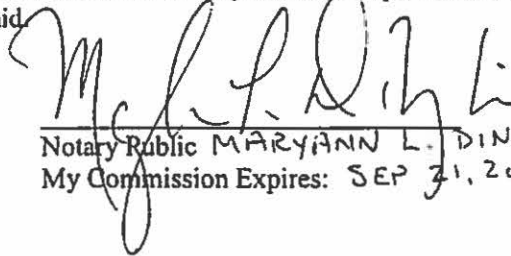
TOWN OF WAYLAND MUNICIPAL
AFFORDABLE HOUSING TRUST FUND

By: 
Brian T. O'Herlihy, Trustee

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 15 day of September, 2017, before me, the undersigned Notary Public, personally appeared Brian T. O'Herlihy, proved to me through satisfactory evidence of identification, which was personal recognition, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the Town of Wayland Municipal Affordable Housing Trust Fund as Trustee as aforesaid.


Notary Public MARYANN L. DINAPOLI
My Commission Expires: SEP 21, 2018

Doc 01770784

Southern Middlesex Land Court
Registry District

RECEIVED FOR REGISTRATION

On: Sep 17 2011 at 01:36P

Document Fee 75.00

Receipt Total: 429.00

NOTE ON: CERT 266039 SJ 01515 PG 130

ALSO NOTE ON:



Wayland Housing Authority
106 Main Street
Wayland, MA 01778

V/TTY: (508) 655-6310
FAX: (508) 655-8566
www.wayland.ma.us

Brian E. Boggia
Executive Director

Board of Commissioners
Miriam Andrews
Russell Ashlon
Jackie Ducharme
Kevin Goodwin
Susan Weinstein

October 18, 2017

Jennifer McLeod
21 Green Way
Wayland, MA 01778

Dear Jennifer,

In reviewing your affordable deed restriction, Wayland Town Counsel has indicated that you are required to submit the annual self-certification. On October 17, 2017 Wayland Town Counsel submitted the following opinion:

“It is my opinion that the Town, by and through the Wayland Housing Authority, may require Ms. McLeod to complete the Certification. It is my further opinion, however, that the language in the deed/rider for her unit does exempt Ms. McLeod from needing to obtain the consent of the Town to mortgages on the unit.”

In compliance with your affordable deed restriction, please complete and return the enclosed annual self-certification.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Boggia', written over a circular stamp.

Brian Boggia
Executive Director

Enclosure: 2017 Annual Self-Certification Form



Wayland Housing Authority
106 Main Street
Wayland, MA 01778

V/TTY: (508) 655-6310
FAX: (508) 655-8566
www.wayland.ma.us

Brian E. Boggia
Executive Director

Jennifer & Jeff McLeod
21 Green
Wayland, MA 01778

October 2, 2017

Affordable Unit Homeowner Yearly Certification

Dear Jennifer & Jeff McLeod,

The Wayland Housing Authority (WHA) is performing monitoring services for the Town of Wayland Chapter 40B affordable housing units.

The purpose of this letter is to review and summarize your obligations as the owner, as described in more detail in the Affordable Housing Restriction that you signed when you purchased the property and which was recorded with your deed:

1. You will keep this home as your primary residence and you must live in this home. It is not permissible to rent it or allow a third party to use it without approval from the Town of Wayland/WHA.
2. You cannot refinance the home without prior approval from the Town of Wayland/WHA.
3. If you decide to improve your property we strongly suggest that you contact us before getting started. You cannot add the value of improvements to your home without prior approval from the Town of Wayland/WHA.
4. If you decide to sell the home, you will notify us of your intention.
5. The Town of Wayland/WHA will determine the resale price according to a formula stated in your Affordability Restriction.
6. The Town of Wayland/WHA will work with you to find an eligible buyer within the timeframe specified in your Affordable Housing Restriction.

In summary, you must contact us for approval to sell, lease or refinance your property, or make capital improvements.

We have attached our yearly Affordable Homeowner Certification Form for you to complete and return.

Please contact us if you have any questions, and thank you for your cooperation on this matter.

Brian Boggia, WHA Executive Director (508) 655-6310 x11

**Form 14 (To be completed by Homeowner)
Affordable Unit Homeowner Yearly Certification**

As owner(s) of the property at 21 Green, Wayland, MA (the "Home") the undersigned hereby certifies as to the following:

1. The Home is my primary residence;
2. I/We have not leased, refinanced, put up for sale or made capital improvements to the Home other than as follows, as approved by the Town of Wayland/WHA:

3. Our primary telephone number and e-mail contact information is as follows:

Signed under the pains and penalties of perjury, this ___ day of _____ 20__.

By: _____
Jennifer & Jeff McLeod
21 Green

Please return this form to:
Mail: Brian Boggia, WHA Executive Director
106 Main Street, Wayland, MA 01778
Fax: 508-655-8566
e-mail: bboggia@waylandhousing.com

✓
Town
ENGINEER

October 9, 2017

Town Administrator Nannette F. Balmer
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778

RECEIVED

OCT 16 2017

Board of Selectmen
Town of Wayland

**Re: Notice of Immediate Response Action (IRA)
River's Edge Development
484 Boston Post Road, Wayland MA
Release Tracking Number (RTN) 3-34474
CMG ID 2017-160**

Dear Ms. Balmer:

This letter is to inform the chief municipal officer of Wayland, in accordance with 310 CMR 40.1403(3)(b), that the Town of Wayland intends to conduct an IRA at the above-referenced property.

Local officials interested in reviewing the IRA Plan may download an electronic copy from <http://public.dep.state.ma.us/SearchableSites2/Search.aspx> (the DEP 'Reportable Releases Look Up' web page) by entering the RTN, selecting 'Site File Viewer' from the next web page, and selecting the .pdf file in the Attachments column for Form Name "BWSC105."

Sincerely,
CMG ENVIRONMENTAL, INC.



Benson R. Gould, LSP, LEP
Principal

cc: Massachusetts DEP, Northeast Regional Office

October 11, 2017

RECEIVED
OCT 16 2017
Board of Selectmen
Town of Wayland

Amy E. Kwesell
akwesell@k-plaw.com

Ms. Sherre Greenbaum, Chair
Conservation Commission
Wayland Town Hall
41 Cochituate Road
Wayland, MA 01778

Re: Kenneth T. Nelson v. Town of Wayland Conservation Commission
Middlesex Superior Court, C.A. No. 1581CV05694
Appeals Court No. 2016-P-1649

Dear Members of the Commission:

Enclosed please find the Appeals Court decision dated October 6, 2017 (the "Decision") in the above-referenced matter affirming the Superior Court's denial of a Motion for Reconsideration. As you will recall, this matter is a wetlands case in which the Conservation Commission ("Commission") denied the request of Kenneth T. Nelson ("Plaintiff") for an Order of Conditions in connection with the proposed construction of a single-family home at 8 Hill Street, Wayland, Massachusetts (the "Property"). This is the second appeal before the Appeals Court related to this matter. The Appeals Court previously affirmed a decision of the Middlesex Superior Court which denied the Plaintiff's Motion for Judgment on the Pleadings and entered judgment in favor of the Commission in relation to a delineation of wetlands. That delineation resulted in the presence of wetlands, within the meaning of the Town's Wetland and Water Resources Protection Bylaw Chapter 194 (the "Bylaw"), on the Property. In the present matter, the Commission appealed the Middlesex Superior Court's allowance of the Plaintiff's Motion for Judgment on the Pleadings, and subsequent denial of the Commission's Motion for Reconsideration. The Superior Court ruled that the Commission's denial of the Order of Conditions was invalid because it was issued more than 21 days after the close of the public hearing, in violation of the Wetlands Protection Act. The Superior Court also denied the Commission's Motion for Reconsideration. The Motion for Reconsideration was based on what the Commission deemed new evidence in the form of an affidavit from the then Administrator which detailed the conversation he had with the Plaintiff's agent on July 15, 2015, and his efforts to make the decisions available for pick-up on July 16, 2015, the 21st day. The Superior Court held that the affidavit was not newly discovered evidence.

On appeal, the Commission argued that the Motion for Reconsideration was improperly denied without considering the new evidence showing that the Commission's decision was timely prepared and made available consistent with the spirit and purpose of the Wetlands Protection Act and Bylaw, and that the Commission relied on statements of the Plaintiff's agent that the decision would be picked up prior to the statutory deadline. As detailed in the attached Decision and without requiring an oral argument, the Appeals Court determined that the then Administrator's affidavit is not "newly discovered evidence" and that "in the exercise of due diligence" could have been produced before judgment on the pleadings entered. (Decision p. 3). Additionally, the Appeals

KP | LAW

Ms. Sherre Greenbaum, Chair
Conservation Commission
October 11, 2017
Page 2

Court held that the waiver of a right must be voluntary as well as intentional and “the plaintiff’s agent’s inquiry as to when the decision could be picked up, without more, is not a knowing and voluntary waiver of the plaintiff’s right to receive the board’s decision by mail or hand-delivery.” Decision p. 4, citing Garrity v. Conservation Commission of Hingham, 462 Mass. 779, 787-88 (2012) (holding applicant may waive statutory procedural deadline provided such waiver is voluntary on the part of the applicant and respectful of the purposes and policies of the statute).

Please note that the Commission may seek further appellate review to the Supreme Judicial Court, however, due to the detailed decision by the Appeals Court, the existing facts, and the current case law, it appears unlikely that we would succeed on further appellate review. However, I am more than happy to discuss next steps further with the Commission.

Very truly yours,



Amy E. Kwesell

AEK/smm

Enc.

cc: Town Administrator
Board of Selectmen

594051/WAYL/0048

NOTICE: Summary decisions issued by the Appeals Court pursuant to its rule 1:28, as amended by 73 Mass. App. Ct. 1001 (2009), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

16-P-1649

KENNETH TODD NELSON

vs.

CONSERVATION COMMISSION OF WAYLAND.

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

It is well settled that when a local conservation commission fails to act on an application filed under G. L. c. 131, § 40, in a timely manner, a subsequent superseding order of conditions from the Department of Environmental Protection (DEP) governs, and any late-issued decision of the commission is without effect. See Oyster Creek Preservation, Inc. v. Conservation Commn. of Harwich, 449 Mass. 859, 866 (2007); Lippman v. Conservation Commn. of Hopkinton, 80 Mass. App. Ct. 1, 4 (2011). There is no dispute that the conservation commission of Wayland (commission) delivered a denial of the plaintiff's request for an order of conditions by hand on the twenty-second day following the close of the public hearing on the plaintiff's notice of intent, beyond the twenty-one day time limit established in G. L. c. 131, § 40, and 310 Code Mass.

Regs. § 10.05(6)(a) (2014).¹ Accordingly, a judge of the Superior Court granted the plaintiff's motion for judgment on the pleadings, ruling that the commission's decision was without effect and that the DEP's subsequent superseding order of conditions governs. Thereafter, the judge denied the commission's motion for reconsideration or relief from judgment,² which argued that "newly discovered evidence" indicated the applicant had "effectively" waived issuance by mail or hand-delivery.³ We affirm.

The facts are not in dispute and we repeat them here only as necessary to our discussion.⁴ In support of its motion for reconsideration, the commission relies on what it describes as "newly discovered evidence" in the form of an affidavit from its conservation administrator. Discovery of new evidence is one ground that might cause a judge, in his or her discretion, to reconsider a prior ruling. See Audubon Hill South Condominium

¹ The wetlands regulations define "[d]ate of [i]ssuance" as the date of mailing or hand-delivery. 310 Code Mass. Regs. § 10.04 (2014).

² For ease, we refer to the motion throughout as a motion for reconsideration.

³ The commission's notice of appeal encompassed both the judgment and the order denying the motion for reconsideration, but its brief is limited to arguments addressing the motion for reconsideration. Issues that the commission could have raised as to the judgment on direct appeal are waived. See Mass.R.A.P. 16(a)(4), as amended, 367 Mass. 921 (1975).

⁴ We decided a prior appeal in a related action between the parties in Nelson v. Conservation Commn. of Wayland, 90 Mass. App. Ct. 133 (2016).

Assn. v. Community Assn. Underwriters of America, Inc., 82 Mass. App. Ct. 461, 470 (2012). In the affidavit, the administrator avers that the plaintiff's agent inquired, at the commission meeting where it voted to deny the project, when he could pick up the "decisions" and the administrator replied that they would be processed and dated by 4:00 P.M. on July 16, 2015.⁵ The administrator concluded from this brief exchange that the agent would pick up the decision in the office. The pick-up did not occur. Apparently without further conversation with the plaintiff's agent, the denial order of conditions was hand-delivered on July 17, 2015, the twenty-second day following the close of the hearing.

The judge rejected the proposition that the administrator's affidavit constitutes "newly discovered evidence" and also noted that the commission provided no authority suggesting an applicant could waive the statutory requirements in this manner. First, we agree that the administrator's affidavit is not "newly discovered evidence" that, in the exercise of due diligence, could not have been produced before judgment on the pleadings entered. While the commission suggests the administrator's memory was refreshed after the judgment on the pleadings issued and by reviewing the decision and listening to the recording of

⁵ The record before us does not disclose the time the commission's office closed on July 16, 2015.

the commission's meeting, the administrator's affidavit does not support that explanation. Moreover, "forgotten evidence newly remembered" does not constitute new evidence that may be relied on to provide relief from judgment. Commonwealth v. Duest, 30 Mass. App. Ct. 623, 628 (1991), quoting from Kash N'Karry Wholesale Supermkts., Inc. v. Garcia, 221 So. 2d 786, 788 (Fla. Dist. Ct. App. 1969). Personal knowledge "does not become newly discovered evidence by reason of later recollection." Duest, supra, quoting from State v. Sims, 99 Ariz. 302, 310-311 (1965). That no one had thought to listen to the recording of the meeting does not mean the recording or the memory it might have prompted became "newly discovered evidence."

Further, even if we were to treat the affidavit as "newly discovered evidence" and consider the waiver argument despite the commission's failure to cite Garrity v. Conservation Commn. of Hingham, 462 Mass. 779, 787 (2012), to the motion judge, it is quite clear that the plaintiff's agent's inquiry as to when the decision could be picked up, without more, is not a knowing and voluntary waiver of the plaintiff's right to receive the board's decision by mail or hand-delivery. See id. at 787-788 (holding applicant may waive statutory procedural deadline provided such waiver is voluntary on the part of the applicant and respectful of the purposes and policies of the statute). The burden of proving a waiver is on the commission, and "[i]t

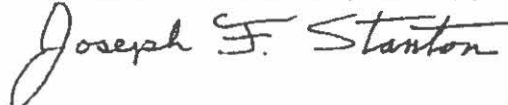
is black letter law that to be valid, a waiver of a right must be voluntary as well as intentional." Id. at 788. The affidavit does not assert that the agent assured the administrator someone would be there to pick up the decision or otherwise induced the commission to conclude that issuance of the decision by mail or hand-delivery knowingly and voluntarily had been waived. Moreover, that hand-delivery was accomplished the next day is inconsistent with the commission's belief that such delivery "effectively" had been waived.⁶

We discern no error in the order denying the motion for reconsideration or relief from judgment.

Judgment affirmed.

Order denying motion for
reconsideration or relief
from judgment affirmed.

By the Court (Massing,
Kinder & Ditkoff, JJ.⁷),



Clerk

Entered: October 6, 2017.

⁶ The commission also asserts in passing that its local by-law "does not actually require the decision to be issued to the applicant." This argument need not detain us, as it was not raised in the commission's motion to reconsider.

⁷ The panelists are listed in order of seniority.

David Porter

From: Balmer, Nan
Sent: Monday, October 16, 2017 6:12 AM
To: David Porter
Subject: Fwd: Proposed Athletic Field at Oxbow Meadows
Attachments: ZBA Letter - Environmental Report.pdf; ATT00001.htm

Correspondence

Nan Balmer
(508) 237-1330

Begin forwarded message:

From: "Friends of Oxbow Meadows" <friendsofowbowmeadows@gmail.com>
To: "Balmer, Nan" <nbalmer@wayland.ma.us>, "Anderson, Lea" <landerson@wayland.ma.us>, "Karlson, Cherry" <ckarlson@wayland.ma.us>, "Mantes@wayland.ma.com" <Mantes@wayland.ma.com>, "Jurist, Louis" <ljurist@wayland.ma.us>, "Levine, Doug" <dlevine@wayland.ma.us>, "Ellen_grieco@wayland.k12.ma.us" <Ellen_grieco@wayland.k12.ma.us>, "nate_buffum@wayland.k12.ma.us" <nate_buffum@wayland.k12.ma.us>, "jeanne_downs@wayland.k12.ma.us" <jeanne_downs@wayland.k12.ma.us>, "kim_reichelt@wayland.k12.ma.us" <kim_reichelt@wayland.k12.ma.us>, "kathie_steinbeeg@wayland.k12.ma.us" <kathie_steinbeeg@wayland.k12.ma.us>, "Wayland.boardpw@gmail.com" <Wayland.boardpw@gmail.com>, "Millette, Don" <dmillette@wayland.ma.us>, "Doucette, Joe" <jdoucette@wayland.ma.us>, "Junghanns, Julia" <JJunghanns@wayland.ma.us>, "Claypitpto@gmail.com" <Claypitpto@gmail.com>, "Happyhollowpto@gmail.com" <Happyhollowpto@gmail.com>, "Dariaegreeley@gmail.com" <Dariaegreeley@gmail.com>, "Waylandmiddleschoolpto@gmail.com" <Waylandmiddleschoolpto@gmail.com>, "Cpandes@yahoo.com" <Cpandes@yahoo.com>, "Apsses@verizon.net" <Apsses@verizon.net>, "Hansen, Linda" <lhansen@wayland.ma.us>, "Bbenson@wickedlocal.com" <Bbenson@wickedlocal.com>, "Higginst@lincolntown.org" <Higginst@lincolntown.org>, "Asafoster@gmail.com" <Asafoster@gmail.com>, "Frankkrasin@hotmail.com" <Frankkrasin@hotmail.com>, "Heidiseaborg@gmail.com" <Heidiseaborg@gmail.com>, "Aquaticlss@aol.com" <Aquaticlss@aol.com>, "Ggschuler@verizon.net" <Ggschuler@verizon.net>, "Sarkisian, Sarkis" <ssarkisian@wayland.ma.us>
Cc: "charlie.dambrosio@gmail.com" <charlie.dambrosio@gmail.com>
Subject: Proposed Athletic Field at Oxbow Meadows

Dear Town Officials,

It has come to our attention that a conference call has been scheduled for Monday, October 16, 2017 to discuss the risks of proceeding with field construction at Oxbow Meadows. We are surprised that town officials would even consider such action for two reasons. First, there is a pending civil action in the Land Court of Massachusetts. Second, the Zoning Board of Appeals has been provided the attached letter from a significantly-qualified expert recommending that

additional testing be performed at the site of the proposed Oxbow Meadow soccer field adjacent to the former Nike site. It is public record that Hercules nuclear missiles were stored there. Therefore, further testing is required to determine whether the emergent toxic contaminants PFOA and PFOS from the polyfluorinated carbon (PFC) compound class exist in the nearby wells and groundwater. Such testing has not been done because previous studies were undertaken prior to recent scientific and public awareness of the seriousness of the threat.

Issues from PFOA and PFOS have been now identified throughout the country at and near military sites resulting in millions of dollars in remediation costs and lawsuits – and cancer. Here in Massachusetts the town of Westfield is spending \$5 million dollars to make its drinking water safe after significant problems were discovered traceable to a National Guard facility. Last year the town of Barnstable filed a multi-million dollar lawsuit in Massachusetts federal court against 3M for polluting the Hyannis water system through use of the same fire-fighting foam used by the National Guard at Westfield. Such foam was highly likely to have been available and practiced with at the Nike Site in Wayland and Lincoln simply to contain horrific risks if a fire occurred. Simple research by anyone will reveal many more such serious cases from New Hampshire to Colorado, Pennsylvania and New York to Idaho. Additional states, including Maine, Maryland and Minnesota have adopted new guidance in light of this current knowledge. The military itself, which no longer owns this Nike site, is in the process of testing (initially) over 400 sites – an undertaking that will take years with the United States Air Force in the lead and the Army in the planning stages.

It is incumbent upon responsible town leadership to follow this recommendation BEFORE beginning work on the proposed field and potentially wasting substantial taxpayer monies in construction of a field that will have to be removed if remediation is required.

At the April 2017 Town Meeting the lead town representative told participants before their vote that nuclear missiles had never been installed at the Nike facility for use in case of war - please see attached video link. His statement on a key issue was untrue. See the 1986 Law Report at pages 10, 33 and 45. Then, with the vote in hand, the Recreation Commission hurried to conduct a radiation test, which demonstrated both its own hidden fears and its lack of the necessary scientific knowledge of the true risks the site presents – known now ***and even more critically, unknown for the future as new contaminants emerge*** – regardless of any findings concerning this single new class.

For this reason and many others, nearly **300 residents of Wayland and Lincoln have signed petitions** opposing the construction of a soccer field at the Nike site.

We respectfully suggest that true leadership means far-sighted thinking – for the safety of all.

Friends of Oxbow Meadows

<https://drive.google.com/file/d/0B3bH14jn-Tr8aE9nZml4SjBSNWM/view>



29 Commonwealth Avenue, Suite 700
Boston, Massachusetts 02116
Ph: 617-557-4545 Fx: 617-249-1595
www.schofieldlg.com

September 27, 2017

VIA CERTIFIED AND FIRST-CLASS MAIL
Certified Mail Article No. 7017 0660 0001 1356 7983, Return Receipt Requested

Town of Wayland Zoning Board of Appeals
41 Cochituate Road
Wayland, Massachusetts 01778

Re: Supplement to Appeal of Planning Board Decision No. 02-2017 (the "Appeal"):
Oxbow Meadows Parking Lot and Athletic Field (the "Site")

Dear Chairman Sachs and Members of the Board:

This law firm represents several residents of the Towns of Wayland and Lincoln in the above-referenced Appeal. Enclosed in support of the Appeal please find the report of Underground Energy, LLC detailing the serious potential environmental hazards at the Site (the "Report").

The Report concludes that harmful contaminants such as "perfluorinated compounds (PFCs), including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS)" may be present at the Site. Indeed, the Report states that the technology to detect such contaminants did not exist in 2004, when the most recent testing of the site was conducted, and it strongly recommends that a sampling and testing program be implemented prior to field construction to insure that there is no groundwater contamination and human exposure to these substances.

As you know, our clients' Appeal asserts that the Planning Board failed to account for environmental criteria mandated by the Town Bylaws and ignored requests for environmental studies which, as detailed by the Report, are urgently needed before the Site is converted to a youth soccer field.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink that reads 'T. N. Schofield'.

Timothy N. Schofield

Cc: Carolyn M. Murray, Esq. (via email)

Underground
Energy, LLC

*Applied Hydrogeology
Geothermal Innovation*

8 Highfield Drive
Lancaster, MA 01523
(508) 263-9960

[www.underground-
energy.com](http://www.underground-energy.com)



26 September 2017

Timothy N. Schofield, Esq.
Schofield Law Group, LLC
29 Commonwealth Avenue, Suite 700
Boston, Massachusetts 02116

**Re: Opinion Letter
Former Nike Missile Site
133 Oxbow Road, Wayland, Massachusetts**

Dear Mr. Schofield:

At your request, I have conducted a data review and prepared this opinion letter regarding potential residual contamination at the former Nike Missile site at 133 Oxbow Road in Wayland, Massachusetts.

Qualifications

My qualifications for this work include over 30 years of professional experience as a hydrogeologist in the environmental consulting field. As a Massachusetts Licensed Site Professional (LSP) from 1993 to 2016, I was the LSP-of-Record at over 60 disposal sites in Massachusetts. My curriculum vitae is attached.

Background

The former Nike site in Wayland was one of more than 200 air-defense facilities constructed near major metropolitan areas and military installations and operated from about the early 1950s until the mid 1970s. The Wayland Nike site was constructed in 1955 on previously undeveloped land near the Sudbury River, and comprised about 14 acres. The US Army operated the Wayland Nike site until 1964, when the Massachusetts Army National Guard assumed operations until 1974, after which it was used by the National Guard as a storage facility and also reportedly as maintenance shop where vehicles were serviced. Like most US Nike sites, the Wayland Nike site stored both nuclear and conventional warheads.

In September 1995 the Massachusetts National Guard conducted an Environmental Site Investigation that identified two areas of surficial soil contamination. A Release Notification Form was submitted to Massachusetts Department of Environmental Protection (DEP) on November 1, 1996, and two Release Tracking Numbers (RTNs) were assigned: RTN 3-14462 for the North Outfall - Missile Magazine Area and RTN 3-14463 for Assembly Test Building L-5. The National Guard performed Response Actions at the site

pursuant to 310 CMR 40.0000, the Massachusetts Contingency Plan (MCP). The response actions included a Release Abatement Measure (RAM) under which 59 tons of soil contaminated with Extractable Petroleum Hydrocarbons (EPH) and Polynuclear Aromatic Hydrocarbons (PAHs) were excavated and disposed off-site under a Bill of Lading. A Class A-2 RAO was submitted to DEP on September 30, 1997 after soil samples from the walls and floors of the final excavation were found to have PAH and EPH concentrations below the MCP S-1 soil cleanup standard. The applicable MCP groundwater category at the site, GW-1, has the most stringent MCP cleanup standards, because the site is underlain by an aquifer and within a mapped Zone II Aquifer Protection District for a Public Water Supply. Three public water supply wells nearest the site are about 2,000 feet to the north in Lincoln, 2,500 feet to the south in Wayland, and 7,000 feet to the northeast in Wayland.

The Town of Wayland's Nike Site Advisory Committee commissioned environmental studies of the site in 2003-2004 to assist the Town in evaluating potential environmental liabilities associated with site, which was being considered at the time by the Town for acquisition and reuse. The Bois Consulting Company, Inc. report (March 2004) concluded that "*there are no significant environmental issues currently present at the Former Nike Missile Site.*" However, Recognized Environmental Conditions (RECs), as defined by ASTM E 1527-00 for environmental site assessment work, were identified including asbestos- and lead-containing materials, potential for contaminated soil from past land uses, potential for metals in groundwater, lead- contaminated standing water in missile silo bunkers, metals in catch basins, and potential for oil to be present in hydraulic lifts in the missile silo bunkers. Demolition of the Nike-related structures was performed in 2008, removing the silo caps and filling in the silos, followed by grading and seeding. On July 1, 2009 the Wayland Department of Public Works assumed jurisdiction for Oxbow Meadows park, a passive recreation area that comprises about 10.7 acres of the former 13.65-acre Nike missile site. The remaining portions of the Nike missile site were developed into 16 units of affordable housing at 89 Oxbow.

Data Reviewed

The following documents were reviewed:

- Law Engineering Testing Company, March 1996, *Final Report – Investigation of Former NIKE Missile Sites for Potential Toxic and Hazardous Waste Contamination* (this report was not site-specific, but provided an overview of environmental issues at former NIKE sites.)
- Bois Consulting Company, Inc. and Lightship Engineering, LLC, March 19, 2004, *Final Limited Environmental Site Assessment Report, NIKE Site #73, 133 Oxbow Road, Wayland, Massachusetts* (this report did not include graphics or appendices)

- New England Environmental Technologies Corporation, September 30, 1997, *Response Action Outcome Statement, Massachusetts Army National Guard Facility, Oxbow Road, Wayland, MA, RTN #3-14462 & RTN #3-14463* (report downloaded from Massachusetts DEP BWSC searchable site list).
- Tetra Tech, July 11, 2017 correspondence to Wayland Town Planner regarding Oxbow Meadows Recreation Fields Site Plan Review.
- Massachusetts DEP, January 2017, Draft Fact Sheet - Guidance on Sampling and Analysis for PFAS at Disposal Sites Regulated under the Massachusetts Contingency Plan.
- Massachusetts GIS OLIVER online mapping Tool at http://maps.massgis.state.ma.us/map_ol/oliver.php.
- Massachusetts DEP, Office of Research and Standards, May 26, 2016. Addressing Emerging Contaminants in Massachusetts.
- Online data including MA DEP BWSC files, Google Earth satellite imagery (1995-2017), and information regarding contaminants of potential concern.
- Photographs of site demolition activities and email correspondence.

Opinion and Recommendations

Underground Energy understands that the Town of Wayland plans to convert a portion of the former Nike Site from passive to active recreational land use with the proposed development of an athletic field and parking lot. This activity may involve site excavation, filling and grading that could potentially disturb residual soil contaminants associated with the US Department of Defense's (DoD's) former use of the property as a Nike Missile battery. A Site Plan review performed for the Town of Wayland by Tetra Tech in July 2017 included the statement that "*given the history, scope and quality of investigation and the level of inspection and documentation required during the demolition phase, we do not expect there to be any outstanding environmental risks at the site.*"

It is the opinion of Underground Energy that the environmental studies that preceded the Town's acquisition of the site were performed in accordance with the industry-standard practices of the day. However, because those standard practices have evolved *significantly* since the last environmental studies were performed in 2004, environmental due diligence and the non-degradation clause of the MCP dictate that it is prudent to assess groundwater

and soil at the site for the presence of potential Contaminants of Concern that were not considered in historic investigations.

In particular, environmental cleanup standards are being developed for perfluorinated compounds (PFCs), including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). These compounds, which were in wide-spread industrial and military use during the period of missile operations at the site, are highly stable in the environment and mobile in groundwater. In 2016 the EPA released an extremely low health advisory level of 70 parts per trillion in groundwater for PFCs. Massachusetts DEP defines PFCs as an Emerging Contaminant, and an Emerging Contaminant work group is developing new Reportable Concentrations and Method 1 Cleanup Standards for PFCs. PFCs and their potential health risks were effectively unknown to the regulated community and to the regulators in 2004 when the most recent environmental studies were performed at the site.

PFCs were used in firefighting foams for flammable liquids, and DEP's draft MCP guidance document for PFCs recommends sampling for PFCs at *"former or current DoD sites where the historic use of PFAS in firefighting foams may have resulted in soil and groundwater contamination."* While there is no documentation of PFC use at the former Nike missile site, it is Underground Energy's opinion that firefighting foam was likely stored and used while it was an active missile battery, given the extremely flammable fuels and oxidizers that were routinely handled there, and the high risk of a fire.

An example of environmental impacts and infrastructure upgrade costs that can be associated with PFC contamination can be found in Westfield, Massachusetts where municipal officials are considering a new \$5 million water treatment facility. Public and private drinking water wells were closed due to PFCs contamination, allegedly from firefighting foam used at Barnes Regional Airport and the Air National Guard's 104th Fighter Wing from the 1950s to the 1980s.

Underground Energy strongly recommends that, prior to any redevelopment or earthwork at the former Nike site, a sampling program be developed and implemented to evaluate the potential presence of PFCs or other Emerging Contaminants that were not normally evaluated during the timeframe when previous samples were collected and analyzed. This investigation should begin with an assessment of the location and condition of any wells at the site and in the area, followed by sampling and analysis of groundwater from all on-site monitoring wells and any nearby municipal wells. Analyses should include all constituents for which DEP has promulgated drinking water standards and for the following Emerging Contaminants:

- PFCs including PFOA and PFOS, in accordance with evolving DEP guidance

- Hexavalent chromium. The EPA drinking water standard for total chromium of 100 ug/l is outdated. California has promulgated a standard of 50 ug/l for total chromium and 10 µg/l for hexavalent chromium
- Nitrosamines
- Perchlorates
- 1,4-dioxane

If groundwater contamination is detected, then soil investigation should be performed to identify the source areas and determine most appropriate remediation process to protect groundwater and also control human and environmental exposure via soil contact and incidental ingestion.

Thank you for the opportunity to perform this review and prepare this opinion. Please contact me if you have any questions.

Sincerely,



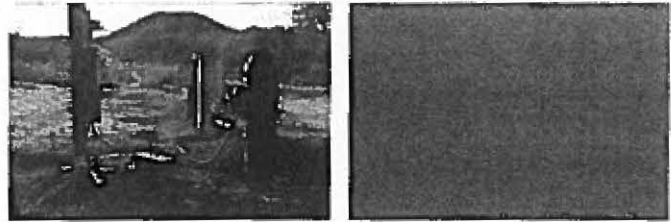
Mark A. Worthington
Principal Hydrogeologist

Attachment: Mark Worthington CV

cc: Thomas M. Hoopes, Esq.

Mark A. Worthington

Principal Hydrogeologist



Mr. Worthington is the founder of Underground Energy, LLC and a Principal Hydrogeologist with 30 years of diverse consulting and management experience. Areas of expertise include evaluation and design of Earth-coupled (geothermal) systems for heating and cooling buildings, underground thermal energy storage, aquifer hydraulic testing and analysis, FEFLOW modeling subsurface flow and heat transport, and subsurface investigations using geophysical, geotechnical, geochemical and hydraulic monitoring methodologies. Since 2008, he has focused on bringing sustainability and value to geothermal heating and cooling projects by using underground thermal energy storage techniques to optimize the design and performance of the Earth couple. As a Massachusetts Licensed Site Professional (LSP), Mr. Worthington was responsible for technical quality, regulatory compliance, risk-based corrective action, and regulatory site closure at over 80 oil and hazardous material disposal sites in Massachusetts.

Areas of Expertise

- Underground Thermal Energy Storage
- Earth-coupled heating and cooling systems
- Hydrogeologic and geophysical investigations
- Aquifer hydraulic testing and numerical modeling
- Geothermal heat exchanger design
- Assessment of oil and hazardous material releases
- Soil, groundwater and sediment remediation
- Geotechnical and seismic hazard investigations
- Environmental permitting, brownfield redevelopment
- Landfill gas control and vapor intrusion evaluation
- Environmental due diligence

Education

- B.S., Geology/Physics, Stephen F. Austin State University, 1983
- M.S., Hydrology and Water Resources, University of Arizona, 1987
- Adjunct Earth Science Faculty, Massachusetts Maritime Academy, 2009

Selected Publications

"Aquifer Thermal Energy Storage Feasibility at the Ford Site, St. Paul, MN," 2015, International District Energy Association 107th Annual Conference and Trade Show, St. Paul, MN, June 2016.

"In-Depth Feasibility Studies of Aquifer Thermal Energy Storage (ATES) at VAMC Medical Centers in Columbus and Chillicothe, OH," 2015, International District Energy Association 106th Annual Conference and Trade Show, Boston, MA, June 2015.

"Exploring Synergies between In-Situ Thermal Remediation and Geothermal Energy Storage," 2012, co-author with Dr. Ralph Baker of Terra Therm, Inc., 27th Annual International Conference of Soils, Sediments, Water and Energy, Amherst, MA, October 2011.

"Aquifer Thermal Energy Storage: An Enabling Green Technology for Campus District Energy Systems," 2011, Presented to the International District Energy Association 24th Annual Campus Energy Conference, Miami, FL, February 2011.

"Dating gasoline releases using ground-water geochemical analyses: case studies," Proceedings of the 1993 Petroleum Hydrocarbons Conference, Houston, Texas, 1993.

"Thermal anomalies and the ground-water flow system south of The Narrows, Upper San Pedro Valley, Arizona", 1987, Master's thesis, Department of Hydrology and Water Resources, University of Arizona.

Registrations & Professional Affiliations

- Certified Geologist - Maine (1991-2016)
- Licensed Site Professional - MA (1993-2016)
- Certified Installer - International Ground-Source Heat Pump Association (2009)
- LEED Accredited Professional (2009)
- New England Geothermal Professional Association (Charter Member, Board Member)
- International District Energy Association (IDEA)
- MIT Enterprise Forum

Underground Thermal Energy Storage Projects

Project Manager and Principal Hydrogeologist for Aquifer Thermal Energy Storage (ATES) feasibility study for the City of St. Paul, MN regarding sustainable redevelopment of the 135-acre Ford site. Developed hydrogeologic conceptual model, sized well system and developed a cost estimate to support conceptual engineering design of a 15MW district energy system at the former Ford Twin Cities Assembly Plant.

Project Manager and Principal Hydrogeologist for evaluation and maintenance of the ATES system at Stockton University in Galloway, NJ. Performed field hydrogeologic and geochemical testing of the 6 ATES wells and coordinated with subcontractor IF Technology, BV in preparation of reports and work plans. Project in progress.

Project Manager and Principal Hydrogeologist for in-depth feasibility studies of ATES for Veterans Administration Medical Centers in Chillicothe and Columbus, Ohio. Used GIS tools to screen VAMC facilities in Ohio for aquifer availability, developed hydrogeologic investigation work plan, evaluated hydrogeologic properties at each site, identified regulatory requirements and financing options, and led an exceptionally qualified team of energy engineers in the preparation of detailed ATES feasibility study reports. ATES conceptual designs were developed including cooling-only with district energy system distribution of chilled water, and heating with cooling using a natural-gas-driven heat pump. The VA is currently evaluating ATES design for the Chillicothe site.

Project Manager and Principal Hydrogeologist for Borehole Thermal Energy Storage (BTES) feasibility study at a remote diamond mine in the Canadian Northwest Territories. The conceptual design diverted waste heat from diesel gensets in summer to charge a large BTES wellfield, which is discharged each winter to preheat ventilation air. This design displaces 20 million litres of diesel fuel annually, with a CAPEX of \$15M CAD for the system and a 7 year simple payback.

Principal Hydrogeologist for regional ATES feasibility screening for the City of Baltimore. Reviewed and modified Maryland Geological Survey GIS maps to prepare

a series of maps depicting Patuxent Aquifer properties in Baltimore, including estimation of ATES well yields.

Principal Hydrogeologist for prefeasibility study of ATES and BTES to expand thermal capacity of Deep Lake Water Cooling system in Toronto.

Principal Hydrogeologist for a feasibility study of ATES for a confidential client in Massachusetts. Evaluated engineering, hydrogeologic, regulatory, and economic feasibility. Developed conceptual design from which a financial analysis was performed.

Principal Hydrogeologist for a feasibility study of Borehole Thermal Energy Storage and redevelopment of a district energy system in Attleboro, Massachusetts. Designed borehole array to accept low-grade heat from a CHP plant and to provide space heating to buildings on the campus.

Earth-Coupled Cooling and Heating Projects

Principal Hydrogeologist for feasibility study and design of a hybrid geothermal/biomass district heating and cooling system for a performing arts facilities in western Massachusetts under Mass Clean Energy Center grant.

Calculated building loads and designed vertical and horizontal ground heat exchangers and associated piping and heat pump systems for various new-construction and retrofit residential geothermal projects in Massachusetts. Worked with an experienced installer on system installations.

Performed forensic geothermal evaluation of poor-performing standing-column well system in Marlborough, MA. Recommendations fixed system.

Evaluated operating performance of standing column well geothermal system at Boston Nature Center at request of Mass Audubon Society Director.

Hydrogeologic Engineering Projects

Expert Hydrogeologist for the successful defense of a remediation construction firm against class-action litigation regarding levee failures in New Orleans during Hurricane Katrina, with potential damages in excess of \$100 billion at stake. In concert with geotechnical experts,

designed and implemented field permeability testing programs involving multiple slug and pumping tests, performed data analysis, and worked with multiple parties to develop standard operating procedures and to coordinate an intensive field program subject to a court-ordered deadline. Assisted geotechnical experts and attorneys with deposition preparation and analysis, and with preparation of expert testimony. Designed, fabricated, tested and demonstrated analog flow simulators as a demonstrative exhibit to that was used to assist the judge in understanding the difference between transient and steady groundwater flow.

Principal Hydrogeologist responsible for hydrogeologic analysis and FEFLOW modeling of groundwater infiltration to tunnels, ore heaps and open-pit mines in South America.

Principal Hydrogeologist responsible for peer review of multi-aquifer pumping test analyses at Eagle Mountain Lake in Tarrant County, Texas. Used AQTESOLV software to model boundary conditions, calculate aquifer properties for seepage analysis and performed sensitivity analyses relating calculated values of hydraulic conductivity to assumed values of aquifer thickness.

Principal Hydrogeologist for analysis of unsaturated flow associated with extraction of copper from crushed ore at a copper mine in Chile. Used HYDRUS-1D model to simulate unsaturated flow through ore heap and provided recommendations for improved operations. Used FEFLOW model to simulate transient 2-D infiltration through ore heap and steady state pore pressure distributions.

Project Hydrogeologist for a wastewater discharge siting study at Otis Air Base on Cape Cod. Hydrogeologic analysis included water table contouring, slug testing, flow net analysis, design, performance and data analysis of a five-day pumping test, an assessment of aquifer tidal response and salt water intrusion.

Senior Hydrogeologist for a dewatering project in Beirut, Lebanon for a deep foundation set in a highly transmissive karst limestone formation. Evaluated construction contractor tenders for dewatering to review applicability of cutoff methods including diaphragm walls, ground freezing and permeation grouting.

Conducted hydrogeologic investigation of a proposed 70,000 gpd subsurface wastewater discharge facility in Lanesborough, Massachusetts. Participation in this project included field collection of seismic refraction data, assessment of hydrogeologic impacts of the discharge facility and writing the EIR draft.

Conducted hydrogeologic investigations for a proposed Superconducting Super Collider (SSC) site in Mississippi. Investigated water-supply and dewatering/tunneling aspects of the state's SSC proposal.

Aquifer Testing and Hydrogeologic Analysis

Designed hydrogeologic, geochemical and geothermal subsurface investigation programs for two VA hospitals in Ohio being considered for Aquifer Thermal Energy Storage (ATES). Work included installation and testing of 17 observation wells, four pumping wells, and four pumping tests. Analyzed all field data and prepared updated feasibility study reports.

Designed and performed 5-day pumping test at Otis Air National Guard Base in Bourne, Massachusetts. Prepared specifications regarding monitoring well and pumping well design, instrumented wells with pressure transducers, sited water discharge location, performed step-drawdown tests, and 5-day pumping test (300 gpm discharge rate), post-test recovery monitoring and data analysis in support of a Class III groundwater discharge permit application.

Performed 8-hour pumping test of 1,500-gpm irrigation well in Benson, Arizona. With minimal resources as a grad student, used kinematics to calculate discharge rate and collected groundwater elevation data using Stevens analog chart recorder. Calculated aquifer hydraulic properties using analytical techniques.

Performed 24-hour pumping test of artesian wells in Benson, Arizona. Designed and constructed mercury U-tube manometer to record artesian pressure head data, and calculated aquifer hydraulic properties using analytical techniques.

Performed step-drawdown tests and 24-hour pumping tests of LNAPL-contaminated aquifers in Mattapoisett and Acton, Massachusetts for a major oil company. Analyzed

data and prepared capture zone analyses for use in groundwater recovery remedial systems.

Performed step-drawdown test and 8-hour pumping tests of residential wells in fractured rock in Westbrook and Tenants Harbor, Maine. Calculated aquifer hydraulic properties using analytical techniques.

Performed slug tests at multiple LNAPL-contaminated sites in Massachusetts, Connecticut and Maine.

Provided peer review services and reviewed slug test and pumping tests at various locations in New England, Texas and South America.

Performed slug tests and evaluated injection tests at a former oil terminal and then-proposed LNG import terminal in Fall River, Massachusetts. Instrumented monitoring wells to record tidally affected groundwater elevations, used analytical techniques to evaluate aquifer tidal response.

Performed flow net analyses of hydrogeologic systems at multiple sites in New England and the Americas to evaluate contaminant transport, remedial strategies, and spatial variability of aquifer hydraulic properties.

Taught short courses and gave presentations on aquifer testing techniques to law firms, major oil company clients, and university students.

Used available boring logs and an understanding of continental glacial depositional processes to prepare hydrogeologic cross sections and conceptual site models at numerous sites in New England.

Performed dye tracing studies to evaluate subsurface conditions at sites in Massachusetts, Maine and Pennsylvania.

Ground-Water Supply Investigations Projects

Principal Hydrogeologist for hydrogeologic studies in support water supply development for two LNG export terminal projects in coastal Louisiana. Performed desktop studies and designed/implemented subsurface testing for production well design and to assess saltwater intrusion.

Project Manager for multi-disciplinary studies to locate high yield water-bearing bedrock fractures in Weston, Massachusetts. Coordinated borehole, crosshole, and surface geophysical methods to trace a fracture system towards Town-owned land.

Expert Hydrogeologist representing the Blackstone River Consortium appeal of a Water Management Act permit issued to Town of Shrewsbury by Massachusetts DEP. Evaluated hydraulic effects of municipal pumping effect on tributary stream and upstream impoundment.

Expert Hydrogeologist for defense in litigation regarding alleged adverse hydraulic impact to private water supply well in Plympton, Massachusetts.

Program Hydrogeologist for the investigation of a potential municipal water supply aquifer in Weston, Massachusetts. Designed and conducted exploration program and pump tests and analyzed data by analytical and computer modeling techniques.

Project Manager of a comprehensive study of the safe yield of all aquifers in the Town of Marshfield, Massachusetts. Developed and quantified water budget equations for drainage basins in the town. Developed five computer models to simulate safe yield aquifer conditions and characterized the potential for salt water intrusion in coastal aquifers using calibrated flow models.

Conducted a ground-water adequacy investigation near Benson, Arizona. Included aquifer tests, two of which were for an artesian aquifer, requiring the design and construction of special hydraulic testing equipment. Other work included mapping piezometric configurations over a 300 mi² area. A computer model was developed, calibrated, and used to simulate future exploitation of ground-water resources.

October 12, 2017

Board of Selectmen
Library Trustees & Library Planning Committee
Town of Wayland
41 Cochituate Road
Wayland, MA 01778

Re: Incorporating Green Features in the Proposed Library Building Design

Dear Board of Selectmen, Library Trustees, and Library Planning Committee:

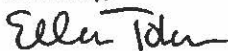
The Wayland Library Trustees' proposed new library on the site of the former Highway Department garage at 195 Main Street is an opportunity to design a building that furthers the Town's green goals. Reducing the building's projected energy use and enabling renewable power generation will reduce the projected operating costs and greenhouse gas emissions. The Energy and Climate Committee has a strong track record of identifying municipal opportunities to reduce energy use and address climate risks. We would like to bring this expertise to the Library Trustees and their Planning Committee to help the new library embrace efficiency and renewable energy features to demonstrate that green buildings are a smart choice.

The Town has been awarded a provisional construction grant from the Massachusetts Board of Library Commissioners (MBLC). In its grant application, the Town committed to seek Leadership in Energy and Environmental Design (LEED) Platinum certification from the U.S. Green Building Council. Platinum status is the highest LEED level, and reflects use of multiple green design components. The Energy & Climate Committee commends the Library Trustees for stating in its application that the library should be "*an example of good environmental stewardship, energy conservation, and planetary citizenship to its children, its residents, and the surrounding communities. As a repository of knowledge, research, and new technologies, the Library should be a community leader in this area.*" Based on the Town's LEED commitment, the grant may include additional money to help offset the cost of incorporating the environmentally friendly and energy-efficient systems.

The Energy & Climate Committee urges the Town and the Library Trustees to adopt a final building design that is as energy-efficient as possible, if not achieving a net zero projected energy consumption, and that maximizes potential solar energy production. The committee is concerned that the preliminary design does not appear to plan for solar power generation. Proper advance design of the roof and parking lot will enable solar facilities to be financed by third party vendors. Our committee would like to work with the Library Trustees to help explore these options and source potential technical assistance or construction grants to assess or install such features.

Wayland's library could have a lifetime of half a century or more. Many Massachusetts cities and towns are currently considering net zero as a standard for new buildings. The Energy & Climate Committee looks forward to assisting the Library Planning Committee in designing a truly state-of-the-art facility.

Sincerely,



Ellen Town
Co-Chair
Wayland Energy & Climate Committee



Anne Harris
Co-Chair

cc: Chair, Wayland Permanent Municipal Building Committee
Ben Keefe, Public Buildings Director & staff representative to Wayland Energy & Climate Committee

David Porter

From: Balmer, Nan
Sent: Tuesday, October 10, 2017 12:08 PM
To: Al Taleb; Larsen, Geoffrey
Cc: Anderson, Lea; Karlson, Cherry; David Porter
Subject: RE: Wayland Automotive & Disturbing Activities ...

Dear Mr. Taleb,

As you know, municipalities have some limited jurisdiction in balancing the needs of commercial and neighboring properties. Within a few weeks, the Board of Selectmen will review the Used Car Dealer's license for 322 Commonwealth Road. Your concerns will be considered and taken into account within the limitations of what the Selectmen may legally do under the license at that time.

Thank you for this communication. I will make sure it comes to the attention of the entire Board.

Nan

Nan Balmer, Town Administrator
Town of Wayland
41 Cochituate Road
Wayland, MA 01778
(508) 358-3620 office
(508) 237-1330 cell



From: Al Taleb [<mailto:ataaleie@gmail.com>]
Sent: Tuesday, October 10, 2017 11:55 AM
To: Larsen, Geoffrey
Cc: Balmer, Nan; Anderson, Lea; Karlson, Cherry
Subject: Wayland Automotive & Disturbing Activities ...

To Whom it may concern,

Business of complaint : Wayland Automotive
322 Commonwealth Rd. Wayland, MA

I recently spoke to an associate in the building department, and she gave me this email address to express my complaint in writing.

Other neighbors and I, as a Wayland residents living in Cochituate area, see the delivery of vehicles every day early in the morning (between 4:45am - 5:30 am). These activities are not including the 1-2 times gas deliveries in the week for the gas station. These activities make a lot of terrible noise at that time of day when most residents asleep.

We spoke with the Wayland Police department a few times in the past, and they advised us to be in contact with the Town to fix this horrible situation for the neighborhood.

Apparently, the situation with this business seems to completely transcend all common sense rules and regulations these days. I am aware that the initial setup entailed a small business liscense along with the gas station for sale of a couple cars! But over time, this has turned into a largest automotive business in Wayland and the whole area. And it keeps growing with adding new sub-businesses that require to handle over a hundred of cars / trucks, and noisy oversight.

I would like to ask you to review the situation in the neighborhood and instruct that the business be in line with what I asked for above, particularly in terms of excessive noise. All associated businesses here should be limited from 8AM to 7PM (as this business advertises on their website and on their sign)

Appreciate it,

Al

David Porter

From: Balmer, Nan
Sent: Thursday, October 12, 2017 4:49 PM
To: David Porter
Subject: FW: Community Walk and Vigil for Domestic Violence Awareness

correspondence

From: Malcolm Astley [<mailto:malcolmastley@icloud.com>]
Sent: Thursday, October 12, 2017 4:14 PM
To: Balmer, Nan; Louis Jurist; Cherry Karlson; Levine, Doug; Mary Antes
Cc: Allison Koury
Subject: Community Walk and Vigil for Domestic Violence Awareness

Hello, Nan, Louis, Cherry, and Doug,

I thought you and your colleagues might be interested in taking part in the walk or vigil or both.

Thank you for considering, and wishing you well in any case!

Malcolm Astley

October 12, 2017, 3:24PM

Press Release on:

Community Walk and Vigil for Domestic Violence Awareness

At any given time there are 20 to 40 restraining orders in effect in Wayland and Sudbury and towns of similar size. There have been 19 murder victims of related violence in Massachusetts this year, girls and women largely by far. 3 to 4 women die similarly every day in our country. To raise awareness, and to witness and protest the pain, violence, and injustice, and also the culture of violence many males suffer, there will be a walk and vigil the evening of Tuesday, October 17. The walk and vigil are sponsored by the Community Methodist Church, First Parish Unitarian Universalist in Wayland, the Sudbury-Wayland-Lincoln Domestic Violence Roundtable, and the LaurenDunneAstleyMemorialFund.org

The walk is planned to start at 5:45 PM at Community Methodist Church, now bathed in purple light (5 Damon Street, Wayland), and end at First Parish UU (50 Cochituate Road), Wayland, at 7 PM when the vigil will start and run until about 7:45. Purple lights will envelope First Parish as they have the Community Methodist Church for two weeks in recognition of October as Domestic Violence Awareness Month.

The vigil at First Parish UU, Wayland, planned for 7 to 7:45 PM, will include speakers, candles, and music. Participants will also read the names of the 19 relationship murder victims in Massachusetts to date this year. Community members are welcome to take part in both the walk and vigil.

Allison Koury, President, Sudbury-Wayland-Lincoln Domestic Violence Round Table

Malcolm Astley, LaurenDunneAstleyMemorialFund.org (508-397-7055)

Reverend Ted Crass, Community Methodist Church, Wayland

Reverend Stephanie May, First Parish Unitarian Universalist, Wayland

DPA

newsletter



The Dudley Pond Association

A non-profit organization, founded in 1968

Fall 2017

www.dudleypond.org

DPA Board 2017-2018

Dear fellow Dudley Pond community members,

I'm writing this in the early morning hours of one of the last days of the month of September. The sun is coming up over Dudley Pond, the trees are starting to change colors and the weather is becoming cooler. We had a great summer starting with the Newcomers' Potluck in May, the Ice Cream Social in June, Jazz on the Pond in August and finishing off with the Fun Run in September. I would like to thank all who participated and contributed to these events. All these events are volunteer based and I would especially like to thank the people who volunteered their time to help organize these events.

The Newcomers' Potluck that was so graciously hosted by the Snyders and organized by Lisa Jacobs was a very enjoyable event. Apart from sharing great food with the neighbors I got to meet four new families that moved to the watershed area.

This year's Ice Cream Social, also organized by Lisa Jacobs, was another great event. The day started off a bit gray and we even felt a drizzle or two, but towards the afternoon the skies cleared and the sun came out. Many of our younger community members came out to enjoy the ice cream that was served by the Dudley Pond Association volunteers on a lovely sunny afternoon.

We also had great weather for the music on the pond event that always draws many participants in pontoon boats, kayaks and canoes. As always the Dirty Water Brass Band and our very own Jamie Pierce did a great job as they floated around the pond playing all time favorites. This year we also had the amazing Church Ladies perform at the LaClaire's in what I hope will grow to be our very own Dudley Pond PorchFest. Thank you Alison LaClaire and the Church Ladies! If anybody want to participate in next year's PorchFest please reach out to Alison.

Continued on Page 2

- President - Doron Almog
 - First VP - Eric Macklin
 - Second VP - Ella LaClaire
 - Treasurer - Jamie Pierce
 - Secretary - Lisa Jacobs
- Members-at-large:
Karen Lowery
Mike Margossian

For membership info see
www.dudleypond.org



21st Annual DPA Kids Fun Run

President's Letter (Continued)

The last event of the summer was the Dudley Pond Fun Run that always draws a great crowd. More than 100 runners and walkers participated in the 5K Run and 2K walk and more than 30 kids in the kids run. This is our fund raising event and I want to thank everybody who contributed to make this a very successful event. The list of people that assisted would be too long to include here but I would like to particularly thank Karen Lowery for being the driving force that helps all aspects of this event.

Next year we will be celebrating the 50th anniversary of the Dudley Pond Association and we need the help of the members to plan and execute the events. We will be discussing the DPA 50th anniversary at the fall meeting, Sunday October 29th at 5:00 PM and I hope to see many of the members at the meeting.

Regards,

Doron Almog

President — Dudley Pond Association

21st Annual Dudley Pond Run/Walk and Kids Fun Run

By Karen Lowery

Under sunny skies and with temperatures reaching the high 80's, walkers, runners and kids participated in the 21st Annual Dudley Pond Run/Walk and Kids Fun Run. On a day that felt more like mid-summer than early autumn, Dudley Pond was surrounded by foliage just beginning to turn reminding participants, autumn had arrived.

The Dudley Pond Run/Walk is a benefit for the non-profit Dudley Pond Association which works closely with Wayland's Surface Water Quality Committee to support and protect the health of Dudley Pond.

Many thanks to all our Corporate and Refreshment Sponsors, Friends of the Pond, participants and families for making this event a successful fundraiser. Runners came from 14 local and distant communities to share in the day's events.

Sylvia Greene, personal trainer at Passion to Move, began the day by leading a non-competitive fitness walk along the Dudley Pond shoreline. Kids Fun Runs began next for ages 1-13. At the end of each age group, every child received a ribbon and Dilly Bar donated by Dairy Queen of Natick.

The final events were the challenging 5K USATF sanctioned run and the 2 Mile competitive walk. Both events followed a hilly, scenic route along the Dudley Pond shoreline with a loop back to the finish. This year participants in the 5K Run and 2M Walk ranged in ages from 11 to 80+ years old. Following the races, medallions were awarded for overall and division winners in the 5K and in the 2M walk.

DPA Turns 50!

2018 marks the 50th birthday of the Dudley Pond Association. Names like Duke Irvine, Fern Taylor, Russ Kelly and Walt Richards joined together to form a neighborhood group that morphed into the Dudley Pond Association. Back then Brad Bernard who lived on Lake Shore Drive was the Harbor Master. Large boats pulling water skiers were a common sight (as were oil and gas films on the water).

Judy Currier has volunteered to pull together photos, articles and memorabilia to celebrate this occasion. We hope to have a number of articles in the Town Crier, The Patch and other local publications featuring life on the pond, our history, our accomplishments, etc. We have some material handed down from various DPA board members but we're asking any of you who might have photos or newspaper clippings from years past to share them with us. Judy will collect them, copy them, and return them to you. Please look around and see what you have.



We are also planning a 50th birthday celebration and we're looking for volunteers to help plan the event. If you'd like to be involved in our celebration, please let Judy or any members of the board know.

Photos and articles can be emailed to Judy at oberlynn2@aol.com or snailmailed to: 22 Algonquin Path, Wayland 01778, or go and look right now and bring them to the fall meeting.

5K Winners - Female

1st – Jenny Thomas 20:59.3 - Wayland
2nd - Jane Chitkara – 22:14.3 - Wayland
3rd – Caroline Ritter – 23:01.3 - Wayland

5K Winners - Male

1st – Geoff Getz – 19:24.7 - Wayland
2nd – Peter Marton - 20:59.3 - Marlborough
3rd – Sergei Bobronnikov – 21:24.7 - Wayland

2-Mile Competitive Walk

1st – Roman Sheer – 28:45.1 - Framingham
2nd – Henry Stimpson – 28:56.3 - Wayland
3rd - Marian Klepser – 29:36.1 - Wayland

5K Division Winners – Women and Men

19 and under – Emma Diianni and Noah Stefancik
20 to 29 – No women ran in this division. For men - Steven Butler
30 to 39 – Jenny Thomas and Dennis Keohane
40 to 49 – Jane Chitkara and Geoff Getz
50 to 59 – Patti Huminski and Peter Marton
60 to 69 – Barbara Landry and David Gutschenritter
70 to 79 – Betsy McCarthy - No men ran in this division
80 and over – Shirley Jacobson - No men ran in this division

Dudley Pond Association
P.O. Box 5114
Wayland, MA 01778-4137

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Lea Anderson, Board of Selectmen
41 Cochituate Rd
Wayland, MA 01778

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News & Events

Fall Meeting

DPA Membership Meeting & Dinner
Town Building - Senior Center

Sunday, October 29th, 5pm

- 2017 Run/Walk Recap
- Pond Management Update
- 2018 Budget Presentation & Vote
- DPA 50th Birthday

Stay in the loop! If you are not currently receiving our emails, please send an email to dpasecretary84@gmail.com

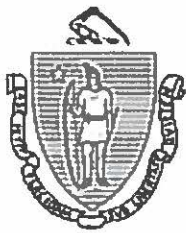


And they're off!

More about the 21st Run/Walk inside



Find us on
Facebook



COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Sim Mullone

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

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

JAY ASH
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

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

KAREN CHARLES PETERSON
COMMISSIONER

RECEIVED

OCT 11 2017

Board of Selectmen
Town of Wayland

October 4, 2017

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

Re: License Expiration Notice

Dear Chairman:

According to the Department of Telecommunications and Cable's (Department) records, your cable television license (license) with Comcast Cable Communications, Inc. expires on 10/16/2020. Federal law provides for a formal renewal process that begins between 36 and 30 months before a license expires. As the Issuing Authority, you may begin the process of determining your community's cable-related needs and to review Comcast Cable Communications, Inc.'s performance under the current license. This is known as the "ascertainment process." You must notify Comcast Cable Communications, Inc. if you elect to begin the ascertainment process. You may also be required to begin the ascertainment process if you receive a notice from Comcast Cable Communications, Inc. invoking the formal renewal process. In that instance, you must begin the ascertainment within six months of receiving such notice.

You may want to form a cable advisory committee (CAC) as part of the formal renewal process and delegate to it certain duties. If you form a CAC, please provide the Department with the name and contact information for at least one CAC member. I have enclosed a fact sheet describing the typical responsibilities of a CAC, and please see M.G.L. c. 268A concerning potential conflicts of interest for both municipal officials and CAC members.

For your convenience, the Department has prepared a "Practical Guide to Cable Television License Renewal" that is available at www.mass.gov/dtc. The Department is also available to advise you regarding your duties and rights during the renewal process. While we may not assist you with substantive negotiations, we would be happy to meet with you and/or your CAC to discuss procedural requirements.

If you would like to schedule a meeting or if you have any questions regarding the renewal process, please contact the Department at 617-305-3580 or dtc.efiling@state.ma.us.

Sincerely,

Sara J. Clark

Sara J. Clark
Department Secretary



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Cable Advisory Committee

Under Massachusetts regulations, an Issuing Authority ("IA"), such as the mayor of a city or the board of selectmen of a town, may appoint a Cable Advisory Committee ("CAC") to advise the IA throughout the licensing process. 207 C.M.R. § 3.01(3). In many instances, the CAC remains as an active committee throughout the term of the license. Currently, there are over 280 CACs in the Commonwealth. The composition of the CAC is determined by the IA, including the number of members on the CAC.

The IA may, at its discretion, define the role and responsibilities of the CAC to the extent permitted under G.L. c. 166A. Thus, there is almost complete local control as to the tasks assigned to an advisory committee, so long as these tasks do not conflict with the statutory requirements of the IA in G.L. c. 166A. While an IA may delegate to a CAC the authority to negotiate a license agreement, an IA may not delegate authority to execute such an agreement. CAC responsibilities vary according to the current status of the license or the objectives of the IA. The following list includes some typical responsibilities assigned to CACs in the Commonwealth:

- Inform and educate the public about cable television service;
- Assess the cable needs of the community and recommend policy changes;
- Conduct regular meetings with cable company representatives to discuss matters of mutual interest;
- Report to the IA on company compliance with the license;
- Supervise the cable operator's response to complaints;
- Respond to citizen's questions regarding the cable television system; and
- Keep abreast of community programming issues.

CACs are considered "governmental bodies" within the purview of the Massachusetts Conflict of Interest law, G.L. c. 268A.

Recognizing that CACs fulfill an important and valuable link between the IA, the licensee, and the citizens of the community, the Department of Telecommunications and Cable ("Department") seeks to build positive professional relationships with the CACs. The Department's staff works closely with local committees to educate them on the licensing process and improve information-sharing.

The Department's program includes an informational presentation available to communities. Please contact the Department to schedule a presentation or to discuss any cable licensing matter.

CABLE TELEVISION LICENSE RENEWAL PROCESS

A PRACTICAL GUIDE

Updated March 2015

**Prepared by the Massachusetts Department of
Telecommunications and Cable**

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

INTRODUCTION

This Practical Guide is presented by the Massachusetts Department of Telecommunications and Cable (“Department”) in our supervisory role with respect to cable television licensing. Under both federal and Massachusetts law, no cable operator may construct and/or operate a cable television system in a community without first obtaining a license. In Massachusetts, the city manager, mayor or board of selectmen is responsible for issuing a license and, hence, is designated as the Issuing Authority. Since Massachusetts law limits the term of a license, Issuing Authorities must periodically review and renew licenses. The Department oversees the licensing renewal process, which has been established under federal law, and supplemented by our regulations.

By establishing a formal renewal process, Congress sought to protect a municipality’s right to a cable system that is responsive to the needs and interests of the local community. Congress also sought to protect cable operators, which have invested in infrastructure in a community, from an unfair denial of a renewal license. The Department’s goal in developing this Practical Guide is to ensure that both municipalities and cable operators are aware of their rights and responsibilities as they contemplate license renewal and to guide them through the process.

In this Practical Guide, the Department first presents an overview of the role of government in cable television licensing. We describe each level of regulatory oversight with a focus on the resources available to Issuing Authorities. Next, the Department outlines the formal renewal process, highlighting the rights and responsibilities of each party under that process. Lastly, we discuss an alternative method by which parties may negotiate informally to reach an agreement. Since there are no procedural protections in informal negotiations, we recommend that this method be used only where there are no contested issues between the parties.

The guidance we provide herein offers both Issuing Authorities and cable operators direction on the most prudent manner in which to proceed under the rules established by Congress so that each party’s rights and interests are protected. The information in this Practical Guide is necessarily general in nature. The Practical Guide is not a substitute for particularized advice from an attorney. In addition, federal and Massachusetts laws and regulations are subject to change. Therefore, persons should refer to the current Massachusetts General Laws, the Code of Massachusetts Regulations, the federal Communications Act of 1934, as amended, or the appropriate federal rules and regulations, or they may consult the Department with case-specific questions.

THE ROLE OF GOVERNMENT

Licenses to construct and/or operate cable television systems are granted by the "Issuing Authority" of a city or town. Pursuant to section 1 of chapter 166A of the Massachusetts General Laws, the Issuing Authority is the mayor of a city, the board of selectmen of a town, or the city manager of a city with a plan D or E charter. The Issuing Authority decides initially whether to go forward with the licensing process, recommends services and terms to be included in the license, and decides whether to grant a license. Upon license renewal, the Issuing Authority reviews the performance of the cable operator, determines the services and terms to be included in the renewal license, and decides whether to grant a renewal license.

The Issuing Authority takes these actions within the framework provided by federal and state law. Congress has enacted a series of laws that establish many of the substantive and procedural requirements governing cable television licensing. For example, federal law requires that each operator obtain a license to service a particular area, and that the license be non-exclusive. Federal law also specifically addresses local access programming and franchise fees. Further, federal law establishes the process by which licenses are granted and renewed. The Federal Communications Commission ("FCC") is charged with ensuring that cable operators and licensing authorities comply with federal law.

In addition to federal oversight regulation, many states have enacted laws regarding cable television regulation. In Massachusetts, the Department oversees cable television licensing and ensures that municipalities and cable operators comply with both federal and state law, particularly where state law is more restrictive than federal law. For example, state law limits the term of a license to 15 years for an initial license and ten years for a renewal license. The Department also acts as an appellate body, as a cable operator may appeal to the Department for review of an Issuing Authority decision.

Since it is the Department's enabling legislation and regulations promulgated thereunder that establish the regulatory framework for Issuing Authorities to follow, the Competition Division has created the position of Municipal Liaison to bridge these two bodies. The Municipal Liaison's chief function is to assist municipal officials as they work through the licensing process. The Municipal Liaison will meet with local governments to explain the statutory and regulatory requirements. The Department maintains, as public records available for inspection, a copy of each license granted in Massachusetts. In addition, we maintain, on our website, an electronic library of many of the licenses executed in Massachusetts. By providing this assistance, the Department seeks to ensure that Issuing Authorities act in compliance with federal and state law to obtain a license that best serves the needs of the community.

THE FORMAL RENEWAL PROCESS

Under federal and Massachusetts law, cable operators may not provide cable television service without obtaining a license from the Issuing Authority. Congress anticipated that cable operators would seek renewal licenses in order to continue providing cable television service in areas where money has been invested in infrastructure. Congress also recognized that municipalities should review the performance of a cable operator and ensure that the operator continues to meet the community's needs and interests. Thus, Congress established a formal renewal process that considers each of these interests. By following the formal renewal process, Issuing Authorities protect their right to a cable television system that serves the needs and interests of the community and cable operators protect their investment from a unfair denial of a renewal license. An Issuing Authority or cable operator must explicitly invoke the protections of the formal renewal process. Generally, each party must notify the other that it intends to proceed under the formal process.

The framework set forth by federal law provides a 36-month period in which to conduct license renewal proceedings. This 36-month period is often referred to as the "Renewal Window." The process consists of two phases: 1) reviewing the cable operator's performance under the current license and ascertaining the needs and interests of the community ("Ascertainment"); and 2) applying the results of the first phase to the review of the cable operator's proposal. The Department recommends that a municipality complete the first phase within 24 months. At most, the ascertainment phase should not extend longer than 30 months. This timeframe affords the municipality sufficient time to review and consider the cable operator's proposal and make a determination whether to grant renewal of the license before the current license expires.

PHASE I -ASCERTAINMENT

COMMENCEMENT

The formal renewal process must begin between 36 and 30 months prior to expiration of the license. The Issuing Authority may commence the formal renewal process on its own initiative and must inform the cable operator that it has done so. While there is no specific action that an Issuing Authority must take in order to demonstrate it has commenced the formal renewal process, the Issuing Authority should perform some tangible act to begin to ascertain the community's cable-related needs and interests. For example, the Issuing Authority could begin to survey the community or hold a public hearing.

Most often, the cable operator will request, in writing, that the Issuing Authority commence the renewal process. The cable operator will make this request between 36 and 30 months prior to the expiration of the license. If the cable operator requests that the Issuing Authority commence the renewal process, the Issuing Authority must begin ascertaining the community's cable-related needs and interests within six months of receiving the cable operator's request.

In either case, the letter requesting commencement of the formal license renewal process or advising that a community has commenced the formal renewal process is called a "Renewal Letter." The Renewal Letter is often referred to as the "626 letter" (626 refers to the section of the federal Communications Act that sets forth the franchise renewal process).

The protections of the formal renewal process must be invoked in a timely manner, that is between 36 and 30 months prior to the expiration of the current license. If neither the Issuing Authority nor the cable operator requests commencement of the formal process within this period, the

opportunity to conduct the renewal license under the formal renewal process expires and neither party is able to claim the protections provided by federal law.

ASCERTAINMENT

Ascertainment is a series of actions taken by the Issuing Authority by which the Issuing Authority reviews the cable operator's performance under the existing license and identifies the cable-related needs and interests of the community. Many Issuing Authorities find it helpful to appoint a committee to assist in gathering information about a cable operator's performance and the community's needs and interests. The size and make-up of the cable advisory committee ("CAC") is determined by the Issuing Authority, and its members may include both residents and non-residents of the community. A CAC is considered a governmental body within the purview of the Massachusetts conflict of interest laws, at General Laws chapters 268A and 268B, and is subject to the guidelines contained therein.

The Issuing Authority, in appointing a CAC, should define the CAC's role and duties. Under Massachusetts law, only the Issuing Authority may make the final licensing decision. However, this does not preclude the Issuing Authority from relying on the CAC's recommendations.

An Issuing Authority and its CAC may choose a wide variety of methods to assess the cable operator's past performance and determine the future needs and interests of the community. An Issuing Authority may:

- Hold a public hearing. While a public hearing is required after receipt of the cable operator's proposal as part of the Issuing Authority's deliberative process, some municipalities choose to hold additional hearings during the ascertainment phase to solicit input from the community with respect to the cable operator's performance as well as the future needs and interests of the community;
- Conduct a municipality-wide survey;
- Meet with community organizations such as schools, senior citizen centers, and police and fire services to determine their proposed needs;
- Review the current license held by the cable operator in the municipality to determine, for example, which terms and conditions have been particularly beneficial to the community;
- Review the cable operator's financial forms (CTV Forms 200 and 400);
- Review consumer complaint records, including CTV Form 500 and municipal records;
- Obtain and review a map of the service area (often referred to as a street or strand map) to determine, in part, whether there are unserved parts of the community;
- Tour the cable operator's technical facilities (i.e., headend) and PEG access studio; and
- Review licenses granted by other communities in Massachusetts (many have been filed electronically and are available at the Department's web page).

There is no law or regulation that explicitly establishes a deadline by which an Issuing Authority must complete ascertainment. The Department has interpreted federal law as requiring Issuing Authorities to complete ascertainment no later than six months prior to the current license expiration date. The better practice, however, is to ensure that ascertainment is complete 12 months prior to license expiration in order to maximize the amount of time an Issuing Authority has to review a cable operator's proposal. Under federal law, a cable operator may not submit a formal renewal proposal until the Issuing Authority has completed ascertainment. This timeline allows a cable operator to respond to the results of the ascertainment studies in preparing its proposal. Upon receipt of the proposal, an Issuing Authority has only four months, or until the expiration of the current license, whichever occurs first, to make a determination on the proposal. Prolonging completion of the ascertainment thus reduces the amount of time during which an Issuing Authority may review and deliberate on a cable operator's proposal.

Under Massachusetts regulations, the Issuing Authority must notify the cable operator in writing upon completion of ascertainment. In its written notification, the Issuing Authority must specifically state the date that ascertainment was complete. The Issuing Authority should provide its ascertainment results as a part of a Request for Proposals ("RFP"). Presenting the ascertainment results to the cable operator is critical in demonstrating the community's needs and without it, a proposal in response to an RFP may not accurately represent the community's needs.

As part of the RFP, the Issuing Authority may provide the cable operator with a draft license in its RFP that contains terms and conditions consistent with the ascertainment results. The Issuing Authority should provide a reasonable deadline for the cable operator to respond to the RFP, that is, to submit what is known as the Formal Renewal Proposal. Generally, a period of at least 30 days is considered a reasonable response time. However, in establishing a deadline for responses, the Issuing Authority must be aware of the length of time remaining before the current license expires.

PHASE II -REVIEW OF PROPOSAL

After the Issuing Authority has completed ascertainment, the cable operator may (on its own initiative) or must (within the time frame established by the Issuing Authority in the RFP) submit its renewal proposal. The cable operator submits its proposal on the Department's Form 100 and often supplements it with additional information.

Upon receipt of the proposal, the Issuing Authority must:

- 1) provide prompt public notice that the cable operator has submitted a renewal proposal;
and
- 2) during the four-month period that begins upon the receipt of the proposal, renew the franchise or issue a preliminary assessment that the franchise should not be renewed; and
- 3) at the request of the cable operator or on its own, commence an administrative proceeding to consider whether:
 - A) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;
 - B) the quality of the cable operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the cable system, has been reasonable in light of community needs;

- C) the cable operator has the legal, financial, and technical ability to provide the services, facilities, and equipment as set forth in the cable operator's proposal; and
- D) the cable operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

If the Issuing Authority determines, upon initial review of the proposal, that it will accept the cable operator's proposal and grant the license, there is no need to commence an administrative proceeding. Nonetheless, under the Department's regulations, the Issuing Authority must conduct a public hearing to allow the public an opportunity to comment on the cable operator's proposal.

The administrative proceeding is an evidence gathering proceeding that must be conducted so as to afford both the Issuing Authority and cable operator due process, including the right to introduce evidence, question witnesses, and require the production of evidence. If the Issuing Authority bases the preliminary denial of the renewal proposal on criteria (A) or (B), the Issuing Authority must provide the cable operator with notice of non-compliance and an opportunity to cure.

At the conclusion of the administrative proceeding, the Issuing Authority must issue a written decision granting or denying the cable operator's proposal for renewal.

GRANTING A RENEWAL LICENSE

If the Issuing Authority determines that the cable operator satisfies each of the four criteria, and decides to grant a renewal license to the cable operator, the Issuing Authority must issue a public, written statement detailing the reasons for the grant of the renewal. The Issuing Authority must file a copy of the issuing statement, renewal license, and license application (Form 100) with the Department within seven days of granting the license. In addition, the Department requests that the Issuing Authority also submit the license in electronic format.

DENYING A RENEWAL LICENSE

If the Issuing Authority determines that the cable operator has failed to satisfy one or more of the criteria, and has not cured any claimed non-compliance, the Issuing Authority must issue a written statement detailing the reasons for its denial within 14 days of the decision to deny. The written decision must include the basis for the denial, that is, identify which of the four criteria the cable operator did not satisfy. The Issuing Authority must file a copy of this statement along with the renewal proposal (Form 100) with the Department.

APPEAL OF ISSUING AUTHORITY DECISION

A cable operator who is aggrieved by a decision of an Issuing Authority to deny a renewal license may appeal to the Department for review of that decision. Any such appeal must be filed within 30 days of the date of the Issuing Authority decision.

INFORMAL NEGOTIATIONS

While Congress established the formal renewal process, Congress also determined that where Issuing Authorities and cable operators are able to negotiate an agreement outside of the formal renewal process, they should be allowed to do so in a manner that best fits the parties' needs. That is, where a municipality has a good working relationship with a cable operator and there are no compliance issues, the parties are not required to follow the formal process. Rather, the parties may negotiate an agreement informally. Since there are no procedural safeguards in informal negotiations, this method should be used only where there are no contested issues between the parties.

When negotiating informally, a cable operator may submit a proposal for the renewal of a license at any time, and the Issuing Authority may, after affording the public adequate notice and an opportunity to be heard, grant or deny such a proposal. By negotiating informally, parties avoid the time requirements of the formal process. For example, Issuing Authorities are not obligated to review a cable operator's proposal within 120 days, as required under the formal process. However, even with informal negotiations, state law requires that the Issuing Authority hold a public hearing on the cable operator's proposal.

There is no regulatory requirement that an Issuing Authority conduct ascertainment if it chooses to negotiate with a cable operator rather than follow the formal process. Nevertheless, the Issuing Authority's negotiating position can only be enhanced if it has ascertainment results to substantiate its requests. It is highly recommended that an Issuing Authority conduct some form of ascertainment prior to entering into negotiations with a cable operator.

In practice, cable operators in Massachusetts will often request an Issuing Authority to commence the formal renewal process, but simultaneously request that the parties negotiate informally. Thus, the parties actually enter into informal negotiations while conducting the formal renewal process. While this is acceptable, there are two potential areas where confusion may result:

1) The Nature of the Proposal - Formal Proposal versus Informal Proposal

There is a distinction between a proposal submitted for discussion purposes and one that is submitted as a formal renewal proposal, namely, the submission of the formal renewal proposal triggers the 120-day review period. In order to avoid any confusion or violation of process, an Issuing Authority negotiating informally should ensure that the cable operator identify any informal proposal submitted as "Informal" or "For Informational Purposes Only."

2) "Reservation of Rights"

As indicated above, often a cable operator will request that the parties negotiate informally, while "reserving its rights" under the formal renewal process. In essence, the cable operator protects itself from an unfair license denial, but is relieved of following the strict time requirements of the formal process. The Issuing Authority is similarly relieved of the strict requirements of the formal process, including the requirement to conduct ascertainment. However, it is unlikely that a decision to deny a license will stand without appropriate ascertainment to support it. Thus, it is recommended that an Issuing Authority conduct ascertainment even when negotiating informally. Moreover, if informal negotiations do not result in a renewal license, the cable operator may revert back to the formal process, and submit a formal renewal proposal for the Issuing Authority's consideration. The review is limited to 120 days under federal law. Therefore, in order to ensure that sufficient time exists

for the Issuing Authority to review a formal proposal, the Department recommends that an Issuing Authority complete ascertainment 12 months prior to the license expiration date, but absolutely no later than six months prior to the license expiration date.

Informal negotiations may be a productive and efficient means for many Issuing Authorities and cable operators to reach mutually agreeable license terms, particularly where the parties have developed a solid professional relationship. However, where a party which has agreed to proceed informally has "reserved its rights" under the formal renewal process, both parties should proceed with the understanding that the requirements of the formal process may become applicable.

REFERENCES

RELEVANT LAWS AND REGULATIONS

Massachusetts General Laws, Chapter 166A

Code of Massachusetts Regulations, 207 C.M.R. §§ 3.00-10.00

United States Code, 47 U.S.C. § 546

ADDITIONAL RESOURCES

Information regarding cable television licensing may be found on the Department's website at www.mass.gov/ocabr/government/oca-agencies/dtc-lp/competition-division/cable-tv-division/municipal-info/. The Department's website also provides several licenses in electronic format that are available for download.

A comprehensive glossary of cable-related terms is available on the Department's website at www.mass.gov/ocabr/government/oca-agencies/dtc-lp/competition-division/cable-tv-division/glossary-of-cable-television-terms.html.

David Porter

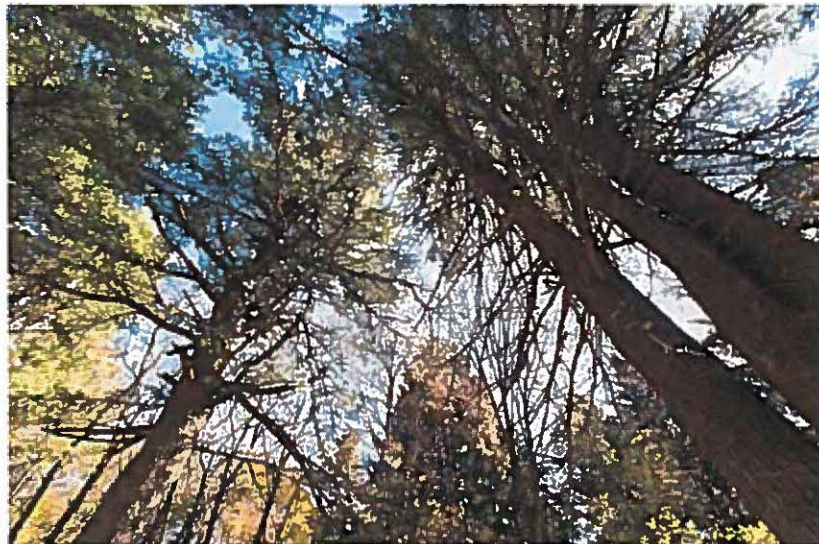
From: Balmer, Nan
Sent: Friday, October 13, 2017 6:02 AM
To: David Porter
Subject: Fwd: MetroWest LandLine Kickoff - Join Us!

Correspondence

Nan Balmer
(508) 237-1330

Begin forwarded message:

From: "Karen Adelman, Coordinator, MetroWest Regional Collaborative"
<kadelman@mapc.org>
Date: October 13, 2017 at 5:22:34 AM EDT
To: nbalmer@wayland.ma.us
Subject: MetroWest LandLine Kickoff - Join Us!
Reply-To: kadelman@mapc.org



MetroWest LandLine Kickoff

When

Thursday, October 26, 2017 from
9:00 AM to 10:30 AM EDT

[Add to Calendar](#)

Where

Dear Nan,

You're cordially invited to a festive outdoor event to celebrate the vision of a continuous bike and walking trail network throughout MetroWest -- and to kick off MWRC's MetroWest LandLine Project, which will bring that vision a little closer. Join us!

There will be information about the project, breakfast, a cool

(Look for event sign at gate)

Ashland State Park

156 West Union Street
Ashland, MA 01721

placemaking activity -- all in the beautiful off-season Ashland State Park, open early just for us!

Please click on the link below to RSVP!



Register Now!

Event and breakfast are free, and parking fees are waived for the event. Look for event signs at the gate.

We can't wait to see you at the kick-off!

Sincerely,

Karen Adelman, MetroWest Regional Collaborative Coordinator
Metropolitan Area Planning Council & MetroWest Regional Collaborative

kadelman@mapc.org

617.933.0704

Driving Directions



The MetroWest Regional Collaborative (MWRC) is the locally-run MetroWest sub-organization of the Metropolitan Area Planning Council (MAPC). It serves Ashland, Framingham, Holliston, Marlborough, Natick, Southborough, Wayland, Wellesley, and Weston. Its board is composed of one member of the Planning Board and one member of the Board of Selectmen from each participating municipality.

Metropolitan Area Planning Council, 60 Temple Place, Boston, MA 02111

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Sent by kadelman@mapc.org in collaboration with



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