

**PACKET**

**DEC 11**

**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, December 11, 2017**  
**6:45 p.m.**  
**Wayland Town Building**  
**Selectmen's Meeting 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.*

- 6:45 pm 1.) Call to order by Chair
- Review agenda for the public; Announcements
- 6:47 pm 2.) FY17 Audit: Hear presentation by Melanson Heath on FY17 Audit with Finance Committee and Audit Committee
- 7:05 pm 3.) Public comment
- 7:10 pm 4.) Community Compact Best Practice Project: Meet with Michael Ward, Director of Government Services at the Collins Center, regarding proposal for a Town Administrator Special Act; discuss next steps
- 8:00 pm 5.) Liquor License Hearing: Application filed by Mason Mack Petroleum, LLC dba Wayland Gulf, for a new off-premise Annual Wine and Malt Beverage License, at 28 Boston Post Road; Vote on application filed by Mason Mack Petroleum for an Annual Package Store License to sell wines and malt
- 8:20 pm 6.) 5 Concord Road: Review draft of Town Counsel petition to Probate Court
- 8:30 pm 7.) ATM Discussion: Review potential articles for Board sponsorship, ATM schedule/Special Town Meeting
- 8:45 pm 8.) FY19 Debt Exclusions: Discuss Board policy and position on project funding
- 8:55 pm 9.) FY19 Capital Projects: Review priorities
- 8:40 pm 10.) 2018 License Renewal: Vote to approve renewal of liquor licenses, common victualler licenses, entertainment licenses, and used car dealer licenses
- 8:55 pm 11.) Town Administrator's Report
1. Correspondence
  2. Update on Oxbow Meadows construction contract
  3. Board of Selectmen meeting schedule

**BOARD OF SELECTMEN**  
**Monday, December 11, 2017**  
**6:45 p.m.**  
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**41 Cochituate Road Wayland**

**Proposed Agenda Page Two**

- 9:10 pm 12.) Minutes: Vote to approve minutes of November 20 and November 27
- 9:15 pm 13.) Consent Calendar: Review and vote to approve
- 9:20 pm 14.) Correspondence: Review
- 9:25 pm 15.) Selectmen's reports and concerns
- 9:30 pm 16.) Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 9:35 pm 17.) Adjourn

**TOWN OF WAYLAND, MASSACHUSETTS**

**Management Letter**

**For the Year Ended June 30, 2017**

DRAFT

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To the Board of Selectmen  
Town of Wayland, Massachusetts

In planning and performing our audit of the financial statements of the Town of Wayland, Massachusetts as of and for the year ended June 30, 2017, in accordance with auditing standards generally accepted in the United States of America, we considered the Town of Wayland's internal accounting control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Town's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be deficiencies, significant deficiencies, or material weaknesses. In addition, because of the inherent limitation in internal control, including the possibility of management's override of controls, misstatements due to error or fraud may occur and not be detected by such controls. We did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

During our audit, we became aware of other matters that we believe represent opportunities for strengthening internal controls and operating efficiency. The recommendations that accompany this letter summarize our comments and suggestions concerning those matters.

The Town's written responses to our comments and suggestions have not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

This communication is intended solely for the information and use of management, Board of Selectmen, and others within the organization and is not intended to be and should not be used by anyone other than these specified parties.

After you have had an opportunity to consider our comments and recommendations, we would be pleased to discuss them with you.

December 2, 2017

DRAFT

**PRIOR YEAR RECOMMENDATION:**

**1. Improve Automation in Tax Collector's Office**

Prior Year Issue:

In the prior year, we recommend the Town consider automation improvements in the Treasurer/Collector Office. Specifically, the software should contain some of the following features:

- Integration with the Town Accountant's records.
- Automation of cash register and receipt validator.
- Automation of daily cash-out function.
- Optical scanning of tax bills for posting receipts to customer accounts.

Current Year Status:

The Town hired a new IT Director in fiscal year 2016 and we understand will consider incorporating this project into the fiscal year 2018 budget.

Further Action Needed:

We continue to recommend the Town consider automation improvements in the Treasurer/Collector Office. The above noted features should result in improved efficiency, eliminating the need for many manual and time-consuming procedures as well as provide additional mitigating controls given the limited number of employees in the office.

Town's Response:

**CURRENT YEAR RECOMMENDATIONS:**

**2. Improve Controls Over Payroll**

Our inquiry of the Town's payroll cycle disclosed that the Clerk had the ability to adjust pay rates. As a result, a lack of segregation of duties exists whereby one individual can control all elements of a transaction.

We recommend that the Town improve controls over payroll by ensuring all rate adjustments are processed and/or approved by Human Resources.

Town's Response:



**3. Adhere to a Formal Water Billing Schedule**

Fiscal year 2017 water revenues (prior to any accrual basis adjustments) were approximately \$575,000 (15%) less than budgeted. The shortfall appears to result from the late issuance of the fourth quarter bills. Specifically, bills were issued in late June 2017, whereby similar bills from fiscal year 2016 were issued in late May 2016.

We recommend that the Town create and adhere to a strict billing timetable to avoid future revenue shortfalls.

Town's Response:

DRAFT

**Balmer, Nan**

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**Subject:**

FW: Draft TA special for discussion with the Board Monday night

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**Attachments:**

Proposed Wayland Town Administrator Act.DRAFT.12.07.17.docx

December 7, 2017

Chair Anderson and Members of the Board,

Please find attached a draft of a potential new town administrator special act that would implement many of the recommendations we made in our report. We have flagged about a dozen "decision points" for the Board to consider. However, it should be noted that every section, phrase, and word is actually a decision point, because all of the text could be revised at the Board's discretion. What we have provided here is simply a starting point for discussions. We put this together based on our report and what we know of the town. We encourage Board members to review it and to bring questions about it and proposed changes. We suspect (and hope) that Board members will have lots of ideas for how to align this better with Wayland's needs, and we look forward to a good discussion about it. Please let us know if you have any questions.

Regards,

Michael Ward and Frederick Kingsley

Michael Ward

Director of Municipal Services

Edward J. Collins, Jr. Center for Public Management

John W. McCormack Graduate School of Policy and Global Studies

University of Massachusetts Boston

\* DRAFT "FINANCIAL MANAGEMENT STRUCTURE"  
REPORT, DATED 10/5/17 IS IN DROPBOX AND  
ON WEBSITE WITH PACKET FOR REFERENCE

**DRAFT – AN ACT RELATIVE TO THE POSITION OF TOWN ADMINISTRATOR IN THE TOWN OF WAYLAND – DRAFT**

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Comment [mjw1]: Decision point 1: Should the position be called "town administrator" or "town manager"? There are no material differences. The set of authorities and responsibilities can be determined independently from the title. Also, note that the title of this act could be changed to reflect the fact that it addresses a wide range of topics related to the town administrator. The title in here currently is the same as the current TA act.

Be it enacted, etc., as follows:

**SECTION 1. DESIGNATION OF ELECTED OFFICIALS**

(a) Upon the effective date of this act, the registered voters of the town of Wayland shall, in accordance with any applicable laws, bylaws, votes of the town or inter-local agreement continue to elect the following:

- (i) members of the board of selectmen;
- (ii) town moderator;
- (iii) town clerk;
- (iv) school committee members;
- (v) assessors;
- (vi) planning board members;
- (vii) board of health members;
- (viii) commissioners of trust funds;
- (ix) library trustees;
- (x) members of the board of public works;
- (xi) recreation commissioners; and
- (xii) housing authority members.

Comment [mjw2]: Decision point 2: Through this special act, the town may convert any of these offices from elected to appointed, with the exception of the board of selectmen, moderator, and school committee. The people in these positions can be grandfathered in if the town wishes. Please see report for further comment on the elected status of these boards, committees, and positions.

(b) The powers, duties and responsibilities of elected and appointed officials shall be as provided by applicable General Laws, special acts, bylaws, and votes of the town, except as otherwise expressly provided herein.

(c) Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available at reasonable times to the board of selectmen or town administrator for consultation, conference, and discussion on matters relating to their respective offices.

**SECTION 2. POWERS AND DUTIES OF THE BOARD OF SELECTMEN**

Comment [mjw3]: Decision point 3: Some towns have been retitling their "board of selectmen" to "selectboard," to make them gender neutral. This is an option through this act.

(a) The executive powers of the town shall be vested in the board of selectmen, who shall have all the powers given to boards of selectmen in the General Laws.

(b) The board of selectmen shall consist of 5 persons elected by the voters of the town. The term of each member of the board of selectmen shall be 3 years. The board of selectmen shall annually elect a chairperson from among its members.

(c) The board of selectmen shall serve as the chief goal-setting and policy-making body of the town. The board of selectmen shall set guidelines and policy directives that are to be implemented by the town administrator and by other officers and employees appointed by or under its authority. The board of selectmen shall have the power to enact rules and regulations to implement policies and to issue interpretations of the rules and regulations.

(d) The board of selectmen shall exercise, through the town administrator, general supervision over all matters affecting the interests or welfare of the town. The board of selectmen shall not normally administer the day-to-day affairs of the town.

(e) The board of selectmen shall appoint the town administrator, town counsel, independent auditor,

assistant or special counsels, and all members of committees, boards, and commissions, except those positions that are elected by the voters or as otherwise expressly provided herein. The board of selectmen may make appointments to all positions and committees the board of selectmen creates for special or general purposes.

(f) The board of selectmen shall have oversight of such boards, committees, positions, or commissions appointed by the board of selectmen.

(g) The board of selectmen shall have the responsibility and authority for licenses and other non-personnel related functions as provided by the General Laws and the bylaws of the town.

(h) The board of selectmen shall be responsible for and shall approve the form and content of all town meeting warrants before such warrants are issued.

(i) The board of selectmen shall be responsible for establishing and maintaining written procedures for the preparation of the budget. The selectmen shall annually issue 1 or more written budget messages, including fiscal guidelines and the timeline, at the beginning of each budget cycle or at a time established by the town bylaws.

(j) The board of selectmen shall review the annual proposed budget prepared by the town administrator and make revisions the board of selectmen deems advisable. The town administrator shall present the budget as approved by the board of selectmen to the finance committee. The finance committee shall consider the budget proposed, shall establish the amounts which should, in its opinion, be appropriated for the ensuing fiscal year, shall add thereto such explanations and suggestions as it deems expedient, and shall report to the town meeting, in print or otherwise, such recommendations as it deems best for the interests of the town.

Comment [mjw4]: Decision point 4: Other than the town administrator, what other positions should the board of selectmen appoint?

Comment [mjw5]: Decision point 5: Which boards, committees, commissions, etc. should the board appoint? (And which should the town administrator or moderator appoint? Should the finance committee appointment be moved, as discussed the report?)

### SECTION 3. APPOINTMENT OF THE TOWN ADMINISTRATOR

(a) The board of selectmen shall appoint, by an affirmative vote of at least 3 members, a town administrator who shall be the chief administrative officer of the town. The board of selectmen shall appoint the town administrator solely on that person's executive and administrative qualifications. The town administrator shall be a professionally qualified person of proven ability, especially fitted by education, training, and previous experience to perform the duties of the office. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate.

(b) The town administrator shall devote full time to the duties of the office and shall not engage in any other business or occupation during the term of his employment by the town, unless such action is approved in advance, in writing, by the board of selectmen. The town administrator shall hold no elective office in the town during his tenure as town administrator, but the board of selectmen may appoint the town administrator to any non-elective office or position consistent with the responsibilities of the town administrator.

(c) The board of selectmen may enter into a formal contract with the town administrator and may set contract terms that shall have precedence over any town personnel bylaws. The board of selectmen shall set the compensation for the town administrator, not to exceed an amount appropriated by the town meeting.

(d) No member or former member of the board of selectman shall be eligible to be appointed to the position of the town administrator within 15 months of termination of such member's service.

(e) Before entering upon the duties of the office, the town administrator shall be sworn, in the presence of a majority of the members of the board of selectmen, to the faithful and impartial performance thereof by the town clerk or a notary public.

(f) The town administrator shall execute a bond in favor of the town for the faithful performance of the town administrator's duties in such sums and with such sureties as may be fixed and approved by the

Comment [mjw6]: Decision point 6: This could be majority or super-majority.

board of selectmen, the cost for which will be borne by the town.

(g) The board of selectmen shall provide for an annual review of the job performance of the town administrator.

#### SECTION 4. REMOVAL OF TOWN ADMINISTRATOR

(a) The board of selectmen, by a majority vote of its full membership, may remove the town administrator. At least 30 days before such removal shall be effective, the board of selectmen shall file a preliminary written resolution with the town clerk setting forth reasons, if any, for the proposed removal, a copy of which shall be delivered to the town administrator.

Comment [mjw7]: Decision point 7: This could be majority or super-majority.

(b) The town administrator may reply in writing to the resolution and may request, in writing, a public hearing; provided, however, that the request for a hearing shall be received by the town clerk not later than 10 days after the town administrator's receipt of the resolution. If the town administrator so requests, the board of selectmen shall hold a public hearing not earlier than 10 days nor later than 20 days after the filing of such request.

(c) Following the public hearing or, if none, at the expiration of 30 days following the filing of the preliminary resolution, the board of selectmen may adopt a final resolution of removal.

(d) As part of the preliminary resolution, the board of selectmen may suspend the town administrator from duty.

(e) Nothing contained herein shall limit the authority of the board of selectmen to suspend or remove the town administrator as provided by the laws of the commonwealth.

(f) The board of selectmen shall determine if such suspension shall be with or without pay.

#### SECTION 5. ABSENCE OR VACANCY OF TOWN ADMINISTRATOR

(a) During a temporary absence, not to exceed 30 days, the town administrator shall designate by a letter filed with the chair of the board of selectmen, a temporary town administrator to perform the duties of the office. Such delegation shall be limited to those matters not allowing for delay during the town administrator's absence.

(b) If, in the sole opinion of the board of selectmen, the town administrator's designee is unable to effectively perform the duties of the office during the temporary absence of the town administrator, the board of selectmen shall appoint a person to perform the duties of the office; provided, however, that those duties shall be limited to those matters not allowing for delay during the town administrator's absence.

(c) During an absence of the town administrator for 30 or more days, due to disability, illness, or other similar circumstance, the board of selectmen shall appoint an acting town administrator for the duration of the extended absence. Such designation will cease upon the return of the town administrator.

(d) If the individual serving as acting town administrator is a town officer or employee, the individual shall return to the position held prior to being appointed as the acting town administrator.

(e) No member of the board of selectmen shall serve as acting town administrator.

(f) If the board of selectmen determines, by majority vote of the full membership, that the town administrator will be unable to resume the duties of the job for any reasons, including, but not limited to, resignation, termination, or illness, the office of town administrator shall be filled as soon as practical by the board of selectmen, provided that the board of selectmen may appoint an acting town administrator to serve until a town administrator is appointed. The duties of an acting town administrator shall be limited to those matters not allowing for delay.

**SECTION 6A. ADMINISTRATIVE RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR**

**Comment [mjw8]:** Decision point 8: Are there items on this list that do not sound like they are appropriate for Weyland?

- (a) The town administrator shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the effective management of all town affairs placed in the town administrator's charge by this act, by the board of selectmen, by bylaws, or by vote of the town meeting, and for the implementation of town policies placed in the town administrator's charge by the board of selectmen.
- (b) The town administrator shall supervise all town departments, with the exception of the school department, and shall direct day-to-day affairs of the town.
- (c) The town administrator shall be responsible for assuring that the budget is administered as adopted by town meeting and in accordance with the General Laws, this act, and the town bylaws.
- (d) The town administrator shall advise the board of selectmen of all matters requiring action by the board of selectmen or by the town.
- (e) The town administrator shall, in consultation with the personnel board, oversee the town's personnel system and staff in accordance with the town bylaws, and shall oversee personnel evaluation policies and practices, enforcement of labor contracts, labor relations, collective bargaining, and all applicable state and federal regulations relating to employment. The town administrator may appoint a human resources director to assist with these human resources duties.
- (f) The town administrator shall attend all meetings of the board of selectmen, except when excused, and shall have the right to speak but not vote. The town administrator shall attend all annual and special town meetings and shall be permitted to speak when recognized by the moderator.
- (g) The town administrator shall administer, either directly or through a person appointed by the town administrator in accordance with this act, the General Laws and special acts applicable to the town, all town bylaws, and all rules and regulations established by the board of selectmen.
- (h) The town administrator shall have access to all information necessary for the proper performance of the duties of town administrator in accordance with the town bylaws, except for attorney-client privileged information that is provided to or by the board of selectmen, unless the board of selectmen specifically authorizes such access.
- (i) The town administrator may, without notice, cause the affairs of any division or department, except the school department, or the conduct of any officer or employee thereof, to be examined.
- (j) The town administrator shall keep the board of selectmen fully informed regarding all departmental operations, fiscal affairs, town priorities and concerns, and administrative actions, and shall submit periodic reports summarizing such matters to the board of selectmen.
- (k) The town administrator shall coordinate the activities among boards, commissions, and committees concerned with long-range municipal planning, including physical or economic development and environmental or resource protection of the town.
- (l) The town administrator shall be responsible for the maintenance all town buildings, property, and facilities, except those under the jurisdiction of the school department, unless requested by the school committee. The town administrator shall develop, keep, and annually update a full and complete inventory of all property of the town, both real and personal.
- (m) Under subsection (h) of section 2, the town administrator shall be responsible for the preparation of all town meeting warrants in accordance with the town bylaws and distribute, or cause to be distributed, copies of town meeting warrants to the residences of all registered voters of the town.
- (n) Upon request, and with the approval of the board of selectmen, the town administrator shall prosecute, defend, or compromise all litigation to which the town is party.
- (o) The town administrator shall keep full and complete records of town administrator's office and

annually submit to the board of selectmen a full written report of the operations of the office.

(p) The town administrator shall devote full time to the duties of said office and shall not engage in any other business or occupation during the term of employment by the town, except with the written consent of the board of selectmen. The town administrator shall hold no elective office in the town during the term of employment as town administrator, but the board of selectmen may appoint the town administrator to any non-elective office or position consistent with the responsibilities of the town administrator.

#### **SECTION 6B. FINANCIAL RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR**

(a) The town administrator shall be the chief financial officer of the town.

(b) The town administrator may, at the town administrator's discretion and with the approval of the board of selectmen, establish a consolidated department of finance responsible for the coordination and overall supervision of all fiscal and financial affairs of all agencies of town government and may appoint a director of finance; provided, however, that the terms of persons holding the position of accountant, treasurer/collector, and director of assessing on the effective date of this act shall not be reduced by reason of the consolidation.

(c) The town administrator shall be responsible for controlling all appropriated budget expenditures, which includes the power to approve or reject all warrants, including payroll, for the payment of town funds prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws.

(d) The town administrator shall be responsible for the preparation of the proposed operating budget to be included in the annual town meeting warrant. The proposed budget shall be prepared in accordance with the most current budget process by the date set pursuant to subsection (i) of section 2 as approved by the board of selectmen.

(e) The town administrator shall submit to the board of selectmen, by the date established pursuant to subsection (i) of section 2, a written proposed budget for the ensuing fiscal year.

(1) The proposed budget shall describe all actual or estimated revenue from all sources, and all actual or proposed expenditures, including debt service, for the previous, current, and ensuing fiscal years.

(2) The proposed budget shall detail all estimated expenditures for current operations during the ensuing fiscal year, detailed by agency, department, committee, purpose, and position.

(3) In addition, the town administrator shall prepare a written proposed capital improvements budget for the ensuing fiscal year and a 5-year forecast, and include both as part of the proposed annual budget.

(4) For the purpose of preparing the budget for the ensuing fiscal year, the town administrator shall include an estimate of revenues to be collected and free cash available at the close of the current fiscal year, including estimated balances in special accounts.

(5) The town administrator shall report on the estimated funds required to be levied and raised by taxation to defray all expenses and liabilities of the proposed budget together with an estimate of the tax rate necessary to raise such amount and include the information in the proposed budget.

(f) The town administrator shall submit a preliminary budget and capital plan to the board of selectmen and the finance committee pursuant to the budget process set forth in subsection (i) of section 2. The preliminary budget and capital plan shall be submitted not later than 70 days prior to the date of the annual town meeting.

(g) To assist the town administrator in preparing the proposed annual budget of revenue and

expenditures, all boards, officers, and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the town administrator, in writing, in such form as the town administrator shall establish, a detailed estimate of the appropriations required and available funds.

(h) The town administrator shall keep the board of selectmen informed regarding the availability of federal and state funds and how such funds might relate to the town's current and long-range needs.

(i) The town administrator shall be responsible for filing all grant applications.

(j) After the close of each fiscal year and after the certification of free cash by the department of revenue, the town administrator, as soon as practicable, shall cause to have prepared audited financial statements. Upon completion of the audit, the town administrator shall promptly distribute the statements to the board of selectmen and the finance committee.

#### SECTION 6C. APPOINTMENT RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR

(a) The town administrator shall appoint, based upon merit and qualifications alone, and may remove, all department heads, officers, subordinates, and employees for whom no other method of selection is provided in the charter, except employees of the school department and employees identified in subsection (c) of this section.

**Comment [mjw9]:** Decision point 9: Are there any that should be specifically referenced here? Are there any exceptions to this?

(b) Appointments proposed by the town administrator, except as noted in subsection (e) of this section, shall become effective on the 15th day following the day on which notice of the proposed appointment is filed at a board of selectmen meeting, unless the board of selectmen shall, within such period and by a majority vote, vote to reject such proposed appointment, or has sooner voted to affirm it.

**Comment [mjw10]:** Decision point 10: Are there any exceptions to this? Should it apply to department heads only, or all staff?

(c) The town administrator shall appoint, based upon merit and qualifications:

- i. a director of assessing, with the consent of the board of assessors;
- ii. a town planner, with the consent of the planning board;
- iii. a director of public health, with the consent of the board of health;
- iv. a library director and all other library employees, with the consent of the board of library trustees.
- v. a recreation director, with the consent of the recreation commission; and
- vi. a director of public works, with the consent of the board of public works.

**Comment [mjw11]:** Decision point 11: The hiring process could also be set up the other way around. Instead of the board bringing a candidate to the town administrator, the town administrator could bring a proposed candidate to the board for approval. Either way could work, as long as both have a role, and the town administrator is the actual appointing authority.

For the purposes of this section, consent shall mean that each multiple-member body cited herein shall interview job candidates and make appointment recommendations to the town administrator. The town administrator shall not make an appointment under this section without the consent of the multiple-member body cited herein. In the case of employees appointed under this section, the town administrator shall inform the chair of the appropriate multiple-member body prior to the commencement of any disciplinary action or termination process, except in cases of an emergency, and provide an opportunity to the chair to confidentially comment on the proposed action directly to the town administrator.

(d) Relative to appointments made by the town administrator under subsection (c) of section 5-5, the policies established by each multiple-member body derived directly from statutory authority shall be the non-administrative policy adhered to by the town administrator and the town administrator's staff.

(e) Appointments made by the town administrator under subsection (c) of this section shall be effective immediately and shall not be subject to rejection by vote of the board of selectmen.



**SECTION 6D. COLLECTIVE BARGAINING RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR**

(a) The town administrator shall negotiate collective bargaining contracts on behalf of the board of selectmen; provided, however, that such contracts shall be subject to approval, ratification, and execution by the board of selectmen.

(b) The board of selectmen may authorize use of additional counsel or persons to assist the town administrator in the negotiations at its discretion.

**SECTION 6E. PROCUREMENT RESPONSIBILITIES AND POWERS OF THE TOWN ADMINISTRATOR**

The town administrator shall be the chief procurement officer, pursuant to chapter 30B of the General Laws and all other applicable statutes, procedures, and bylaws, shall be responsible for purchasing for all town functions and departments, and shall award all contracts needed for the operation of all town functions and departments, except for the school department, unless otherwise specifically requested by the school committee.

**SECTION 7. ORGANIZATION OF AGENCIES**

The town administrator may reorganize, consolidate, establish, or abolish any department or position under the town administrator's direction or supervision at the town administrator's discretion and with the board of selectmen's approval. With the approval of both the board of selectmen and finance committee, the town administrator may transfer all or part of any unexpended appropriation of a discontinued department, board, or office to any other town department, board, or office under the board of selectmen's jurisdiction.

**SECTION 8. CONTINUATION OF EXISTING LAWS, CONTRACTS, AND EMPLOYMENT**

(a) All laws, bylaws, votes, rules and regulations whether enacted by authority of the Town or any other authority, which are in force in the Town of Wayland on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act, shall continue in full force and effect until otherwise provided by other law, bylaws, votes, rules and regulations, respectively.

(b) No contract existing and no action at law or suit in equity, or other proceeding pending on the effective date of this act, or the time of revocation of such acceptance, shall be affected by such acceptance or revocation of this act.

(c) Any person holding a town office or employment under the Town shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with this act for the performance of said duties by another person or agency. No person who continues in the permanent full-time service or employment of the Town shall forfeit his pay grade or time in service.

**SECTION 9. DISPOSITION OF CERTAIN SPECIAL LAWS**

The following special laws, and any amendment thereto, which were enacted for special purposes and were limited in time by their own provisions, are hereby recognized as obsolete and are to stand repealed, but all acts taken under the authority of the said special laws is hereby preserved: [put list here]

**SECTION 10. SUBMISSION TO VOTERS**

This act shall be submitted to the voters of the Town of Wayland for acceptance at an annual or special town election in the form of the following question:

*"Shall an act passed by the General Court in the year 2018 titled 'An Act Relative To The Position Of Town Administrator In The Town Of Wayland,' be accepted?"*

The Town shall include below the ballot question a fair and concise summary thereof prepared by town counsel and approved by the board of selectmen. If a majority of votes cast in answer to this question is in the affirmative, Sections 1 through 9 of this act shall take effect sixty (60) days following acceptance by the voters.

**SECTION 11. TIME OF TAKING EFFECT**

Section 10 of this act shall take effect upon its passage.

**Comment [mjw12]:** Decision point 12: The board could also decide to make it so this takes effect on passage and does not require going back to the voters.

**Comment [mjw13]:** Note that further transition provisions may be necessary, but these should be filled in only after all other decisions are made.

DRAFT

DATE: December 11, 2017  
TO: Board of Selectmen  
FROM: David Porter, Executive Assistant to the Town Administrator and Board of Selectmen  
RE: Application of Mason Mack Petroleum d/b/a Wayland Gulf for a new wine & malt license

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**REQUESTED ACTION:**

HOLD A PUBLIC HEARING ON THE MASON MACK APPLICATION AND POTENTIALLY VOTE TO APPROVE THE LICENSE APPLICATION.

MOTION: I move to approve the license application of Mason Mack, LLC for an off-premise liquor license to sell wine and malt at the Wayland Gulf convenience store located at 28 Boston Post Road.

**BACKGROUND**

On November 7, we received in the Selectmen’s Office the application of Mason Mack Petroleum, LLC for a new liquor license to sell wine and malt beverages at the convenience store of the Wayland Gulf gasoline service station located at 28 Boston Post Road.

Legal Notice

The Town posted legal notice of tonight’s hearing in the November 30 *Wayland Town Crier* newspaper. The applicant received from the Wayland Assessor’s Office a list of the abutters – properties located within 300 feet of the Gulf service station – and sent a copy of the advertisement to the owners of each property. The applicant provided registered mail receipts which I have compared against the Assessor’s list. I worked with the Wayland Assessor’s Office and the Weston Assessor’s Office to confirm that no churches, hospitals, or schools are within 500 feet of the Gulf service station. Accordingly, a more rigorous notification process was unnecessary.

Documents

Manheim and Jennifer Mack, co-owners of Mason Mack Petroleum, have submitted all the required documents. A copy of their retail application and floor plan are included in this week’s packet. Sensitive personal information such as social security numbers and home addresses are redacted from the packet.

Comments from the Police Chief and Fire Chief

Chief Swanick reviewed the Mason Mack application. A criminal background check on Manheim and Jennifer Mack returned no disqualifiers. He observed, but made a point of not registering it as a concern, that there are two other package stores in close geographic proximity – Post Road Liquors (all alcoholic beverages) at 44 Boston Post Road and Wayland Variety (wine and malt) at 71 Boston Post Road.

Chief Houghton inspected the convenience store at 28 Boston Post Road and reported full compliance with current fire prevention regulations. He expressed no concerns.

Wayland’s Liquor License Quota

Category	Quota	In-use
On-premise All Alcoholic	14	12
On-premise Wine and Malt	5	1
Off-premise All Alcoholic	4	4
Off-premise Wine and Malt	5	2



*The Commonwealth of Massachusetts*  
*Alcoholic Beverages Control Commission*  
239 Causeway Street  
Boston, MA 02114  
[www.mass.gov/abcc](http://www.mass.gov/abcc)

**APPLICATION FOR A RETAIL ALCOHOLIC BEVERAGES LICENSE**

The following documentation is required as a part of your retail license application.

*ABCC investigators reserve the right to request additional documents as a part of their investigation.*

- Monetary Transmittal Form** with \$200 fee  
You can **PAY ONLINE** or include a \$200 check made out to the ABCC
- Retail Application (this packet)
- Beneficial Interest - Individual Form  
For any individual with direct or indirect interest in the proposed licensee
- Beneficial Interest - Organization Form  
For any organization with direct or indirect interest in the proposed licensee
- CORI Authorization Form  
For the manager of record AND any individual with direct or indirect interest in the proposed licensee. **This form must be notarized with a stamp\***
- Proof of Citizenship for proposed manager of record  
Passport, US Birth Certificate, Naturalization Papers, Voter Registration
- Vote of the Corporate Board  
A corporate vote to apply for a new / transfer of license and a corporate vote to appointing the manager of record, signed by an authorized signatory for the proposed licensed entity
- Business Structure Documents  
If Proposed Licensee is applying as:
  - A Corporation or LLC - Articles of Organization from the Secretary of the Commonwealth
  - A Partnership - Partnership Agreement
  - Sole Proprietor - Business Certificate
- Purchase and Sale Documentation  
Required if this application is for the **transfer** of an existing retail alcoholic beverages license
- Supporting Financial Documents  
Documentation supporting any loans or financing, including pledge documents, if applicable
- Floor Plan  
Detailed Floor Plan showing square footage, entrances and exits and rooms
- Lease  
Signed by proposed licensee and landlord. If lease is contingent upon receiving this license, a copy of the unsigned lease along with a letter of intent to lease, signed by licensee and landlord
- Additional Documents Required by the Local Licensing Authority

\* Excludes Officers and Directors of Non-Profit Clubs



The Commonwealth of Massachusetts  
 Alcoholic Beverages Control Commission  
 239 Causeway Street  
 Boston, MA 02114  
 www.mass.gov/abcc

**APPLICATION FOR A RETAIL ALCOHOLIC BEVERAGES LICENSE**

Please complete this entire application, leaving no fields blank. If field does not apply to your situation, please write N/A.

**1. NAME OF PROPOSED LICENSEE (Business Contact)**

This is the corporation or LLC which will hold the license, not the individual submitting this application. If you are applying for this license as a sole proprietor, not an LLC, corporation or other legal entity, you may enter your personal name here.

**2. RETAIL APPLICATION INFORMATION**

There are two ways to obtain an alcoholic beverages license in the Commonwealth of Massachusetts, either by obtaining an existing license through a transfer or by applying for a new license.

Are you applying for a new license  New  Transfer or the transfer of an existing license?

If applying for a new license, are you applying for this license pursuant to special legislation?  
 Yes  No Chapter  Acts of

If transferring, please indicate the current ABCC license number you are seeking to obtain:

If transferring, by what method is the license being transferred?

**3. LICENSE INFORMATION / QUOTA CHECK**

City/Town

TYPE	CATEGORY	CLASS
<input type="text" value="\$15 Convenience Store"/>	<input type="text" value="Wines and Malt Beverages"/>	<input type="text" value="Annual"/>

**4. APPLICATION CONTACT**

The application contact is required and is the person who will be contacted with any questions regarding this application.

First Name:  Middle:  Last Name:

Title:  Primary Phone:

Email:

**5. OWNERSHIP** Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license.

An individual or entity has a direct beneficial interest in a license when the individual or entity owns or controls any part of the license. For example, if John Smith owns Smith LLC, a licensee, John Smith has a direct beneficial interest in the license.

An individual or entity has an indirect beneficial interest if the individual or entity has 1) any ownership interest in the license through an intermediary, no matter how removed from direct ownership, 2) any form of control over part of a license no matter how attenuated, or 3) otherwise benefits in any way from the license's operation. For Example, Jane Doe owns Doe Holding Company Inc., which is a shareholder of Doe LLC, the license holder. Jane Doe has an indirect interest in the license.

A. All individuals listed below are required to complete a Beneficial Interest Contact - Individual form.  
 B. All entities listed below are required to complete a Beneficial Interest Contact - Organization form.  
 C. Any individual with any ownership in this license and/or the proposed manager of record must complete a CORI Release Form.

Name	Title / Position	% Owned	Other Beneficial Interest
Manheim Mack	LLC Member	50	
Jennifer Mack	LLC Member	50	

**APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE**

**5. OWNERSHIP** (continued)

Name	Title / Position	% Owned	Other Beneficial Interest

**6. PREMISES INFORMATION**

Please enter the address where the alcoholic beverages are sold.

**Premises Address**

Street Number:  Street Name:  Unit:

City/Town:  State:  Zip Code:

Country:

**Description of Premises**

Please provide a complete description of the premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage.

Floor Number	Square Footage	Number of Rooms
1	750	5

Patio/Deck/Outdoor Area Total Square Footage

Indoor Area Total Square Footage

Number of Entrances

Number of Exits

Proposed Seating Capacity

Proposed Occupancy

**Occupancy of Premises**

Please complete all fields in this section. Documentation showing proof of legal occupancy of the premises is required.

Please indicate by what right the applicant has to occupy the premises  Landlord Name

Lease Beginning Term  Landlord Phone

Lease Ending Term  Landlord Address

Rent per Month

Rent per Year

If leasing or renting the premises, a signed copy of the lease is required.

If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.

Please indicate if the terms of the lease include payments based on the sale of alcohol:  Yes  No

**APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE**

**7. BUSINESS CONTACT**

The Business Contact is the proposed licensee. If you are applying as a Sole Proprietor (the license will be held by an individual, not a business), you should use your own name as the entity name.

\* Please see last page of application for required documents based on Legal Structure \*

Entity Name:  FEIN:

DBA:  Fax Number:

Primary Phone:  Email:

Alternative Phone:  Legal Structure of Entity

**Business Address (Corporate Headquarters)**  Check here if your Business Address is the same as your Premises Address

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Mailing Address**  Check here if your Mailing Address is the same as your Premises Address

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

Is the Entity a Massachusetts Corporation?  Yes  No

If no, is the Entity registered to do business in Massachusetts?  Yes  No

If no, state of incorporation

**Other Beneficial Interest**

Does the proposed licensee have a beneficial interest in any other Massachusetts Alcoholic Beverages Licenses?  Yes  No *If yes, please complete the following table.*

Name of License	Type of License	License Number	Premises Address

**Prior Disciplinary Action:**

Has any alcoholic beverages license owned by the proposed licensee ever been disciplined for an alcohol related violation?

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

**APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE**

**8. MANAGER CONTACT**

The Manager Contact is required and is the individual who will have day-to-day, operational control over the liquor license.

Salutation  First Name  Middle Name  Last Name  Suffix

Social Security Number  Date of Birth

Primary Phone:  Email:

Mobile Phone:  Place of Employment

Alternative Phone:  Fax Number

**Citizenship / Residency / Background Information of Proposed Manager**

Are you a U.S. Citizen?  Yes  No

Do you have direct, indirect, or financial interest in this license?  Yes  No

Have you ever been convicted of a state, federal, or military crime?  Yes  No  
if yes, attach an affidavit that lists your convictions with an explanation for each

If yes, percentage of interest

Have you ever been Manager of Record of a license to sell alcoholic beverages?  Yes  No

If yes, please indicate type of Interest (check all that apply):

Officer  Sole Proprietor  
 Stockholder  LLC Manager  
 LLC Member  Director  
 Partner  Landlord  
 Contractual  Revenue Sharing  
 Management Agreement  Other

If yes, please list the licenses for which you are the current or proposed manager:

Please indicate how many hours per week you intend to be on the licensed premises

**Employment Information of Proposed Manager**

Please provide your employment history for the *past 10 years*

Date(s)	Position	Employer	Address	Phone
Nov 1996-May2016	Senior Vice President	Fidelity Investments	200 Seaport Blvd, Boston, MA 02210	(800) 343-3548

**Prior Disciplinary Action of Proposed Manager**

Have you ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation



**APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE**

**9. FINANCIAL INFORMATION**

Please provide information about associated costs of this license.

**Associated Costs**

A. Purchase Price for Building/Land	
B. Purchase Price for any Business Assets	165,000
C. Costs of Renovations/Construction	
D. Purchase Price of Inventory	61,459.55
E. Initial Start-Up Costs	
F. Other (Please specify)	
G. Total Cost (Add lines A-F)	226,459.55

Please note, the total amount of Cash Investment (top right table) plus the total amount of Financing (bottom right table) must be equal to or greater than the Total Cost (line G above).

Please provide information about the sources of cash and/or financing for this transaction

**Source of Cash Investment**

Name of Contributor	Amount of Contribution
Manheim Mack	226,459.55
Total:	

**Source of Financing**

Name of Lender	Amount	Does the lender hold an interest in any MA alcoholic beverages licenses?	If yes, please provide ABCC license number of lender
Total:			

**10. PLEDGE INFORMATION**

Are you seeking approval for a pledge?  Yes  No

Please indicate what you are seeking to pledge (check all that apply)

License  Stock / Beneficial Interest  Inventory

To whom is the pledge is being made:

Does the lender have a beneficial interest in this license?  Yes  No

Does the lease require a pledge of this license?  Yes  No

**ADDITIONAL SPACE**

The following space is for any additional information you wish to supply or to clarify an answer you supplied in the application.

If referencing the application, please be sure to include the number of the question to which you are referring.

A large, empty rectangular box with a thin black border, occupying the majority of the page below the instructions. It is intended for the applicant to provide additional information or clarify answers.

**APPLICANT'S STATEMENT**

I,  the:  sole proprietor;  partner;  corporate principal;  LLC/LLP member  
Authorized Signatory

of , hereby submit this application for   
Name of the Entity/Corporation Transaction(s) you are applying for

(hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statement and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises does not violate any requirement of the ABCC or other state law or local ordinances;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the Application information as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of, the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.

Signature:

Date:

Title:

APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGE LICENSE

**BENEFICIAL INTEREST - Organization**

Please complete a Beneficial Interest - Organization sheet for all organization(s) who have a direct or indirect beneficial interest, with or without ownership, in this license.

Example:

ABC Inc. is applying for a liquor license. ABC Inc. is 100% owned by XYZ Inc., which is 100% owned by 123 Inc. XYZ Inc. is considered to have a direct beneficial interest in the proposed licensee (ABC Inc.) and 123 Inc. is considered to have indirect beneficial interest in the proposed licensee (ABC Inc.). Both XYZ Inc. and 123 Inc. should complete a Beneficial Interest - Organization Form.

Entity Name:  FEIN:

Primary Phone:  Fax Number:

Alternative Phone:  Email:

**Business Address**

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Mailing Address**

Check here if your Mailing Address is the same as your Business Address

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Publicly Traded**

Is this organization publicly traded?  Yes  No

**Ownership / Interest**

Using the definition above, does this organization hold a direct or indirect interest in the proposed licensee?  Direct  Indirect

If this organization holds a direct beneficial interest in the proposed licensee, please list the % of interest it holds.

If you hold an indirect beneficial interest in this license, please complete the Ownership / Interest Table on the next page.

**Ownership / Interest**

If this organization holds an indirect interest in the proposed licensee, please list the organization(s) it holds a direct interest in which, in turn, hold a direct or indirect interest in the proposed licensee. These generally include parent companies, holding companies, trusts, etc. A Beneficial Interest - Organization Form will need to be completed for each entity listed below.

Name of Beneficial Interest - Organization	FEIN

**Other Beneficial Interest**

List any indirect or indirect beneficial or financial interest this entity has in any other Massachusetts Alcoholic Beverages License(s).

Name of License	Type of License	License Number	Premises Address

**Prior Disciplinary Action**

Has this entity ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

ALCOHOLIC BEVERAGES CONTROL COMMISSION

**BENEFICIAL INTEREST CONTACT - Individual** (Formerly known as a Personal Information Form)

Please complete a Beneficial Interest - Individual sheet for all individual(s) who have a direct or indirect beneficial interest, with or without ownership, in this license. This includes people with a financial interest and people without financial interest (i.e. board of directors for not-for-profit clubs). All individuals with direct or indirect financial interest must also submit a CORI Authorization Form.

An individual with direct beneficial interest is defined as someone who has interest directly in the proposed licensee. For example, if ABC Inc is the proposed licensee, all individuals with interest in ABC Inc are considered to have direct beneficial interest in ABC Inc (the proposed licensee).

An individual with indirect beneficial interest is defined as someone who has ownership in a parent level company of the proposed licensee. For example, if ABC Inc is the proposed licensee and is 100% owned by XYZ Inc, all individuals with interest in XYZ Inc are considered to have an indirect beneficial interest in ABC Inc (the proposed licensee).

Salutation  First Name  Middle Name  Last Name  Suffix

Title:  Social Security Number  Date of Birth

Primary Phone:  Email:

Mobile Phone:  Fax Number

Alternative Phone:

**Business Address**

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Mailing Address**

Check here if your Mailing Address is the same as your Business Address

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Types of Interest (select all that apply)**

- Contractual
- Director
- Landlord
- LLC Manager
- LLC Member
- Management Agreement
- Officer
- Partner
- Revenue Sharing
- Sole Proprietor
- Stockholder
- Other

**Citizenship / Residency Information**

Are you a U.S. Citizen?  Yes  No      Are you a Massachusetts Resident?  Yes  No

**Criminal History**

Have you ever been convicted of a state, federal, or military crime?  Yes  No      If yes, please provide an affidavit explaining the charges.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

**BENEFICIAL INTEREST CONTACT - Individual** (continued)

**Ownership / Interest**

Using the definition above, do you hold a direct or indirect interest in the proposed licensee?  Direct  Indirect

If you hold a direct beneficial interest in the proposed licensee, please list the % of interest you hold.

50

If you hold an indirect beneficial interest in this license, please complete the Ownership / Interest Table below.

**Ownership / Interest**

If you hold an indirect interest in the proposed licensee, please list the organization(s) you hold a direct interest in which, in turn, hold a direct or indirect interest in the proposed licensee. These generally include parent companies, holding companies, trusts, etc. A Beneficial Interest - Organization Form will need to be completed for each entity listed below.

Name of Beneficial Interest - Organization	FEIN

**Other Beneficial Interest**

List any indirect or indirect beneficial or financial interest you have in any other Massachusetts Alcoholic Beverages License(s).

Name of License	Type of License	License Number	Premises Address

**Familial Beneficial Interest**

Does any member of your immediate family have ownership interest in any other Massachusetts Alcoholic Beverages Licenses? Immediate family includes parents, siblings, spouse and spouse's parents. Please list below.

Relationship to You	ABCC License Number	Type of Interest (choose primary function)	Percentage of Interest

**Prior Disciplinary Action**

Have you ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

ALCOHOLIC BEVERAGES CONTROL COMMISSION

**BENEFICIAL INTEREST CONTACT - Individual** (Formerly known as a Personal Information Form)

Please complete a Beneficial Interest - Individual sheet for all individual(s) who have a direct or indirect beneficial interest, with or without ownership, in this license. This includes people with a financial interest and people without financial interest (i.e. board of directors for not-for-profit clubs). All individuals with direct or indirect financial interest must also submit a CORI Authorization Form.

An individual with direct beneficial interest is defined as someone who has interest directly in the proposed licensee. For example, if ABC Inc is the proposed licensee, all individuals with interest in ABC Inc are considered to have direct beneficial interest in ABC Inc (the proposed licensee).

An individual with indirect beneficial interest is defined as someone who has ownership in a parent level company of the proposed licensee. For example, if ABC Inc is the proposed licensee and is 100% owned by XYZ Inc, all individuals with interest in XYZ Inc are considered to have an indirect beneficial interest in ABC Inc (the proposed licensee).

Salutation  First Name  Middle Name  Last Name  Suffix

Title:  Social Security Number  Date of Birth

Primary Phone:  Email:

Mobile Phone:  Fax Number

Alternative Phone:

**Business Address**

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Mailing Address**

Check here if your Mailing Address is the same as your Business Address

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Types of Interest (select all that apply)**

- Contractual       Director       Landlord       LLC Manager
- LLC Member       Management Agreement       Officer
- Partner       Revenue Sharing       Sole Proprietor       Stockholder       Other

**Citizenship / Residency Information**

Are you a U.S. Citizen?       Yes     No      Are you a Massachusetts Resident?       Yes     No

**Criminal History**

Have you ever been convicted of a state, federal, or military crime?       Yes     No      If yes, please provide an affidavit explaining the charges.



**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

**BENEFICIAL INTEREST CONTACT - Individual** (continued)

**Ownership / Interest**

Using the definition above, do you hold a direct  Direct  Indirect or indirect interest in the proposed licensee?

If you hold a direct beneficial interest in the proposed licensee, please list the % of interest you hold.

50
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If you hold an indirect beneficial interest in this license, please complete the Ownership / Interest Table below.

**Ownership / Interest**

If you hold an indirect interest in the proposed licensee, please list the organization(s) you hold a direct interest in which, in turn, hold a direct or indirect interest in the proposed licensee. These generally include parent companies, holding companies, trusts, etc. A Beneficial Interest - Organization Form will need to be completed for each entity listed below.

Name of Beneficial Interest - Organization	FEIN

**Other Beneficial Interest**

List any indirect or indirect beneficial or financial interest you have in any other Massachusetts Alcoholic Beverages License(s).

Name of License	Type of License	License Number	Premises Address

**Familial Beneficial Interest**

Does any member of your immediate family have ownership interest in any other Massachusetts Alcoholic Beverages Licenses? Immediate family includes parents, siblings, spouse and spouse's parents. Please list below.

Relationship to You	ABCC License Number	Type of Interest (choose primary function)	Percentage of Interest

**Prior Disciplinary Action**

Have you ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation



Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
239 Causeway Street, First Floor  
Boston, MA 02114

DEBORAH B. GOLDBERG  
TREASURER AND RECEIVER GENERAL

CORI REQUEST FORM

KIM S. GAINSBORO, ESQ.  
CHAIRMAN

The Alcoholic Beverages Control Commission has been certified by the Criminal History Systems Board to access conviction and pending Criminal Offender Record Information. For the purpose of approving each shareholder, owner, licensee or applicant for an alcoholic beverages license, I understand that a criminal record check will be conducted on me, pursuant to the above. The information below is correct to the best of my knowledge.

**ABCC LICENSE INFORMATION**

ABCC NUMBER: <small>(IF EXISTING LICENSEE)</small>	<input type="text"/>	LICENSEE NAME:	Mason Mack Petroleum LLC	CITY/TOWN:	Wayland
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**APPLICANT INFORMATION**

LAST NAME:	Mack	FIRST NAME:	Manheim	MIDDLE NAME:	<input type="text"/>			
MAIDEN NAME OR ALIAS (IF APPLICABLE):	<input type="text"/>	PLACE OF BIRTH:	<input type="text"/>					
DATE OF BIRTH:	<input type="text"/>	SSN:	<input type="text"/>	ID THEFT INDEX PIN (IF APPLICABLE):	<input type="text"/>			
MOTHER'S MAIDEN NAME:	<input type="text"/>	DRIVER'S LICENSE #:	<input type="text"/>	STATE LIC. ISSUED:	Massachusetts			
GENDER:	MALE	HEIGHT:	5	8	WEIGHT:	159	EYE COLOR:	Black
CURRENT ADDRESS:	<input type="text"/>							
CITY/TOWN:	Framingham	STATE:	MA	ZIP:	01701			
FORMER ADDRESS:	<input type="text"/>							
CITY/TOWN:	Boston	STATE:	MA	ZIP:	02111			

**PRINT AND SIGN**

PRINTED NAME:	Manheim Mack	APPLICANT/EMPLOYEE SIGNATURE:	
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**NOTARY INFORMATION**

On this 7th, NOV. 2017 before me, the undersigned notary public, personally appeared Manheim Mack  
(name of document signer), proved to me through satisfactory evidence of identification, which were known to me  
to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

NOTARY

PATRICIA A. MACNEIL  
NOTARY PUBLIC  
COMMONWEALTH OF MASSACHUSETTS  
MY COMMISSION EXPIRES 08/17/2023

**DIVISION USE ONLY**

REQUESTED BY:	<input type="text"/>
SIGNATURE OF CORI AUTHORIZED EMPLOYEE	

The DCI Identify Theft Index PIN Number is to be completed by those applicants that have been issued an Identify Theft PIN Number by the DCI. Certified agencies are required to provide all applicants the opportunity to include this information to ensure the accuracy of the CORI request process. ALL CORI request forms that include this field are required to be submitted to the DCI via mail or by fax to (617) 860-6634.



**Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
239 Causeway Street, First Floor  
Boston, MA 02114**

**DEBORAH B. GOLDBERG  
TREASURER AND RECEIVER GENERAL**

**CORI REQUEST FORM**

**KIM S. GAINSBORO, ESQ.  
CHAIRMAN**

The Alcoholic Beverages Control Commission has been certified by the Criminal History Systems Board to access conviction and pending Criminal Offender Record Information. For the purpose of approving each shareholder, owner, licensee or applicant for an alcoholic beverages license, I understand that a criminal record check will be conducted on me, pursuant to the above. The information below is correct to the best of my knowledge.

**ABCC LICENSE INFORMATION**

ABCC NUMBER: <small>(IF EXISTING LICENSED)</small>	<input type="text"/>	LICENSEE NAME:	Mason Mack Petroleum LLC	CITY/TOWN:	Wayland
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**APPLICANT INFORMATION**

LAST NAME:	Mack	FIRST NAME:	Jennifer	MIDDLE NAME:	Mason
MAIDEN NAME OR ALIAS (IF APPLICABLE):	<input type="text"/>	PLACE OF BIRTH:	<input type="text"/>		
DATE OF BIRTH:	<input type="text"/>	SSN:	<input type="text"/>	ID THEFT INDEX PIN (IF APPLICABLE):	<input type="text"/>
MOTHER'S MAIDEN NAME:	<input type="text"/>	DRIVER'S LICENSE #:	<input type="text"/>	STATE LIC. ISSUED:	Massachusetts
GENDER:	FEMALE	HEIGHT:	5 4	WEIGHT:	110
EYE COLOR:	Blue				
CURRENT ADDRESS:	<input type="text"/>				
CITY/TOWN:	Framingham	STATE:	MA	ZIP:	01701
FORMER ADDRESS:	<input type="text"/>				
CITY/TOWN:	Framingham	STATE:	MA	ZIP:	01702

**PRINT AND SIGN**

PRINTED NAME:	Jennifer Mack	APPLICANT/EMPLOYEE SIGNATURE:	<i>Jennifer Mack</i>
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**NOTARY INFORMATION**

On this 7th NOV 2017 before me, the undersigned notary public, personally appeared known to me  
(name of document signer), proved to me through satisfactory evidence of identification, which were Jennifer Mack  
to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (HE) (SHE) signed it voluntarily for its stated purpose.

*[Signature]*  
NOTARY

**PATRICIA A. MACNEIL  
NOTARY PUBLIC  
COMMONWEALTH OF MASSACHUSETTS  
MY COMMISSION EXPIRES 08/17/2023**

**DIVISION USE ONLY**

REQUESTED BY:	<input type="text"/>
	<small>SIGNATURE OF CORI AUTHORIZED EMPLOYEE</small>

The DCI Identity Theft Index PIN Number is to be completed by those applicants that have been issued an Identity Theft PIN Number by the DCI. Certified agencies are required to provide all applicants the opportunity to include this information to ensure the accuracy of the CORI request process. All CORI request forms that include this field are required to be submitted to the DCI via mail or by fax to (837) 660-4634.





ACTION BY WRITTEN CONSENT

The undersigned, being the sole Member of Mason Mack Petroleum, LLC, a Massachusetts limited liability company, hereby takes the following action:

RESOLVED, that the Company apply for a Retail Alcoholic Beverages license with the Commonwealth of Massachusetts;

RESOLVED, that Manheim Mack be and hereby is appointed as Manager of Record for the purpose of such license and the Application therefor; and

RESOLVED, that the Manager of Record be and hereby is authorized and directed to execute and submit the Application therefor and all supporting documents and to do all such other acts and things, in the name and on behalf of the Company, and to incur all such expenses, as he deems necessary or appropriate in order to fulfill the intent of the foregoing resolutions.

IN WITNESS WHEREOF, the undersigned has executed this Consent as of July 21, 2017.



---

Manheim Mack  
Sole Member



William Francis Galvin  
Secretary of the  
Commonwealth

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

March 23, 2017

TO WHOM IT MAY CONCERN:

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

**MASON MACK PETROLEUM LLC**

in accordance with the provisions of Massachusetts General Laws Chapter 156C on **February 23, 2017**.

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:  
**MANHEIM MACK, JENNIFER MACK**

I further certify, the names of all persons authorized to execute documents filed with this office and listed in the most recent filing are: **MANHEIM MACK, JENNIFER MACK**

The names of all persons authorized to act with respect to real property listed in the most recent filing are: **MANHEIM MACK, JENNIFER MACK**



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





Town Counsel Will Be Present To Discuss Petition To Probate Court RE: 5 Concord Rd

DRAFT as of 12/7/17\*

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

PROBATE AND FAMILY COURT  
C.A. NO.

TOWN OF WAYLAND,

Plaintiff

v.

MAURA HEALEY, as she is the  
ATTORNEY GENERAL OF THE  
COMMONWEALTH OF MASSACHUSETTS,

Defendant

COMPLAINT

Introduction

1. This petition is brought by the Plaintiff, the Town of Wayland, acting by and through its Board of Selectmen and Library Trustees (collectively, the "Town") pursuant to G.L. c. 214, § 10B, seeking the application of the doctrine of cy pres or deviation to enable the Town to discontinue use for library purposes of a certain parcel of property donated by Warren Gould Roby (the "Roby Parcel") and the building thereon, known as the Town of Wayland Free Public Library building (the "Library"), located at 5 Concord Road in Wayland, MA. The Town holds the Roby Parcel and that portion of the Library situated on the Roby Parcel in trust under a charitable trust for library purposes. The Roby Parcel and the Library are no longer suitable for library purposes, and the Town is seeking to construct a new library on a different property. Once the new library is constructed, the Town proposes to use the existing Library, including that portion on the Roby Parcel, for public purposes related to the Library but not as a primary or branch library. Such proposed re-use of the existing Library, specific to the Roby Parcel, includes a cultural center, featuring visual arts, music performances, studio use, and exhibits on the history of Wayland and Sudbury River, as well as an art and technology/innovation center.

\* AN UPDATED DRAFT MAY BE AVAILABLE BEFORE OR AT THE 12/11/17 MEETING.

### The Parties

2. The Town of Wayland (the "Town") is a body politic and corporate, organized and existing under the laws of the Commonwealth of Massachusetts.
3. Defendant Maura Healey (the "Attorney General") is the Attorney General of the Commonwealth of Massachusetts and is named herein in her capacity as representative of the public interest in the administration of charitable trusts, pursuant to G.L. c.12, § 8G.

### Background

#### The Trust by Warren Gould Roby

4. Article 5 of the Last Will and Testament of Warren Gould Roby (the "Roby Will") contained the following provision: "I give to the Town of Wayland, Massachusetts, one-half acre of my land on the east side of Concord Road and opposite the short road connecting the Sudbury Concord roads in the Town of Wayland, the same to be not nearer to my house than two hundred and twenty-five feet and the metes and bounds of which shall be fixed by my executors and a plan thereof recorded in the Middlesex South Registry of Deeds. And to erect a building thereon for use as a public library, as near fireproof as possible, I give to the Town of Wayland the sum of twenty-eight thousand dollars." A copy of the Roby Will is attached hereto as Exhibit A.
5. On or about September 4, 1899, by Deed from Cynthia C. Roby, widow of Warren Gould Roby, recorded with the Middlesex South District Registry of Deeds in Book 141, Page 2764 (the "Roby Deed"), the Town acquired a parcel of land consisting of one-half acre (the "Roby Parcel"). A copy of the Roby Deed is attached hereto as Exhibit B and a copy of the plan recited therein is attached hereto as Exhibit C.
6. The Town accepted the gift of land and sum of money under the Roby Will "to be devoted to the erection of a building thereon to be used as a Public Library" by vote of the Town Meeting under Article 25 at the 1898 Annual Town Meeting. A certified copy of said vote is attached hereto as Exhibit D.

#### The Present Library Site at 5 Concord Road

7. The Library was opened for general use in November, 1900, at a cost of just under \$29,000.00, using funds bequeathed by Warren Gould Roby and constructed on the Roby Parcel. At that time, the Town's population was just over 2,000.

Comment [CMM1]: Do we know the size of the original parcel?

8. At the March 5, 1923 Annual Town Meeting, under Article 10, the Town voted to accept a gift of about 16,000 SF of land abutting the Roby Parcel on the north and east to enlarge the lot and to protect the property. A certified copy of the vote of the 1923 Town Meeting is attached hereto as Ex. E.
9. On March 20, 1923, the Town acquired two lots abutting the Roby Parcel from Amos I. Hadley and Alfred W. Cutting. No purpose for the conveyance is stated in the deed. A copy of the Hadley/Cutting Deed is attached hereto as Ex. F.
10. Under Article 11 of the March 9, 1955 Annual Town Meeting, the Town voted to accept the gift of a lot of land from Mary A. Clifford. A certified copy of the vote of the 1955 Town Meeting is attached hereto as Ex. G.
11. On February 7, 1955, the Town acquired a lot of land containing approximately 7,380 SF abutting the Library site from Mary A. Clifford. No purpose for the conveyance of the land is cited in the deed, but the deed references a plan of land "to be acquired by the Wayland Public Library." A copy of the Clifford Deed is attached hereto as Ex. H.
12. In June 1987-1988, a new wing was added to the library, such that the Library was enlarged to 14,000 gross square feet.
13. With the various acquisitions of parcels noted above, the current Library site consists of 1.02 acres, which includes the Roby Parcel. Of the various parcels comprising the current Library site, only the Roby Parcel is subject to a public charitable trust. See Town of Wayland Assessors' property record for 5 Concord Road attached as Ex. I.
14. Currently, the Library offers 8,527 SF of usable space for patrons, consisting of a finished basement, a first floor and a finished upper level or mezzanine. See Town of Wayland Assessors' property record for 5 Concord Road attached as Ex. I.
15. The Library is open 3,273 hours per year and serves 116,653 patrons per year. Its total holdings consist of: 67,622 books; 8,530 audio cassettes and compact discs; 10,605 video cassettes/discs/DVDs; and 110 print periodicals, newspapers and other print serials. Its total circulation activity is 264,847 items per year. The Library provides 47 dedicated parking spaces and seating capacity for 82 patrons. The Library has no individual or group study rooms but does have one meeting room that can accommodate up to 60 people, which was used 509 times in the prior year. See excerpt from Town's application

Comment [CMM2]: Was the new wing located on any portion of the Roby Parcel? Or was it located on the other lots? What was the purpose of this wing?

Comment [CMM3]: This is the figure used in the library grant application, but it appears at odds with the Assessors' records, unless part of the addition is not usable space.

Comment [CMM4]: Patrons only or patrons plus employees?

to the Commonwealth of Massachusetts Board of Library Commissioners application, attached as Ex. J at pages 7-8.

16. In April 2001, the Library Trustees formed a Library Planning Committee of Trustees to assess the Town's vision for future library needs. Community-wide surveys and focus groups were conducted, resulting in the report of the Library Planning Committee released in April 2002. To meet these future library services and facilities, the Library Trustees requested, and Town Meeting approved, an appropriation of \$40,000.00 to hire a consultant to perform a feasibility study of the existing Library site and to determine how the existing site could be renovated and expanded to meet the Town's future library needs. In May 2004, the architectural firm of Lerner, Ladds + Bartels, Inc. was selected to conduct the feasibility study, and a year later, their final report was issued and offered three design alternatives, each using the existing site. A copy of Lerner, Ladds + Bartels, Inc.'s Feasibility Study and Architectural Planning report dated April 2005 is attached hereto as Ex. \_\_\_\_\_.

Comment [CMM5]: Assess value in attaching report v relying on grant application

17. Need to insert relevant excerpts from feasibility study as to inadequacies of current library
18. Need a sentence or two here to transition from the feasibility study for the existing site to the new library grant application explaining why existing site alternatives did not work or were rejected. Ultimately, further expansion of the existing Library site was deemed (by whom?) inadvisable, in part due to the adoption of the Town's Aquifer Protection Bylaw (elaborate on impact of bylaw on expansion – setbacks? Lot area? Parking?).

#### The Proposed New Library

19. On January 19, 2017, the Town submitted an application for library construction funds to the Commonwealth of Massachusetts Board of Library Commissioners (the "Application") and in Section \_\_\_\_ of the Application, described the deficiencies of the current Library. A copy of Section \_\_\_\_ of the Application is attached hereto as Exhibit J.
20. Specifically, the Application highlights the numerous deficiencies of the existing Library, including:

- a. Insufficient space to meet or exceed basic levels for print volumes, periodicals and public use internet computers (See Ex. J at p. 10);
  - b. Inadequate seating for patrons for leisure reading, story time, quiet study, research and collaborative work (See Ex. J at p. 10);
  - c. Insert additional relevant references from grant application
21. The proposed site for the new library is 195 Main Street in Wayland, consisting of 2.3 acres, and the proposed library building will consist of 33,530 gross square feet. See Ex. J at page 8.
22. The proposed new library will be a two-story modern facility with flexible, light-filled spaces and dedicated areas for children and teens, browsing, private study, small group meetings, community programs, as well as larger spaces for collections, technology, and customer service. See Ex. J at p. 8.
23. The proposed new library will offer the following amenities:
- a. Improved access to the physical collection of books and media (See Ex. J at p. 17);
  - b. Providing a variety of community gathering spaces for different sized events (See Ex. J at p. 17);
  - c. Improving quantity and quality of programming for educational and cultural events and presentations (See Ex. J at p. 17);
  - d. Insert additional relevant references from grant application

Count I - Cy Pres

24. Plaintiff realleges paragraphs 1 through \_\_\_\_\_, and incorporates them herein.
25. The Roby Will manifests a general charitable intent to support a public library within the Town for the benefit of the public generally.

26. It has become impossible or impracticable to continue to use the Roby Parcel for the Town's primary or sole public library because the Roby Parcel and the other unrestricted parcels that comprise the Library site at 5 Concord Road lack sufficient space for an expanded library to serve the Town's current and future needs.

27. It has become impossible or impracticable to continue to use the Roby Parcel for the Town's primary or sole public library because the use of the Roby Parcel and the other unrestricted parcels that comprise the Library site at 5 Concord Road for public library purposes cause hazardous crowding conditions and other health and safety issues; the Library on the Roby Parcel cannot meet the Americans with Disabilities Act requirements; the Library on the Roby Parcel lacks adequate space for programs necessary to serve, in particular, children, young adults and seniors; and expansion of the existing Library to meet the Town's needs is not possible or practical, given the limited land area of the site, its location within the Aquifer Protection Zoning District and constraints that current zoning requirements place on providing sufficient parking commensurate with an expanded library.

28. The general intent of the Roby Will to offer land and money to build a public library would be more closely served by providing broader, upgraded library services to all of the Town's age groups in a new, fully accessible building, than to require the continued use of an obsolete building for limited library services to a limited segment of the community.

29. The general intent of the Roby Will to provide land and funds for the construction of a public library will continue to be served by using the existing Library building on the Roby Parcel for services and programs related to a modern library, i.e., a cultural center, featuring visual arts, music performances, studio use, and exhibits on the history of Wayland and Sudbury River, as well as an art and technology/innovation center.

30. The Attorney General has assented to the granting of the relief requested by this Complaint. (The original, executed Assent of the Attorney General is attached hereto as Exhibit K)

Comment [CMM6]: Confirm

Count II – DEVIATION

31. The plaintiff realleges paragraphs 1 through \_\_\_\_\_, and incorporates them herein.

Comment [CMM7]: To be attached when obtained at a later date.

32. Through the Roby Will and Deed, a public charitable trust was created whose object was to provide land and funds for the construction of a public library.
33. The Town constructed and operated for the entirety of its useful life a public library on the Roby Parcel, thereby accomplishing the object and purpose of the trust.
34. Owing to circumstances not known or anticipated at the time of the bequest, namely that the Town's population would grow to current levels and the definition of and services expected from a library would expand over the past 117 years such that the needs of the community can no longer be served by the current Library and certainly cannot be served by just the portion of the Library building located on the Roby Parcel.
35. Other than requiring that the land and funds be used for the construction of a public library, Warren Gould Roby's Will contained no express limitation on the nature and scope of library services to be offered; the Roby Will did not require that his gift be used solely to house circulation stacks or a reading room. There is no language contained in the Roby Will to suggest that the use of the building on the Roby Parcel for a cultural center, featuring visual arts, music performances, studio use, and exhibits on the history of Wayland and Sudbury River, as well as an art and technology/innovation center – programs and uses commonly associated with a modern library - would not serve the public library interest in accordance with Mr. Roby's wishes.
36. Narrowly construing the definition of a library and requiring the Town to continue to use the Roby Parcel as a full-service library would likely defeat or substantially impair the purpose for which the trust was created, in that the current Library site, including the Roby Parcel and the other unrestricted parcels, can no longer serve the library needs of the community.
37. The Attorney General has assented to the granting of the relief requested by this Verified Complaint. (The original, executed Assent of the Attorney General is attached hereto as Exhibit 1.)

Comment [CMMB]: To be attached when obtained at a alter date

WHEREFORE, the Plaintiff, Town of WAYLAND, respectfully requests that this Court enter judgment:

1. Finding that the Roby Will created a charitable trust;

2. Finding that the Roby Will had a general charitable intent to support a public library within the Town for the benefit of the public generally;
3. Finding that it is no longer practicable to use the Roby Parcel as a full-service public library for the Town;
4. Finding that the use of the Roby Parcel for a cultural center, featuring visual arts, music performances, studio use, and exhibits on the history of Wayland and Sudbury River, as well as an art and technology/innovation center is a modern extension of a public library and consistent with the intention expressed in the Roby Will, or alternatively, finding that the use of the Roby Parcel for programs associated with and overseen by the Town of Wayland Library Board of Trustees as a cultural center, featuring visual arts, music performances, studio use, and exhibits on the history of Wayland and Sudbury River, as well as an art and technology/innovation center is a modest but logical deviation from the charitable intent as expressed in the Roby Will that is consistent with and better promotes said charitable intent, for it will provide expanded public library services to greater numbers of the Town's residents in a safe, accessible facility;
5. Ordering that said charitable trust be administered cy pres and allowing the Town to use the Roby Parcel for programs associated with and overseen by the Library Trustees and not limiting the use of the Roby Parcel to historical library uses in the form of Order attached hereto as Exhibit L;
6. Grant such other and further relief as this Court deems just and equitable.

Comment [CMM9]: To be attached at later date



**TOWN OF WAYLAND**

**By its attorneys,**

**Carolyn M. Murray (BBO# 653873)  
Katharine L. Klein (BBO# \_\_\_\_\_)  
KP Law, P.C.  
Town Counsel  
101 Arch Street  
Boston, MA 02110  
(617) 556-0007**

598269/WAYL/0052

DATE: DECEMBER 11, 2017  
TO: BOARD OF SELECTMEN  
FROM: NAN BALMER, TOWN ADMINISTRATOR  
RE: ATM Discussion

**REQUESTED ACTIONS:**

- **PROVIDE COMMENT AND DIRECTION ON ARTICLES THAT MAY BE SUBMITTED BY BOARD OF SELECTMEN**
- **BOARD COMMENT ON KEY ACTIONS / DATES WITHIN ANNUAL TOWN MEETING SCHEDULE**

**BACKGROUND:**

1. Updated list of ATM articles is attached. Will be submitted to Board in form for submission on January 8, 2018
2. Updated ATM Schedule is attached. Review dates for:
  - a. January 8, 2018: Meet with Planning Board to discuss articles and by-law adoption process
  - b. January 16, 2018: Warrant closes and articles due
  - c. January 22, 2018: Finance Committee Warrant Articles Workshop
  - d. Date to call Special Town Meeting (within Annual Town Meeting)
    - i. February 5, 2018: Possible vote to open Special Town Meeting warrant for period 2/6 – 2/13. Deadline for completion of warrant articles would remain Wednesday 2/21; other dates set when STM called
  - e. Debt Exclusion dates:
    - i. January 16
      1. Requests for ballot question made by boards and committees to Board of Selectmen
      2. Board refers questions to Finance Committee for comment
    - ii. January 29
      1. Finance Committee makes presentation on debt exclusions to Board of Selectmen
    - iii. February 5
      1. Planned date for Selectmen to refer ballot questions to Town Clerk
    - iv. February 20
      1. Last possible date for Selectmen to refer ballot questions to Town Clerk
  - f. Warrant article completion deadline for Finance Committee: Wednesday 2/21

**2018 ANNUAL TOWN MEETING  
POTENTIAL ARTICLES AS OF DECEMBER 11, 2017**

**STANDARD ARTICLES**

1. RECOGNIZE CITIZENS AND EMPLOYEES FOR PARTICULAR SERVICE TO THE TOWN
2. \*PAY PREVIOUS FISCAL YEAR UNPAID BILLS
3. CURRENT YEAR TRANSFERS /PAYMENTS UNDER SEPTAGE AGREEMENT
4. \*OPEB FUNDING
5. FY 2019 OMNIBUS BUDGET
6. \*COMPENSATION FOR TOWN CLERK
7. PERSONNEL BYLAW AND WAGE & CLASSIFICATION PLAN; FUND INCREASES FOR NON-UNION EMPLOYEES
8. \*CHOOSE TOWN OFFICERS
9. ACCEPT GIFTS OF LAND
10. \*SELL OR TRADE VEHICLES AND EQUIPMENT
11. \*RESCIND AUTHORIZED BUT UNISSUED DEBT
12. \*HEAR REPORTS

**POTENTIAL BOARD OF SELECTMEN ARTICLES**

13. \*AMEND REVOLVING FUND BY-LAW TO ADD COMMUNITY GARDEN REVOLVING FUND
14. ADOPT ANNUAL REVOLVING FUND CAPS
15. \*CLOSE RECREATION COMMISSION 53 D BEACH ACCOUNT
16. \*RE-NAME NON-INSURANCE AS STABILIZATION FUND
17. FUND POLICE AND FIRE COLLECTIVE BARGAINING AGREEMENTS
18. FUND COUNCIL ON AGING DESIGN
19. FUND BUILDING DESIGN AND IMPROVEMENTS FOR TOWN BUILDING AND FIRE STATION #2
20. APPROVE FIVE YEAR LEASE FOR INFORMATION TECHNOLOGY NETWORK
21. RE-APPROPRIATE BORROWED FUNDS FROM WWMDC TO HIGH SCHOOL WASTEWATER PROJECT
22. ADOPT SPECIAL ACT: TOWN ADMINISTRATOR

**POTENTIAL ARTICLES FROM OTHER PUBLIC BODIES**

23. LIBRARY TRUSTEES: FUND LIBRARY CONSTRUCTION PROJECT
24. SCHOOL COMMITTEE FUND SCHOOL STADIUM AND ATHLETIC FACILITIES CONSTRUCTION PROJECTS
25. RECREATION COMMISSION: FUND LOKER FIELD CONSTRUCTION
26. CPA PROJECT: AQUEDUCT CROSSINGS
27. CPA PROJECT: LIBRARY WINDOWS
28. CPA PROJECT: DEPOT IMPROVEMENTS
29. AFFORDABLE HOUSING TRUST: HOME RULE PETITION TO EXEMPT SMALL CONSTRUCTION PROJECTS FROM PREVAILING WAGE LAW
30. BOPW: STORMWATER BY-LAW

*\* Asterisk signifies abbreviated motions.*

2018 (REVISED 12/6/17)

## ANNUAL TOWN ELECTION/ANNUAL TOWN MEETING SCHEDULE

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2017

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- Mon Dec 4** Board of Selectmen votes to open warrants for the Annual Town Meeting and Town Election.
- Mon Dec 4** Planning Board has preliminary meeting with Board of Selectman on Zoning and Planning Board articles, if required.
- Wed Dec 6** Notice of the opening of the warrant shall be sent to all Town boards and committees. Per Town Code 36-2 and 36-3, notice of the closing date of the warrant will be posted at the Town Building and at the public library in Wayland Center, at the Cochituate Fire Station or Cochituate Post Office and at the Happy Hollow School.

2018

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- Thurs Jan 4** Nomination papers are available from the Town Clerk for the Town Election.
- Mon Jan 8** Petitioners' Workshop with Selectmen
- Mon Jan 8** Selectmen vote to submit any remaining warrant articles it will propose.
- Mon Jan 15** **Martin Luther King Jr, Day**
- Tues Jan 16** Deadline for submission of warrant articles at 4:30 p.m to the Board of Selectmen through the Town Administrator's Office. (per Town Code Sec. 36-3) Articles will be stamped with date and time of receipt. No article, other than one submitted by the Moderator, Town Clerk, or the requisite number of petitioners, shall be inserted in the warrant for any Town Meeting unless so voted and submitted by a board, commission, committee, or other governmental body of the Town of Wayland by 4:30 p.m. on the date fixed by the Board of Selectmen for closing of the warrant for such meeting. (Town Code 36-3C)
- Tues Jan 16** Articles are draft ordered by Town Administrator and distributed to Moderator, each member of the Finance Committee, Selectmen, Town Counsel and Town Clerk. Town Counsel reviews text of articles.
- Tues Jan 16** The Finance Committee and other boards and committees are asked to make written requests to the Board of Selectmen to approve placement of a Proposition 2 ½ Ballot Question on the Election Warrant at least two weeks prior to the Board's vote. The Board will consider the requests at its January 29, 2018 meeting.
- It is the Selectmen's policy that the Board of Selectmen request the Finance Committee's recommendation on whether to place any Proposition 2 ½

Except for Town Meeting and Election, dates required by Town Code / State Law and dates for final submission of warrant articles, this schedule is subject to change.

Questions on the ballot. The Finance Committee's recommendation and its presentation will be made at the Selectmen's meeting on January 29, 2018. (Earliest date of action - Last legal date for Selectmen to vote on ballot questions is February 20, 2018.)

**Tues Jan 16**

Pursuant to Town Code 36-1, the Selectmen shall cause notice of the time and place of the Annual Town Meeting and Election to be published in a newspaper of general circulation no later than the date fixed by them for closing the warrant pursuant to Town Code 36-3.

**Mon Jan 22**

Finance Committee ATM Article Workshop. The Workshop fulfills Town Code 19-3

**Mon Jan 29**

Selectmen meet with Planning Board on Town Meeting articles, if necessary. (See MGL 40 A Section, 5)

Finance Committee makes presentation to Board of Selectmen on all Proposition 2 ½ questions. (See Board Policy for Finance Committee presentation requirements).

Finance Committee decides the articles for which it will make a report in the warrant to include comments, and the pros and cons. The Finance Committee will communicate its decision to the article sponsors and petitioners who may respond by February 12<sup>th</sup> with a "Sponsor's Report" not to exceed 150 words in length. Town Code § 5 B.

**Mon Feb 5**

Board considers opening of STM Warrant (within Annual Town Meeting) for the period Tuesday 2/6 through Tuesday 2/13 at 4:30 pm and sets all related STM dates at that time. Last date to set STM within ATM is 45 days before ATM or 2/16/18. The warrant for any Special Town Meeting shall remain open for at least seven days after it is called by the Board of Selectmen. Within 48 hours after calling any Town Meeting, the Selectmen shall post notice of the warrant closing date at the locations specified in Town Code § 36-2.

Board of Selectmen votes to place Proposition 2 ½ Override or Exclusion Question on Election Ballot. Under MGL 54, 42 C, the Town Clerk must receive the written notice of the question being placed on the ballot 35 days before the Election or by February 20, 2018. Following a vote to approve a Proposition 2 ½ Question, the Selectmen and Finance Committee will provide public notice and convene a meeting for public comment on proposed Proposition 2 ½ Question(s).

**Tues Feb 6**

Last day for submission by 5:00 pm of nomination papers to the Board of Registrars for Town Election (49 days before Election) GL c53, sec. 7

**Mon Feb 12**

Selectmen determine the final order of ATM warrant articles.

By this date, any changes that an article sponsor or petitioner requests to make to the article text (excluding the comments and pros and cons which are the responsibility of the Finance Committee) shall be submitted to the

Except for Town Meeting and Election, dates required by Town Code / State Law and dates for final submission of warrant articles, this schedule is subject to change.

Town Administrator for approval by Town Counsel after which they will be forwarded back to the article sponsor or petitioner, and also to the the Chair of the Board of Selectmen and the Chair of the Finance Committee for distribution to the members.

Deadline for article sponsors and petitioners for which the Finance Committee will make a report in the warrant to submit a "Sponsor's Report" not to exceed 150 words in length. (Town Code § 36-5 B)

**Tues Feb 13**

Planning Board discusses and votes Planning Board Reports on zoning articles (may be earlier). See MGL 40 A Section 5.

**Fri Feb 16**

Articles are put in final form by Town Counsel. Town Counsel provides comments on by-law changes consistent with Town Code chapter 36, Section 5 B.

**Mon Feb 19 - 23**

**President's Day and School Vacation week**

**Tues Feb 20**

Selectmen accept public comment, discuss wording and vote on ballot questions. (if any)

**Tues Feb 20**

Last day for Selectmen to submit ballot question to Town Clerk by 5:00 pm. (35 days before election) MGL 54, sec 10

**Tues Feb 20**

Last day for filing certified nomination papers with Town Clerk (35 days before election.) MGL 53 section 10.

**Wed Feb 21**

**Deadline: Finance Committee article comments (with supporting charts and appendices) and Planning Board articles due to Executive Assistant - No changes accepted after this date.**

**Thurs Feb 22**

Town Clerk sends ballot to printer.

Last day to object to nomination papers or to withdraw nomination for Town Election. GL c. 53, sec. 11; GL c. 55B sec. 7

February 23 or later: Town Clerk sends ballot to printer if no objections filed. GL 55 B, sec. 7

February 27 or later: Town Clerk sends ballot ot printer if objections filed. GL 55 B, sec. 7

**Thurs March 1**

Compilation of warrant completed and all changes made.  
Warrant is sent to printer.

**Wed March 7**

Last day to register to vote prior to Town Election / Town Meeting. (20 days prior) GL c 39 sec 26, 28

**Mon March 12**

Motions for articles completed by Town Counsel and provided to Moderator and Town Clerk; Pre-Town Meeting review this week.

Except for Town Meeting and Election, dates required by Town Code / State Law and dates for final submission of warrant articles, this schedule is subject to change.

Sponsors and Petitioners submit any illustrative slides under Moderator's Rules to Executive Assistant by this date.

Final copy of warrant delivered to Selectmen, Moderator, Finance Committee, Town Clerk, Town Counsel and Finance Director.

Selectmen vote and sign warrants for posting.

***Tues March 13***

Town Clerk advertises in a newspaper of general circulation and posts notice of the time and place of Annual Town Meeting and Election for per Town Code Sec. 36-1 on town sign boards no later than 2 weeks before Town Election and Town Meeting

***Wed. March 14***

CANDIDATE'S NIGHT - LEAGUE OF WOMEN VOTERS

***Thurs March 15***

Postal delivery of warrants (Town Code 36-2A, MGL c. 39, s10)

Draft motions for articles are posted at Town Building and Library.

***Mon March 19***

If a Special Town Meeting is called for April 2, 2018, the warrant must be posted 14 days prior. GL 39, sec. 10.

***Tues March 20***

Town Clerk post warrants for Town Meeting and Election at the Town Building and at the public library in Wayland Center, at the Cochituate Fire Station or Cochituate Post Office and at the Happy Hollow School per Town Code Sec. 36-2A, MGL c. 39, s10 (at least 7 days prior to Annual Town Meeting or Annual or Special Election and at least 14 days prior to Special Town Meeting).

***TBD***

Moderator's Forum

***Mon March 26***

Selectmen conduct ATM Warrant Hearing at 7:15 p.m.

Last day for Selectmen to review proposed motions and vote positions on Annual Town Meeting warrant articles.

Last date for vehicle descriptions (valued at least \$10,000 from Parks, Recreation, Highway and Water only) prepared by procurement officer to be filed with Town Clerk per Town Code Sec. 19-7 (at least 7 days prior to Annual Town Meeting and 14 days prior to Special Town Meeting).

***Tues March 27***

**ANNUAL TOWN ELECTION**

***Fri March 30***

Prepare and print final errata sheets, Moderator's instructions to Town Clerk, tellers, and Planning Board reports (if necessary) for distribution at Town Meeting.

***Fri March 30***

Warrants and lists delivered to Town Meeting site. List of non-resident employees provided to Moderator and Town Clerk.

Except for Town Meeting and Election, dates required by Town Code / State Law and dates for final submission of warrant articles, this schedule is subject to change.

***Mon Apr 2***

**ANNUAL TOWN MEETING (Monday at 7:00 p.m.)**

***April 3, 5, 9  
(T & TH, M)***

**Adjourned sessions of Annual Town Meeting (Tuesday, Thursday and Monday at 7:00 p.m. as necessary).**

**Except for Town Meeting and Election, dates required by Town Code / State Law and dates for final submission of warrant articles, this schedule is subject to change.**



**DATE:** DECEMBER 11, 2017  
**TO:** BOARD OF SELECTMEN  
**FROM:** NAN BALMER, TOWN ADMINISTRATOR  
**RE:** Debt Exclusion

**REQUESTED ACTIONS:**

**PROVIDE COMMENT AND DIRECTION ON POTENTIAL FOUR POTENTIAL DEBT EXCLUSION VOTES**

**BACKGROUND:**

Boards and committees may ask the Board of Selectmen to place four Proposition 2 ½ debt exclusion questions on the March 27, 2018 Town Election ballot including:

1. Library Trustees: Fund new library
2. School Committee: Fund athletic facilities improvements
3. Recreation Commission: Fund construction of Loker Field
4. Board of Selectmen: Fund Building improvements for Town Building and Fire Station # 2

Town Counsel will be present to discuss the debt exclusion process. The process requires both a Town Meeting article and an election ballot question.

The Board's policy on Proposition 2 ½ Questions is attached. In summary:

- Any board or committee including the Finance Committee may ask the Board of Selectmen to place a Proposition 2 ½ question including over-rides and exclusions on the ballot.
- If the Selectmen plan to initiate the placement of a question on the election ballot, the Board must request a recommendation from the Finance Committee.
- The Finance Committee makes a presentation to the Board of Selectmen on all proposed debt exclusions.
- At a subsequent meeting, the Selectmen vote to refer the question for placement on the ballot to the Town Clerk.
- The Finance Committee makes a second presentation to the public on the proposed ballot questions.

## POLICY ON PROPOSITION 2 1/2 BALLOT QUESTIONS <sup>2</sup>

### Board Policy

From time to time, the Board may be asked by the Finance Committee or other boards or committees to place a Proposition 2 1/2 levy limit override question ("Override Question") or debt exclusion question ("Exclusion Question") on the ballot (although the Board can choose to place such questions on the ballot without having been asked by any other board or committee). Set forth below are the minimum steps that the Board should take before voting to place an Override or Exclusion Question on the ballot:

The Board shall ask the requesting board or committee to provide it with a written request to place an Override or Exclusion Question on the ballot. Such written request should be received at least two weeks prior, if possible, to the Board's vote. In the case where the Board desires to place an Override or Exclusion Question on the ballot without having been asked by any other board or committee to do so, it shall request a written recommendation from the Finance Committee. Such written recommendation should be received at least two weeks, **if possible**, prior to the Board's vote.

The Board shall ask the Finance Committee to make a presentation to the Board at a public meeting in which it reviews in detail (i) the Town's current and projected financial position, (ii) its understanding of the rationale for both the timing and amount of the Proposition 2 1/2 override or exclusion, (iii) the consequences of not placing the question on the ballot or, alternatively, the question being rejected by a majority of the voters, (iv) any discussions it may have had with other boards or committees concerning the need for a ballot question, and (v) any other information that it or the Board determines to be important in making a decision on placing the question on the ballot, e.g., any available details related to the Town's budget or the School budget. Such meeting should be held at least one week prior to the Board's vote.

After completing the above, the Board will discuss the merits of placing the Override or Exclusion Question on the ballot, review the ballot question language, and vote on whether or not to place the question on the ballot.

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<sup>2</sup> Proposition 2 1/2 limits the amount of revenue a town may raise from local property taxes each year to fund municipal operations. This amount is known as the annual levy limit. General Laws Chapter 59, Section 21C allows a town to increase tax revenues above that limit with voter approval.

Proposition 2 1/2 establishes two types of voter approved increases in taxing authority, i.e., levy limit overrides and exclusions. A levy limit override increases the amount of property tax revenue a community may raise in the year specified in the override question and in future years. The purpose of an override is to provide funding for municipal expenses, such as annual operating and fixed costs. An exclusion increases the amount of property tax revenue a community may raise for a limited or temporary period of time in order to fund specific projects, e.g., land acquisitions or building construction.

To seek voter approval, Proposition 2 1/2 referenda questions are placed on an election ballot by vote of the "local appropriating body," which is defined in towns as the Board of Selectmen. A majority vote of the entire board is needed to place an override question on the ballot. A two-thirds vote of the entire board is needed to place an exclusion question on the ballot. The board must vote the question exactly as it will appear on the ballot. Except for the purpose of the override or exclusion, specific language must be used for the ballot question. Proposition 2 1/2 referenda questions may not be placed on the ballot by vote of town meeting or through use of a local initiative, i.e., petitioners.

Following a vote to place an Override or Exclusion Question on the ballot, the Board shall hold a publicly noticed meeting at which the subject of the Override or Exclusion Question is discussed. The Board shall ask the Finance Committee to make a presentation similar to the one noted in (2) above. The public should be given the opportunity to ask questions and make comments at this publicly noticed meeting.

The Board may or may not decide to take a formal position on the merits of the Override or Exclusion Question prior to the Town Election at which such question will be voted on by the electorate.

*Adopted on November 12, 2002; revision prepared 10/1/10*

DATE: DECEMBER 11, 2018  
TO: BOARD OF SELECTMEN  
FROM: NAN BALMER, TOWN ADMINISTRATOR

**REVIEW CAPITAL BUDGET PRIORITIES AND MAKE ANY RECOMMENDATIONS TO THE FINANCE COMMITTEE ON PRIORITY PROJECTS**

**BACKGROUND:**

- On December 4th, the Board forwarded its capital projects to the Finance Committee.
- The Finance Committee requested information about the Board's priorities.
- The Town Administrator, Finance Director, Public Buildings Director, and IT Director reviewed the capital projects and provide the attached information. Key points include:
  - **Public Buildings Director:**
    - The HVAC system in Town Building is failing and at risk because the refrigerant in the air conditioning system will longer be manufactured in 2020.
  - **Finance Director:**
    - All projects that are funded through a separate article should be deleted from the FY 19 capital projects list.
    - A FY 19 debt exclusion is recommended for at least \$3,545,000 in building improvements for Town Building and Fire Station 2. As an alternative, building improvements could be authorized in FY 19 and funded as FY 20 general fund borrowing. Town Building HVAC is expected to be a one year prokject. Fire Station 2 is expected to be a two year project.
  - **IT Director:**
    - Memorandum attached with justification for purchase of MUNIS Revenue model.
    - The Network Replacement project is recommended as a separate Town Meeting article: 1) approving a five year lease (leases which go beyond 3 years are approved by Town Meeting) and 2) funding the first year of the lease after which network replacement costs though a lease will included in the FY 20 operating budget and beyond.

**STAFF RECOMMENDATION ON FY 19 CAPITAL PROJECTS – 12/11/17  
(FOR DEPARTMENTS UNDER THE BOARD OF SELECTMEN)**

#	DEPARTMENT	PROJECT	ESTIMATED COST / CURRENT CAPITAL REQUEST	RECOMMENDED FOR INCLUSION IN FY 19 CAPITAL BUDGET?	STAFF COMMENTS
1	Facilities	Library Windows: Design and Replacement	\$85,000	NO - Submit as \$85,000 CPA article	<b>Delete.</b> In Wayland, projects funded through an article are not included on the capital projects list. This project will be submitted to the Community Preservation Committee for funding
2	Facilities	Town Building Windows: Design	\$65,000	<b>YES</b> , unless Board sponsors a debt exclusion article and ballot question for general town building improvements. Many TB windows are broken, don't open, are energy inefficient.	<b>Delete # 2 - # 5:</b> The staff recommends that the Board consider sponsoring an FY 19 Article and Debt Exclusion ballot vote to authorize at least \$3,545,000 in building improvements for: 1) Town Building window design - \$65,000, 2) Design of Town Building renovation - \$40,000, 3) Town Building Mechanical and Electrical Improvements - \$1,570,000* 4) Fire Station #2 Renovations - \$1,870,000** The Board may wish to expand this project or delay until FY 20. --- A broader project with a preliminary estimate of \$4.7 million for interior renovations is proposed.
3	Facilities	Town Building Renovations	\$375,000	<b>YES, but reduce to \$40,000</b> , unless Board sponsors a debt exclusion article and ballot question for general town building improvements.	As an alternative, there may be room for one of the two major projects in FY 19 General Fund borrowing. The Town Building project would add \$150,000 for 20 years to debt service beginning FY 20. The fire Staion renovations would add \$180,000.
4	Facilities	Town Building Mechanical and Electrical Improvements	\$1,570,000	<b>YES</b> , unless Board sponsors a debt exclusion article and ballot question for general town building improvements	<i>FY 19: Project Drivers:</i> <b>*#4: <u>Town Building Mechanical and Electrical Improvements:</u> The timing of the project is driven by the fact that the refrigerant for air conditioning of Town Building will not be manufactured beginning 2020. If there is a breakdown in the TB cooling system, AC could not be repaired unless recycled refrigerant can be found. Both the Middle School and DPW use this refrigerant but are not in as much jeopardy of failing. Therefore it is recommended that the project be funded in FY 19. An updated estimate for this work will be available by 1/15/18.</b>
5	Facilities	Fire Station #2 Renovations	\$1,800,000	<b>YES</b> , unless Board sponsors a debt exclusion article and ballot question for general town building improvements	<b>**#5: <u>Fire Station #2 Improvements:</u> The project is driven by need to accommodate firefighters of both genders. Temporary arrangements could be explored if it is preferable to choose between the Fire Station 2 project and the Town Building HVAC project. See attached memo from Fire chief.</b>

6	Facilities	Depot Repairs	\$110,000	NO, Submit as CPA article	<b>Delete, Recommend CPA funding:</b> In Wayland, projects funded through an article are not included on the capital projects list. This project will be submitted to the Community Preservation Committee for funding
7	Facilities	Council on Aging Design	\$446,000	NO, Submit as separate article	<b>Delete and submit as separate article:</b> In Wayland, projects funded through an article are not included on the capital projects list. Design cost estimate provided by COA / CC Chair.
8	IT	Public Safety Data Center Replacement	\$70,000	NO, Submit in FY 19 operating budget	<b>Delete, include in operating budget.</b>
9	IT	Network Replacement	\$242,000	NO, Submit in separate article authorizing five year lease including authorization for first year FY 19 funding of \$242,000. Subsequent lease payments will be included in future year operating budgets.	<b>Delete and submit as separate article:</b> Because contracts / leases in excess of 3 years require Town Meeting action. Essential to business functions and public education. Please see attached explanatory memo from IT Director
10	IT	MUNIS Revenue Module	\$230,000	YES: \$230,000	Please see IT Director's memo attached and,  Finance Director's statement: <i>Currently the town uses the Vadar Software System in the Treasury Department. Starting in Fiscal 2007 the town converted from one operating system to MUNIS. This conversion did not include removing Vadar from the Treasury Department and installing the MUNIS Tax Module. This has resulted in the town operating two software systems that are not linked. Due to this monthly reconciliations and workflows are effected within the Finance, Assessing, Treasury and Water. Various consultants including Melanson Heath and the Collins Center have recommending consolidating to one operating system. The CIP that has been submitted addresses this issue.</i>
11	Fire	Vehicle	\$55,000	YES: \$55,000	Recommended; included in vehicle replacement plan funded by ambulance fees
12	Conservation	Compact Tractor	\$46,000	YES: \$46,000	Recommended: we currently use gas propelled hand mowers – The tractor will has more function than mower and in some cases save 50% of mowing time now accomplished with minimal staffing.
13	Police	Tasers, Radios	\$50,000	NO, Transfer to operating budget	Recommend; consider request to Finance Committee to fund in operating budget
<b>REVISED RECOMMENDED FY 19 CAPITAL PROJECT SUBMISSIONS WITH NO DEBT EXCLUSION:</b>			<b>\$3,806,000</b>		
<b>REVISED RECOMMENDED FY 19 CAPITAL PROJECT SUBMISSIONS WITH DEBT EXCLUSION:</b>			<b>\$ 331,000</b>		
<b>RECOMMENDED FOR FY 19 BUILDING IMPROVEMENTS ARTICLE &amp; DEBT EXCLUSION:</b>			<b>\$3,545,000</b>		



# TOWN OF WAYLAND

41 COCHITUATE ROAD

WAYLAND, MASSACHUSETTS 01778

TOWN BUILDING

41 COCHITUATE ROAD

TEL. (508) 358-7701

TO: Nan Balmer, Town Administrator

FROM: Jorge Pazos, IT Director

DATE: December 7, 2017

RE: Munis Revenue module capital request

The rationale and justification for implementing the Munis revenue modules has been presented to the Town on several occasions in past studies. It is also an ongoing concern cited in management letters from Melanson Heath, the Town's outside auditing firm.

The proposal submitted to both the Finance Committee and the Board of Selectmen included detailed costs associated with the implementation. Pages 1 and 2 of the *Wayland Munis Revenue Modules Quote* detail the following information:

- Module/Product/Service Description
- Quantity
- License/Unit Costs
- Implementation Hours
- Implementation Costs
- Data Conversion Costs
- Year 1 Maintenance Costs

Page 3 of the *Wayland Munis Revenue Modules Quote* included the following information:

<b>Summary</b>	<b>One Time Fees</b>	<b>Recurring Fees</b>
Total SaaS	\$0.00	\$39,520.00
Total Tyler Software	\$98,800.00	\$0.00
Total Tyler Services	\$112,400.00	\$0.00
Total 3rd Party Hardware, Software and Services	\$2,302.00	\$0.00
<b>Summary Total</b>	<b>\$213,502.00</b>	<b>\$39,520.00</b>
<b>Contract Total</b>	<b>\$253,022.00</b>	

If the Town were to approve the funding request we would be able to fully develop a detailed schedule for full implementation of the modules.

# Information Technology

## Network Infrastructure Capital Plan



# Introduction

The goal of this presentation is to help develop an understanding of the Town of Wayland network infrastructure and the costs associated with the procurement and maintenance of our network.

# Defining our Network

- A network is the infrastructure used to connect devices together for the purposes of sharing resources.
- A network is made up of cabling, network switches, wireless access points and management software.
- Our focus with this capital request is the network infrastructure: cabling, network switches, wireless access points, management software and professional services needed to implement the network.

# What is the current state of our network?

While stable our network is both aging and not positioned to accommodate future growth, particularly within the schools.

Consider the following facts:

- 33% of our network switches will be “end of support” within the next 2 years, more will follow soon thereafter
- Within the next year 85% of our wireless access points will be 5 or more years old
- Our network is responsible for providing telephone service to all Town buildings, a critical life and safety system

By implementing a thoughtful plan now, the Town could modernize its network, provide critical and necessary services and achieve this in a financially predictable fashion.

# What are the priorities?

Any serious proposal would address the need to replace the following:

- Network core switching
- High School switches
- Middle School switches
- Cabling improvements at the Middle School
- Replace the wireless access points and wireless controllers.
- Replace remaining switch and wireless equipment

# Project Considerations

- Town can replace specific segments of the network or the entire network at once
- Focusing on replacing smaller segments of the network will reduce our ability to negotiate better overall pricing
- Complete network replacement will yield better overall pricing
- Budgeted costs assume standard contract pricing
- Regardless of approach the Town should budget a yearly replacement cost for network infrastructure

# Network Infrastructure Capital Plan Costs

- Total project costs are \$1,209,000.
- Lease/finance over 5 years is \$242,000 per year.
- Phased in approach, aligned with stated priorities:
  - Year 1: \$332,129
  - Year 2: \$385,396
  - Year 3: \$205,755
  - Year 4: \$285,150

# Memo

**To:** Nan Balmer  
**From:** Chief Houghton  
**Date:** December 7, 2017  
**Re:** Capital Items

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As requested below are my comments on why the FY19 Capital items should be funded. If you have any questions please let me know.

**Line Item 5 - Fire Station 2 Renovations:** Although this is technically a Facilities project, it effects the operations of the fire department and its staff and I felt appropriate to offer comments.

This building is one of two buildings in Wayland that are open 24hours a day, 365 days a year and staffed by town employees. The building was built in two parts. The first part was built in the early 1950's as a fire station for the then call department. The second part was added sometime after to include a Library, office for the police as well as an office for Social Security. The second half is what is known today as the Arts Center. The building exterior has been kept in good shape over the years however the interior has not kept up.

The proposed project will be to make all improvements to the interior of the building and will include utilizing the entire structure as the fire station that will include all of the required functions and separations of a modern fire station. One of the main features will be to include separate male and female restroom, shower, locker and dorm spaces. The department has done well with what we have and the building is in need of updating. With the needs assessment that has been done coupled with a draft floorplan it is felt that we would be able to use the current structure without adding or moving any windows or doors (a huge cost savings). As we are seeing in other communities like Sudbury who are opting to level and build all new structures that are similar to station 2 construction, we are looking at a very cost effective way of obtaining the needs of properly proving space for our firefighters and staying within the same structure.

**Line Item 11 - Vehicle:** The current vehicle being driven by the Assistant Chief is a hand me down vehicle from the Chief. The vehicle is getting tired and if kept will be in need of costly repairs in the future. It is our intention to obtain a vehicle that is similar to the current Chiefs car to keep maintenance, parts and service the same. This project is a normal replacement of the vehicle that has been in the Capital plan and would be funded from Ambulance Receipts.

# MEMORANDUM

**To:** Board of Selectmen  
**From:** David Porter  
**Date:** December 11, 2017  
**Re:** 2018 License Renewals

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The following is the list of licenses that are ready for approval for 2018.

**VOTE:** TO APPROVE THE 2018 RENEWAL OF THE LIQUOR LICENSES, COMMON VICTUALLERS' LICENSES, ENTERTAINMENT LICENSES, AND AUTO DEALER LICENSES AS PRESENTED IN THE DECEMBER 11, 2017 MEMORANDUM TO THE BOARD OF SELECTMEN, RE: 2018 LICENSE RENEWALS

**The following liquor licenses are ready for approval for 2018:**

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China Rose	15 East Plain Street	On Premise All Alcoholic Beverages
Dudley Chateau	20 Crest Road	On Premise All Alcoholic Beverages
New Sandy Burr, Inc.	103 Cochituate Road	On Premise All Alcoholic Beverages



**The following Common Victuallers Licenses are ready for approval for 2018:**

Dudley Chateau of Cochituate Inc.	20 Crest Road	Victualler License
The Local Restaurant of Wayland LLC dba The Local Restaurant	11 Andrew Avenue	Victualler License
New Sandy Burr Inc.	103 Cochituate Road	Victualler License
Spice 'n Pepper (Aprileileen Corporation)	236 Boston Post Road	Victualler License

I am in contact with Starbucks' corporate licensing office and they are in the process of submitting the requisite paperwork and payment. I am also in contact with Panera's corporate offices to resolve a tax issue. After we resolve the outstanding issues, we will bring their license renewals before the Board of Selectmen.

**The following Entertainment Licenses are ready for approval for 2018:**

110 Grill CW Wayland LLC	175 Commonwealth Avenue	Entertainment License
Einstein and Noah Corp dba Einstein Brothers	44 Main Street	Entertainment License
The Local Restaurant of Wayland dba The Local	11 Andrew Avenue	Entertainment License
Prime 131 Grill (Old Wayland Restaurant Inc.)	131 Boston Post Road	Entertainment License
The Villa Inc.	48 East Plain Road	Entertainment License

I am in contact with Starbucks' corporate licensing office and they are in the process of submitting the requisite paperwork and payment.

**The following Auto Dealer Licenses are ready for approval for 2018:**

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Herb Chambers of Wayland Inc. dba Aston Martin Boston, dba Bentley Boston, dba Rolls-Royce Motor Cars of New England, dba Herb Chambers Lamborghini of Boston, and dba Herb Chambers Maserati, and dba Herb Chambers Alfa Romeo of Boston	533 Boston Post Road	Sale of Used Vehicles I
State Road Auto Body (Stephen Jones)	292 Boston Post Road	Sale of Used Vehicles II
Wayland Foreign Motors (Tim and Tom Cornu)	356 Boston Post Road	Sale of Used Vehicles II

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**TOWN ADMINISTRATOR'S REPORT  
WEEK ENDING DECEMBER 8, 2017**

**1. CORRESPONDENCE**

#9: Because of a procedural issue in the Planning Board's hearing notice, the Attorney General disapproved Annual Town Meeting Warrant Article 14: Limited Site Plan Approval (Zoning By-law). The attorney General also provided comment on the proposed by-law in the event the planning Board proposes the article to town Meeting in the future. The Chairman of the Planning Board will meet with the Selectmen on January 8th to review proposed Planning Board articles. No schedule has yet been set for hearings and other key dates.

**2. UPDATE ON OXBOW MEADOWS CONSTRUCTION CONTRACT**

The Conservation Commission was not amenable to the removal of 113 trees, and recommended redesigning the Oxbow field to limit the number of trees to be removed. The Commission will revisit the plan on December 21.

**3. BOARD OF SELECTMEN MEETING SCHEDULE**

Please see attached schedule for selectmen's meeting through Annual Town Meeting which will be provided in hard copy Monday night.

12-11-17

# BOARD OF SELECTMEN SCHEDULE THROUGH 2018 ATM

## 365 January 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	1	2	3	4	5	6
2	7	8	9	10	11	12
3	14	15	16	17	18	19
4	21	22	23	24	25	26
5	28	29	30	31		

## 365 February 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
5				1	2	3
6	4	5	6	7	8	9
7	11	12	13	14	15	16
8	18	19	20	21	22	23
9	25	26	27	28		

## 365 March 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
9				1	2	3
10	4	5	6	7	8	9
11	11	12	13	14	15	16
12	18	19	20	21	22	23
13	25	26	27	28	29	30

## 365 April 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
14	1	2	3	4	5	6
15	8	9	10	11	12	13
16	15	16	17	18	19	20
17	22	23	24	25	26	27
18	29	30				

ATM: 4/2, 4/3, 4/5, 4/9

## 365 May 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
18		1	2	3	4	5
19	6	7	8	9	10	11
20	13	14	15	16	17	18
21	20	21	22	23	24	25
22	27	28	29	30	31	

## 365 June 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
22					1	2
23	3	4	5	6	7	8
24	10	11	12	13	14	15
25	17	18	19	20	21	22
26	24	25	26	27	28	29

## 365 July 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
27	1	2	3	4	5	6
28	8	9	10	11	12	13
29	15	16	17	18	19	20
30	22	23	24	25	26	27
31	29	30	31			

## 365 August 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
31			1	2	3	4
32	5	6	7	8	9	10
33	12	13	14	15	16	17
34	19	20	21	22	23	24
35	26	27	28	29	30	31

## 365 September 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
35						1
36	2	3	4	5	6	7
37	9	10	11	12	13	14
38	16	17	18	19	20	21
39	23	24	25	26	27	28
40	30					

## 365 October 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
40	1	2	3	4	5	6
41	7	8	9	10	11	12
42	14	15	16	17	18	19
43	21	22	23	24	25	26
44	28	29	30	31		

## 365 November 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
44				1	2	3
45	4	5	6	7	8	9
46	11	12	13	14	15	16
47	18	19	20	21	22	23
48	25	26	27	28	29	30

## 365 December 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
48						1
49	2	3	4	5	6	7
50	9	10	11	12	13	14
51	16	17	18	19	20	21
52	23	24	25	26	27	28
1	30	31				

- 1 Jan New Year's Day
- 15 Jan Martin Luther King Day
- 12 Feb Lincoln's Birthday
- 13 Feb Mardi Gras Carnival
- 14 Feb Valentine's Day
- 19 Feb Presidents Day
- 11 Mar Daylight Saving (Start)

- 17 Mar St. Patrick's Day
- 30 Mar Good Friday
- 1 Apr April Fool's Day
- 1 Apr Easter
- 2 Apr Easter Monday
- 5 May Cinco de Mayo
- 13 May Mother's Day

- 19 May Armed Forces Day
- 20 May Pentecost
- 21 May Pentecost Monday
- 28 May Memorial Day
- 14 Jun Flag Day
- 17 Jun Father's Day
- 4 Jul Independence Day

- 3 Sep Labor Day
- 11 Sep September 11th
- 17 Sep Citizenship Day
- 28 Sep Native American Day
- 8 Oct Columbus Day
- 16 Oct Boss's Day
- 20 Oct Sweetest Day

- 31 Oct Halloween
- 4 Nov Daylight Saving (End)
- 11 Nov Veterans' Day
- 22 Nov Thanksgiving
- 7 Dec Pearl Harbor
- 25 Dec Christmas Day
- 31 Dec New Year's Eve

Calendar & Holidays

# 2018

Calendar-365.com



# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

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

## BOARD OF SELECTMEN

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

### Board of Selectmen

#### Meeting Minutes

November 20, 2017

6:15pm

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

**Attendance:** Lea T. Anderson, Mary M. Antes, Cherry C. Karlson, Douglas A. Levine (6:20pm), Louis M. Jurist (6:40pm)

**Also Present:** Town Administrator Nan Balmer

**A1. Executive Session Open meeting and enter into Executive Session 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 to discuss strategy with respect to collective bargaining with the Fire Union and the Police Union.** L. Anderson moved, seconded by M. Antes, to enter into executive session 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 to discuss strategy with respect to collective bargaining with the Fire Union and the Police Union. The Chair declares that a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town. Roll call vote: YEA: L. Anderson, M. Antes, C. Karlson, NAY: none. ABSENT: L. Jurist, D. Levine. ABSTAIN: none. Adopted 3-0. Chair L. Anderson invites attendance by: Nan Balmer, Town Administrator, John Senchyshyn, Assistant Town Administrator/HR Director, Town Counsel A. Kwesell, KP Law, Fire Chief David Houghton. The Board will reconvene in open session in approximately 45 minutes.

**A2. Call to Order by Chair** Chair L. Anderson called the meeting of the Board of Selectmen to order at 7:20 p.m. in the Selectmen's Meeting Room of the Wayland Town Building and noted that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM.

After reviewing the agenda, L. Anderson announced that Wayland and Weston will receive a \$1.7M grant from the state for completion of a four-mile section of the Mass Central Rail Trail.

**A3. Tax Classification and Recapitulation Hearing and votes to adopt FY18 tax rate policy** N. Balmer apologized for her office's oversight on posting documents for the Hearing in an easily accessible manner on the Town's website. L. Anderson announced that the Board will hear a presentation by the Assessors tonight on Tax Classification and vote on the tax factors. The Finance Director will review the Tax Recapitulation sheets; however, due to an error posting the meeting materials, the Board will post a meeting for Monday, November 27<sup>th</sup> at 10:00am to continue and complete the hearing. Board of Assessor Chair Susan Rufo presented the Classification Hearing materials. The action for the Board of Selectmen is to vote on how to adopt the tax rate policy. S. Rufo noted that FY20 will be a certification year for the town, and summarized the data used to set the FY18 proposed tax rate of \$18.03. She said overall the average assessment decreased. She discussed residential, commercial, and industrial property values noting that the Board of Assessors is responsible for all real estate assessments and exempt properties. She then discussed the classification percentage, new growth, 40B developments as residential properties, and explained how the

tax rate is calculated. She reviewed all of the options and also went over all of the possible exceptions. Finance Committee Vice Chair C. Martin stated that FinCom voted 6-0-0 in favor to recommend a uniform tax rate for FY18 and for future consideration would like more information on the residential exemption options.

C. Karlson moved, seconded by M. Antes that the Board of Selectmen vote to establish the residential tax factor of 1. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine NAY: none. ABSENT: none. ABSTAIN: Adopted 5-0-0.

C. Karlson moved, seconded by M. Antes, that the Board of Selectmen vote not to adopt a Small Commercial Exemption. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine NAY: none. ABSENT: none. ABSTAIN: Adopted 5-0-0.

C. Karlson moved, seconded by M. Antes, that the Board of Selectmen vote not to adopt a Resident Exemption. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine NAY: none. ABSENT: none. ABSTAIN: Adopted 5-0-0.

The Board signed the related documents for the Board of Assessors.

B. Keveny came before the Board to explain the Tax Recapitulation sheet even though the Board will not close the hearing tonight. He discussed the first 4 pages in detail, including local receipts, and went over some highlights from the supporting schedules/pages giving comparisons of FY17 and FY18. B. Keveny stated that he, E. Doucette, and E. Brideau have gone through the Recap to review all town meeting appropriations for accuracy. A. Lewis, Claypit Hill Road, stated she doesn't understand several of the numbers on pages 3 and 5. She also asked several questions about supporting schedules. B. Keveny answered her questions and discussed enterprise funds, CPA funds, free cash, and state aid.

L. Anderson said the hearing will be continued to 10 a.m. on Monday, November 27th to allow for posting of all required documents.

**A4. Public Comment** Tom Hoopes, 18 Williams Rd., thanked the Board for their leadership. He also gave an update on the Land Court date. He repeated the need to work collectively with Recreation to make Oxbow safe including completing a pedestrian study, creating a separate entrance and developing buffer areas.

Tonya Cunningham, 9 Williams Rd., expressed her concern that Conservation and the Town Engineer marked the field and estimated that 110 trees will need to be removed, far greater than the 40 trees allowed under the current Conservation Commission approval. She asked the Board to rethink signing the contract.

Gordon Cliff, Highfields Rd., urged the Board of Selectmen and FinCom to structure any debt exclusion ballot question for specific proposed capital projects instead of bundling different items together.

Gretchen Schuler, Old Connecticut Path, stated her concern that all conservation issues must be solved before the town spends money on the design for new recreation facilities at the Loker area field and the High School.

Anette Lewis, Claypit Hill Rd., urged the Board to start planning for the future now and create a long-term capital plan before creating another project committee like the CoA/CC.

**A5. Licensing: Discuss Class II Used Car Dealer's License for Wayland Automotive (322 Commonwealth Avenue) and request for public meeting** N. Balmer discussed the issue with the Board. Wayland Automotive has requested a public hearing for Dec. 4. C. Karlson noted it wouldn't be a legal public hearing, but instead an item on the agenda for public discussion. N. Balmer said she will do her best to notify abutters. Some concerns brought up by abutters include early morning deliveries, trucks idling and air pollution.

**A6. Council on Aging/Community Center Advisory Committee: Vote to approve COA/CC Advisory Committee charge**

The Board discussed the draft COA/CC Advisory Committee charge. L. Anderson noted the changes to the charge. J. Milburn, 281 Concord Road, stated that more information about energy efficiency considerations for Town buildings would be helpful to the Committee.

M. Antes moved, seconded by D. Levine, that the Board of Selectmen vote to approve the COA/CC Advisory Committee Charge. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine NAY: none. ABSENT: none. ABSTAIN: Adopted 5-0-0.

**A7. PMBC: Vote to assign to the Permanent Municipal Buildings Committee to oversee: (1) the School Committee's High School Stadium Complex, (2) the High School Tennis Courts/Softball Field Reconstruction Projects, and (3) the Recreation Commission's Loker Synthetic Turf Field Project subject to requests from both the School Committee and Recreation Commission** C. Karlson asked why Oxbow Meadows is not included here and N, Balmer responded.

C. Karlson moved, seconded by D. Levine, that the Board of Selectmen assign the Permanent Municipal Buildings Committee to oversee (1) the School Committee's High School Stadium Complex, (2) the High School Tennis Courts/Softball Field Reconstruction Projects, and (3) the Recreation Commission's Loker Synthetic Turf Field Project subject to requests from both the School Committee and Recreation Commission. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine NAY: none. ABSENT: none. ABSTAIN: Adopted 5-0-0.

**A8. Town Meetings: Special Town Meeting follow-up and Annual Town Meeting review of potential articles**

C. Karlson noted the lack of standard formalities at Town Meeting and wondered if attendees desire a uniform process at every meeting. The Board also discussed the large turnout and that planning for Annual Town Meeting (ATM) logistics should be considered. M. Antes brought up accessibility issues and that they should be clearly communicated before the meeting. N. Balmer discussed the Articles that are still in process for ATM. M. Antes stated she would like to add a Home rule petition article asking legislators to allow the Town to be exempt from prevailing wage rates for certain affordable housing projects under a certain price level.

**A9. Minutes: Vote to approve minutes of October 30, 2017** M. Antes moved, seconded by D. Levine, to approve the minutes of October 30, 2017 as amended. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none. ABSTAIN: Adopted 5-0-0.

**A10. Consent Calendar: Review and vote to approve (See Separate Sheet)** M. Antes moved, seconded by C. Karlson to approve the Consent Calendar. YEA: L. Anderson, M. Antes, C. Karlson, D. Levine, L. Jurist. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0

**A11. Review Correspondence: (See Separate Index Sheet)** The Board noted that the Conservation Commission's newsletter was very informative as well as the "Houghton's Heroes" newsletter from the Fire Department.

**A12. Report of the Town Administrator**

- 1. Correspondence:** None.
- 2. Private road tour:** Tuesday, Nov. 28 at 8:30am is the best time for four of the Selectmen to view private roads with representatives of the DPW. The Board said they would prefer the tour to last about two hours. N. Balmer will look into scheduling another time for L. Jurist.
- 3. Electric cars:** Installation and activation of two electric vehicle charging stations has been completed with four parking spaces reserved for charging. The Town's fleet has two new Nissan Leafs and will be getting a plug-in hybrid Ford Fusion. Everything was funded with the Green Communities grant.

4. **Capital Project Planning:** The vote on capital projects is delayed until Dec. 4<sup>th</sup> in order to provide the Board with information from the Town's financial advisor on the overall tax impact. N. Balmer is working on a 10-year plan.
5. **Oxbow Meadows Update:** E. Doucette has been working on this issue. The Town Administrator has not signed the contract yet due to a pending Land Court hearing. The Land Court was postponed at the request of the abutters and rescheduled to Jan. 11, 2018. N. Balmer discussed the Conservation Commission permit and tree removal, the pedestrian study and the contract award. N. Balmer said the Recreation Commission is pushing for the Town to sign the contract so they can start work. The Board considered its options and agreed option 2 would be best.
6. **Re-use of 5 Concord Road- Next Steps:** Town Counsel was asked to prepare, at an estimated cost of \$2,000, a petition to Probate Court to permit the use of the Roby portion of the current library for cultural, arts, historical displays/education and adult education. The petition will be reviewed by the Attorney General's office prior to submission of the petition. Review of the petition should occur at the 12/4 or 12/11 meeting. The Board stated they would like the Library Planning Committee to put together a draft charge for a committee to consider the re-use of the building for the next meeting.

**A13. Selectmen's Reports and Concerns** D. Levine reported that there have been some upgrades and progress at the intersection of Routes 27 and 30. C. Karlson requested that with the passing of the Marijuana Moratorium, the Board should understand its role and the choices available to the Town. N. Balmer said she will see if staff will take this on as a project.

**A14. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any** The Chair said, "I know of none."

**A15. Adjourn** There being no further business before the Board, L. Jurist moved, seconded by D. Levine, to adjourn the meeting of the Board of Selectmen at 9:46 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 November 20, 2017**

1. Letter from Stephen M. Roberts, counsel for Wayland Automotive, to the Board of Selectmen, dated November 8, 2017, re: Request for a hearing to review license to sell pre-owned cars at 322 Commonwealth Road, Wayland, MA 01778 (with attached site plan)
2. Public Comment by Gretchen Schuler to Board of Selectmen, dated November 20, 2017

#### **Items Included as Part of Agenda Packet for Discussion During the November 20, 2017 Board of Selectmen's Meeting**

1. Memorandum of November 6, 2017 from Ellen Brideau, Director of Assessing, re FY18 Classification Hearing: Motions and Votes
2. PowerPoint Presentation on Tax Classification
3. Memorandum from David Porter, Executive Assistant to the Town Administrator, re Class II Used Car Dealer License for Wayland Automotive, 322 Commonwealth Avenue
4. Wayland Automotive online inventory, retrieved 11/15/2017, first page only
5. Update: Council on Aging/Community Center Advisory Committee, Draft dated 11/17/2017
6. Memorandum of July 25, 2017 from the School Committee, re request for PMBC oversight of High School Master Athletic Plan



7. Email of 11/17/2017 from Ben Keefe, Public Building Director, re PMBC and Field Projects
8. Permanent Municipal Building Committee web page, retrieved 11/16/2017
9. Table showing the status of the articles presented at Special Town Meeting on 11/14/2017
10. 2018 Annual Town Meeting, Potential Articles as of 11/20/2017
11. Town of Wayland Annual Town Meeting- April 2, 2017- Status
12. Draft Board of Selectmen meeting minutes of October 30, 2017
13. Report of the Town Administrator for Week Ending November 17, 2017

DRAFT



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

# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

## BOARD OF SELECTMEN

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

### Board of Selectmen

#### Meeting Minutes

November 27, 2017

10:00am

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

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

**Absent:** Douglas A. Levine, Louis M. Jurist

**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 10:00am in the Selectmen's Meeting Room of the Wayland Town Building and noted that the meeting is not being broadcast or videotaped for later broadcast by WayCAM. There was an announcement reminding residents of the Council on Aging's Holiday Shop on December 4<sup>th</sup> starting at 3:30pm. There was no public comment.

**A2. Open Public Hearing continued from prior Monday on Tax Recapitulation** L. Anderson opened the public hearing continued from November 20, 2017 with an overview of the presentations. Brian Keveny, Finance Director, and Ellen Brideau, Director of Assessing, were in attendance. C. Karlson expressed the Board's appreciation for the work of the Town Clerk, Assessor and Finance Director in preparing the Tax Recap sheet. B. Keveny said the edits noted on November 20 have been made. E. Brideau stated that the plan is to submit the Tax Recap to the Department of Revenue today. There being no further questions or public comment, L. Anderson closed the hearing at 10:04am.

### **A3. Vote to Appoint Continuing Members to the COA-CC Advisory Committee:**

- **Bill Sterling**
- **Jean Milburn**
- **Mark Foreman**
- **Frank Krasin**
- **Carol Glick**

N. Balmer distributed email letters of intent to continue service on the Council on Aging/Community Center (COA/CC) Advisory Committee from the five candidates. L. Anderson noted that B. Sterling previously represented the Council on Aging, Frank Krasin represented Recreation and the others were At Large representatives. Two other At Large positions will be advertised.

M. Antes moved, seconded by C. Karlson, to appoint Bill Sterling (Council on Aging), Jean Milburn, Mark Foreman, Frank Krasin (Recreation) and Carol Glick to the COA/CC Advisory Committee for a term ending on June 30, 2018. YEA: L. Anderson, M. Antes, C. Karlson. NAY: none. ABSENT: L. Jurist, D. Levine. ABSTAIN: none. Adopted 3-0-0.

**A4. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any**

The Chair said, "I know of none."

**A5. Adjourn** There being no further business before the Board, M. Antes moved, seconded by C. Karlson, to adjourn the meeting of the Board of Selectmen at 10:09am. YEA: L. Anderson, M. Antes, C. Karlson. NAY: none. ABSENT: L. Jurist, D. Levine. ABSTAIN: none. Adopted 3-0.

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

1. Memo from Ellen Brideau, Director of Assessing, dated 11/06/17, re: FY18 Classification Hearing: Motions and Votes
2. PowerPoint presentation prepared by the Board of Assessors, Town of Wayland Fiscal Year 2018 Tax Classification Hearing
3. Charts prepared by the Massachusetts Department of Revenue, Division of Local Services, Bureau of Local Assessment, printed on 11/16/2017
4. Email from Frank Krasin, dated November 21, expressing interest in serving on the Council on Aging – Community Center Advisory Committee
5. Email from Jean Milburn, dated November 21, expressing interest in serving on the Council on Aging – Community Center Advisory Committee
6. Email from Mark Foreman, dated November 20, expressing interest in serving on the Council on Aging – Community Center Advisory Committee
7. Email from Bill Sterling, dated November 22, expressing interest in serving on the Council on Aging – Community Center Advisory Committee
8. Email from Carol Glick, dated November 26, expressing interest in serving on the Council on Aging – Community Center Advisory Committee

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

1. Tax Recapitulation Worksheet, Fiscal Year 2018

**BOARD OF SELECTMEN**

**Monday, December 11, 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 Anderson Kreiger, River's Edge Special Counsel, dated November 16, 2017: \$83.02
3. Vote the question of approving the invoice for KP Law, dated November 20, 2017, Invoice No. 114093, for legal services rendered through October 31, 2017: \$22,781.73
4. Vote the question of approving the invoice for KP Law, dated November 17, 2017, Invoice No. 114027, for legal services rendered through October 31, 2017: \$1,237.95
5. Vote to approve the award of and authorize the Town Administrator to sign the contract for Design and Engineering Services for Loker Elementary School Kitchen Renovations with TBA Architects, Inc. of Boston MA in the amount of \$20,350.00
6. Vote to approve the award of and authorize the Town Administrator to sign the contract for OPM Services for Wayland Athletic Fields and Stadium Project with LEFTFIELD, LLC of Boston MA in the amount of \$20,000.00
7. Vote to accept grant from the Department of Conservation and Recreation for \$60,000 for the Mass Central Rail Trail
8. Vote to authorize the Town Administrator to sign an amendment to the Land Disposition Agreement to extend the due diligence period through February 28, 2018. Vote to notify Wood Partners that the Town plans to undertake the water main extension work subject to obtaining a contract with MassWorks to receive the grant monies
9. Vote to authorize the Town Administrator to sign the Green Community Annual Report
10. Vote to authorize the Public Buildings Director to submit an application to the Community Preservation Committee for funding for improvements to the Depot building at an estimated cost of \$110,000

DATE: DECEMBER 11, 2017  
 TO: NAN BALMER  
 FROM: ELIZABETH DOUCETTE, FINANCIAL ADMINISTRATOR  
 RE: TOWN COUNSEL SERVICES OCTOBER 2017

C-2

The Town Counsel legal services agreement includes a \$65,000.00 retainer for specific general legal services. Once the retainer amount is satisfied for the fiscal year there are no further charges for these specific services. Amounts detailed by matter and the retainer status and are provided below.

An assessment of the FY18 Legal Budget and projected expenses is underway.

### OCTOBER AMOUNTS BY MATTER

<u>MATTER</u>	<u>AMT BILLED</u>	<u>AMT CREDIT TOWARD RETAINER</u>
General Legal		\$3,367.00
Contracts		795.50
Town Meeting		3,903.50
Loker/Dow Conservation		1,591.00
Appelate Tax Board	\$ 296.00	
Bernstein v. Planning Board	536.50	
Real Estate	888.00	
Town Center/Twenty Wayland	758.50	
150 Main Street	333.00	
Nelson v. Conservation Commission	740.00	
Wayland Meadows	851.00	
Wayland /Windsor Place 40B	2,442.00	
Wayland-Cascade Wayland 40B	1,554.00	
Wayland v. Achambault	148.00	
Trustees of Residences at 89 Oxbow	2,238.50	
Affordable Housing **	425.50	
School Committee ***	1,239.50	
Rice Road Subdivision	388.50	
Disbursements	285.73	
<b>Total Not Covered under Retainer</b>	<b>\$13,124.73</b>	
<b>Total Covered under Retainer</b>		<b>\$9,657.00</b>
<b>TOTAL AMOUNT BILLED</b>	<b>\$22,781.73</b>	

### RETAINER CREDIT STATUS

<u>SERVICE PERIOD</u>	<u>AMT CREDIT TOWARD RETAINER</u>
<b>FY18 Retainer Cap of \$65,000</b>	<b>\$65,000.00</b>
July 2017 Retainer Credit	-9,805.00
August 2017 Retainer Credit	-6,086.50
September 2017 Retainer Credit	-7,881.00
October 2017 Retainer Credit	-9,657.00
<b>REMAINING RETAINER CREDIT FY18</b>	<b>\$31,570.50</b>

\*\* Affordable Housing Trust will fund this cost

\*\*\* School Department will fund this cost

# ANDERSON KREIGER

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

November 16, 2017

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

Reference # 123460 / 5415-001

In Reference To: River's Edge Special Counsel

## Attorney/Paralegal Summary

Name	Hours	Rate	Amount
Stephanie B. Dubanowitz	2.30	270.00	0.00
Colin Van Dyke	1.00	270.00	0.00
Andrew W. Fowler	0.10	0.00	0.00
David Wiener	2.70	320.00	0.00

## Additional Charges

			Amount
9/8/2017	Delivery charges	FedEx	25.46
9/8/2017	Delivery charges	FedEx	16.13
9/8/2017	Delivery charges	FedEx	16.13
9/8/2017	Delivery charges	FedEx	25.30
Sub-total Expenses:			83.02

## Payments

10/5/2017	Payment	CK#428590	10,370.06
10/27/2017	Payment	CK#429224	18,073.72
Sub-total Payments:			28,443.78

Total Current Billing:	83.02
Previous Balance Due:	0.00
<b>Total Now Due:</b>	<b>83.02</b>

PLEASE NOTE: ALL BALANCES DUE WITHIN 30 DAYS

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

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INVOICE NO: 114093

WAYLAND TOWN HALL  
41 COCHITUATE ROAD  
WAYLAND, MA 01778

IN REFERENCE TO: PROFESSIONAL SERVICE THROUGH      October 31, 2017  
November 20, 2017

TOTAL FEES:	\$22,496.00
TOTAL COSTS:	<u>\$285.73</u>
<b>BALANCE DUE:</b>	<b><u>\$22,781.73</u></b>

RECEIVED  
NOV 27 2017

**RECEIVED**

NOV 21 2017

Wayland Personnel Department

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

INVOICE NO: 114027

WAYLAND TAX  
MS. NAN BALMER  
WAYLAND TOWN HALL  
41 COCHITUATE ROAD  
WAYLAND, MA 01778

*Tax Title Matters*

IN REFERENCE TO: PROFESSIONAL SERVICE THROUGH      October 31, 2017  
November 17, 2017

TOTAL FEES:	\$1,156.25
TOTAL COSTS:	<u>\$81.70</u>
<b>BALANCE DUE:</b>	<b><u>\$1,237.95</u></b>





# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

C-5

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

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

DATE: December 7, 2017

TO: Nan Balmer, Town Administrator

FROM: Kenneth "Ben" Keefe, Public Buildings Director

RE: Design and Engineering Services for Loker Elementary School Kitchen Renovations

## **REQUESTED ACTION:**

**Vote to approve the award of and authorize the Town Administrator to sign the contract for Design and Engineering Services for Loker Elementary School Kitchen Renovations with TBA Architects, Inc. of Boston MA in the amount of \$20,350.00**

## **BACKGROUND:**

The Designer Selection Procedures for the Town of Wayland defines the Board of Selectman as the Approving Body for all designer selection procurements.

All processes outlined in the Town of Wayland Designer Selection Procedures were followed including the advertisement, solicitation, evaluation and negotiation with the first ranked respondent. The resulting contract will also be in accordance with the Town of Wayland Designer Selection Procedures.

The evaluation committee was comprised of the Public Buildings Director, the School Financial Officer and the School Food Service Director. They were assisted by the Loker Elementary School Principal. The School Committee has been kept informed by the direct involvement of the School Financial Officer and reports to the School Finance Subcommittee.



# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

C-6

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

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

DATE: December 7, 2017

TO: Nan Balmer, Town Administrator

FROM: Kenneth "Ben" Keefe, Public Buildings Director

RE: Owner's Project Manager (OPM) Services for Wayland Athletic Fields and Stadium Project

## **REQUESTED ACTION:**

**Vote to approve the award of and authorize the Town Administrator to sign the contract for OPM Services for Wayland Athletic Fields and Stadium Project with LEFTFIELD, LLC of Boston MA in the amount of \$20,000.00**

## **BACKGROUND:**

The Designer Selection Procedures for the Town of Wayland defines the Board of Selectman as the Approving Body for all designer selection procurements.

All processes outlined in the Town of Wayland Designer Selection Procedures were followed including the advertisement, solicitation, evaluation and negotiation with the first ranked respondent. The resulting contract will also be in accordance with the Town of Wayland Designer Selection Procedures.

The evaluation committee was comprised of the Public Buildings Director, the School Financial Officer and the Chair of the School Finance Subcommittee. The School Committee has been kept informed by the direct involvement of the School Financial Officer and the Chair of the School Finance Subcommittee. The Permanent Municipal Building Committee (PMBC) has also recommended the awarding of the OPM contract.

**Balmer, Nan**

---

**Subject:** FW: Rivers Edge Update

e-8

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**From:** Brinkman, Paul  
**Sent:** Thursday, December 07, 2017 1:14 PM  
**To:** Balmer, Nan  
**Cc:** Porter, David  
**Subject:** Rivers Edge Update

Nan,

I was finally able to speak with Jim Lambert. He is OK with the following:

**Due Diligence:** Extend the due diligence by another two months with the understanding that upon approval of the Non-traditional asbestos work plan by the MassDEP, a final amendment to modify the timeframes would be required.

**Water Main Extension / Grant:** As far as the water main work and the MassWorks Infrastructure Grant, he was amenable to a letter from the Town that stated we would undertake the work subject to obtaining a contract with the State to officially receive the Grant. He mentioned that he may require additional consideration with regards to project costs if we were to kick the project back to them, but does not need anything in language at this point.

**Background information.**

The Non-Traditional Work Plan was submitted to the MassDEP in mid-November, but has not been completely reviewed. The Town Engineer spoke with MassDEP on December 6, 2017 and MassDEP anticipated discussing some potential revisions with the Engineer to the work plan prior to final approval. As the NTAWP will not be final prior to the current end of the due diligence period, we request an amendment to the Land Development Agreement as an interim step to allow time for the MassDEP to review/negotiate/accept the work plan.

As you are aware the State provided notice to the Town of receipt of a MassWorks Infrastructure grant. The DPW has discussed the conditions of the Grant with MassWorks and is confident the Town can meet the required conditions of the Grant. The Grant is also flexible to allow the Town to implement the water main extension to Rivers Edge. In order for the Town to receive the Grant, the Town must file an application and enter into a contract with MassWorks. This is anticipated to occur in January or February of next year. We need to notify Wood Partners that we will undertake the work subject to coming under contract with MassWorks. This requirement of the LDA must occur prior to December 31, 2017.

Respectfully,

Paul

**Paul Brinkman, PE | Town Engineer  
Wayland Department of Public Works**

## GREEN COMMUNITY ANNUAL REPORT

1) In order for a municipality to maintain its Green Community Designation and be eligible for the next available Green Communities funding opportunity, reports must be submitted **no later than 5:00 PM December 11, 2017 for the reporting period July 1, 2016 – June 30, 2017**

**Late reports WILL deem a community ineligible for Spring 2018 Competitive Grant.**

- 2) Please be certain to address all areas in full. If certain requested information does not apply, then please note it as "N/A."
- 3) Please follow the instruction for reporting on each Criteria on the individual Criterion Excel Sheets.
- 4) If you have any questions on these reporting requirements, please contact your DOER Green Communities Regional Coordinator (RC). The objective is to have a dialogue with Green Communities staff **BEFORE** the report is due so that minimal follow-up with the municipality is required after the due date.
- 5) Print, fill out completely, and submit a signed copy of this page of the completed annual report as a PDF via the online system.
- 6) Submit your community's full Excel file electronically as Excel to Jane Pfister at [jane.pfister@state.ma.us](mailto:jane.pfister@state.ma.us) with any other supporting files. This page must be signed, made into a PDF, and submitted as a separate file. Please submit only one Excel file for the annual report. DOER will not accept multiple spreadsheets.
- 7) NOTE: In the case of any criteria violations( e.g. a vehicle purchased that does not meet the fuel efficient vehicle policy), the municipality will be asked to provide a corrective action plan. A first-time violation will be factored into consideration when DOER awards funds under the next available Green Communities funding opportunity. A second violation may prohibit the municipality from being eligible for any funds in the next available Green Communities funding opportunity.

8) Fields highlighted in yellow should be completed by Green Communities.

9) Fields highlighted in green should be pre-populated by the Regional Coordinators

Date Designated:

**December-10**

**PLEASE NOTE:** For a municipality designated December 2015, the reporting period is 18 months, Jan 1 2016 - June 30 2017

Date of Annual Report Submission

12/7/2017

Name of Preparer of Annual Report

Ben Keefe

Title

Public Buildings Director

Municipality Name

Wayland

I confirm that I have reviewed this report and verify all information is true.

Signature of Chief Executive Officer

*Karen Palmer*  
Town Administrator  
(DESIGNEE OF  
BOARD OF SELECTMEN)

The Chief Executive Officer is defined as the manager in any city having a manager and in any town having a city form of government, the mayor in any other city, and the board of selectmen in any other town unless some other officer or body is designated to perform the functions of a chief executive officer under the provisions of a local charter or laws having the force of a charter. Any signatures of designees will be considered an attestation that the signatory has been designated the designee by the municipality.

**PUBLIC DOCUMENTS PROVIDED TO THE BOARD OF SELECTMEN FROM  
DECEMBER 2, 2017, THROUGH AND INCLUDING DECEMBER 8, 2017,  
OTHERWISE NOT LISTED AND INCLUDED IN THE CORRESPONDENCE  
PACKET FOR DECEMBER 11, 2017**

**Items distributed to the Board of Selectmen – December 2-December 8, 2017**

1. None

**Items distributed for information and use by the Board of Selectmen at the  
Meeting of December 4, 2017**

1. Letter from Stephen M. Roberts, counsel for Wayland Automotive, dated December 1, 2017, re: Request to Amend November 8, 2017 letter about pre-owned cars at 322 Commonwealth Road, Wayland, MA
2. Notification letter from Richard Devlin and Eli Elias, co-owners of Wayland Automotive, dated November 27, 2017, to neighbors re: public meeting on December 4, 2017
3. Email from Al Taleb, December 4, 2017, re: Wayland Automotive – Residents' concerns
4. Email from Phil Radoff, December 4, 2017, re: Used cars
5. Email from Susan Wagner, December 4, 2017, re: Wayland Automotive – please incorporate into public comment tonight
6. Op-ed by Susan Wager, May 14, 2014, re: Wayland Automotive
7. Slides prepared by Wayland Automotive, December 4, 2017
8. Photographs of the Route 30 sidewalk in front of Wayland Automotive, December 2, 2017
9. Site Plan for 304-322 Commonwealth Road, November 2009
10. Handout prepared by Michael Lowery, re: Committee to plan for repurposing of 5 Concord Road, December 4, 2017
11. Letter from Judy Ling, December 3, 2017, re: Vote to Approve Bonding for a New Library at the Spring 2018 Town Election & Town Meeting
12. Chart and draft Debt Service Schedule prepared by Unibank Fiscal Advisory Services, December 4, 2017
13. Presentation to the Board of Selectmen, December 4, 2017, prepared by Unibank Fiscal Advisory Services
14. Draft FY18 Capital Budget Requests
15. 2018 Capital Projects Status, dated December 4, 2017

**Items included as part of Agenda Packet for discussion during the December 11, 2017  
Board of Selectmen's Meeting**

1. Management Letter for Year Ended June 30, 2017
2. Comprehensive Annual Financial Report for the Fiscal Year Ending June 30, 2017
3. Email from Michael Ward and Frederick Kingsley, dated December 7, 2017, re: Draft TA special for discussion
4. Draft Act Relative to the Position of Town Administrator in the Town of Wayland
5. Memorandum from David Porter, re: Application of Mason Mack Petroleum d/b/a Wayland Gulf for a new wine and malt license
6. Retail Application of Mason Mack Petroleum for a new Wine and Malt License
7. Draft Petition to Probate Court, dated December 7, 2017
8. Memorandum from Nan Balmer, re: Annual Town Meeting Discussion
9. 2018 Annual Town Meeting: Potential Articles as of December 11, 2017
10. Annual Town Meeting schedule
11. Memorandum from Nan Balmer, re: FY19 debt exclusions
12. Board policy on debt exclusions

13. Memorandum from Nan Balmer, re: Review capital budget priorities and make any recommendations to the Finance Committee on priority projects
14. Staff recommendations on FY19 capital projects – 12/11/17 (for departments under the Board of Selectmen)
15. Memorandum from Jorge Pazos, IT Director, re: MUNIS revenue module capital request
16. Information Technology Network Infrastructure Capital Plan
17. Memorandum from David Houghton, Fire Chief, re: Capital Items
18. Memorandum from David Porter, dated December 11, 2017, re: 2018 License Renewals
19. Town Administrator's Report for the week ending December 8, 2017
20. Board of Selectmen Schedule through 2018 Annual Town Meeting
21. Draft Minutes from November 20, 2017 and November 27, 2017

**BOARD OF SELECTMEN**  
**Monday, December 11, 2017**  
**Wayland Town Building**  
**Selectmen's Meeting Room**

**CORRESPONDENCE**

**Selectmen**

1. Letter from Katharine Lord Klein, of KP Law, dated December 1, 2017, re: 11 Hammond Road
2. Wayland Police Department – Monthly Report, November 2017
3. Handwritten thank you notes to the Wayland Police from Gina S. Gill and Gayle Wasserman
4. Email from resident to Patrick Swanick, dated November 6, 2017, re: Officer Mark Wilkins
5. Memo from Beth R. Klein, Town Clerk, dated December 1, 2017, re: Offices to be elected at the 2018 Annual Town Election

**Minutes**

6. Community Preservation Committee - August 28, 2017
7. Economic Development Committee – October 13, 2017
8. Library Planning Committee – October 19, 2017

**State and Regional**

9. Letter from Margaret J. Hurley, Director of the Municipal Law Unit in the Attorney General's Office, to Beth R. Klein, dated December 1, 2017, re: Wayland Annual Town Meeting of April 2, 2017 – Case# 8302



December 1, 2017

RECEIVED

Katharine Lord Klein  
kklein@k-plaw.com

DEC 04 2017

Daniel J. Bailey, III, Esq.  
Pierce Atwood  
100 Summer Street  
22<sup>nd</sup> Floor  
Boston, MA 02110

Re: Town of Wayland – 11 Hammond Road

Dear Mr. Bailey:

As you are aware, this firm represents the Town of Wayland Municipal Affordable Housing Trust Fund (the “Trust”), which owns the property known as 11 Hammond Road (the “Town Property”). The Town Property abuts property owned by your client, Washington Street Business Center, LLC, situated at the intersection of West Plain Street and Main Street, which I understand is the site of a CVS store.

The Town has informed me that there are at least two trees on your client’s property which are dead or decaying, and in danger of falling onto the Town Property. These trees present a risk of harm to individuals and property on the Town Property. The Town requests that your client remove these trees to eliminate the risk of harm at the Town’s Property. You are hereby put on notice that the dead and/or decaying trees on your client’s property constitute a nuisance and to the extent they cause any injuries on the Town Property, your client will be liable for all resulting damages. See e.g., Kurtigan v. Worcester, 384 Mass. 284 (1965); see also Jones v. Great Barrington, 273 Mass. 483, 487 (1930) (holding that a tree may become a nuisance by disease or decay).

Thank you for your prompt attention to this matter.

Very truly yours,



Katharine Lord Klein

KLK/jsh

cc: Board of Selectmen  
Wayland Affordable Housing Trust Fund

598075/WAYL/0255



# WAYLAND POLICE DEPARTMENT

WAYLAND, MASSACHUSETTS 01778



PATRICK SWANICK  
CHIEF OF POLICE

## Monthly Report - November 2017

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On Monday November 6<sup>th</sup> Sean Gibbons was officially sworn in at the rank of Lieutenant. He has adjusted very quickly to his new position and has become an asset to my management team.

We completed the oral interviews with the candidates for the rank of sergeant and established a list that will be used to fill vacancies. Christopher Custodie was promoted to the rank of sergeant and will serve as the department's Administrative Sergeant. Mark Hebert was made an acting sergeant and will assume command of the midnight shift. Sgt. Custodie will be sworn in before the Board in January.

School Safety – Youth Officer Bowles participated in a discussion at the Claypit Hill School. He and school administrators met with parents and discussed a range of subjects that included drug awareness and traffic safety at the school.

In response to some of the mass shootings at religious institutions across the country, we have had requests from most of Wayland's religious institutions to conduct safety programs for them. We have conducted safety meetings at the Celebration International Church, Trinitarian Congregational Church, Temple Shir Tikva and Temple Or Atid.

During the month of November Wayland officers arrested three people for operating under the influence of alcohol. Two of the subjects were stopped for erratic operation, one was arrested following a motor vehicle accident.

Several residents in Wayland and Weston had their vehicles broken into during the night time hours. All of the vehicles that were broken into were unlocked. Detectives from Wayland and Weston acquired some video footage from a home security system and were able to identify the subjects. A 20 year old male from Charlestown and a 25 year old male from Lynn were arrested and charged with breaking into several vehicles in Wayland and Weston.

Patrick Swanick

Chief of Police

AGM

Jamie!

I can't tell you how much I've enjoyed this class! I'm sorry to see it end! Thank you so much for all of the hard work you put into teaching us the ways of the Wayland P.D. I'm so thankful for all that you and your department do for me, my family and the citizens of Wayland. With fidelity,  
Dorota Gill

A very warm and grateful thank you to Sgt. Atkins and Officer Sloan for their kindness and reassurance on the scene.

Gayle Wasserman

Incident # 13900

**Sent:** Monday, November 06, 2017 3:38 PM  
**To:** Swanick, Patrick  
**Subject:** Mark Wilkins

Chief Swanick,

I wanted to let you know that Officer Wilkins is to be commended for his handling of a difficult situation yesterday at a traffic accident. A passenger in one of the vehicles was acting strangely and created a challenging situation for both the Wayland Fire Department responders as well as the Wayland Police. Officer Wilkins kept his composure and did a masterful job of disusing the situation.

Regards,

\_\_\_\_\_  
[Redacted Signature]



# TOWN OF WAYLAND

MASSACHUSETTS

01778

TOWN CLERK  
BETH R. KLEIN  
bklein@wayland.ma.us

ASSISTANT TOWN CLERK  
DIANE M. GORHAM  
dgorham@wayland.ma.us

TOWN BUILDING  
41 COCHITUATE ROAD

TEL: 508-358-3630  
508-358-3631  
www.wayland.ma.us

TO: Board of Selectmen and  
Dept. Heads (please forward to your Board, Committee or Commission Members)  
DATE: December 1, 2017  
FROM: Beth R. Klein, Town Clerk  
RE: Offices to be elected at the 2018 Annual Town Election

The Annual Town Election will be held on Tuesday, **March 27, 2018**. Please note that the current office holders with whose term will be expiring are listed below. Nomination papers will be available on January 5, 2017 from the Town Clerk's Office. Candidates are required to have at least 50 signatures to be certified for nomination and papers must be returned to this office by Tuesday, **February 6, 2018**.

<u>OFFICE</u>	<u>#</u>	<u>TERM</u>	<u>CURRENT OFFICE HOLDER</u>	<u>SINCE</u>
Board of Selectmen	(2)	3 Yr.	Lea T. Anderson Mary M. Antes	2015 2014
School Committee	(2)	3 Yr.	Ellen M. Grieco Kathleen R. Steinberg	2011 2015
Board of Assessors	(2)	3 Yr.	Zachariah L. Ventress Vacant	2009
Planning Board	(1)	5 Yr.	Albert I. Montague, Jr.	2003
Board of Health	(2)	3 Yr.	Elisabeth Noel Brewer John G. Schuler	2013 2015
Commissioner of Trust Funds	(1)	3 Yr.	David C. D'Orlando	2010
Library Trustees	(2)	3 Yr.	Sally Y. Cartwright Suzanne C. Woodruff	2009 2015
	(1)	1 Yr.	Vacant	
Board of Public Works	(2)	3 Yr.	Prescott W. Baston, Jr. Jonathan I. Mishara	2015 2010
Recreation Commissioner	(2)	3 Yr.	Heidi S. Seaborg Thruston Wright, III	2015 2006
Housing Authority	(1)	5 Yr.	Vacant	

# **Minutes of a Meeting of the Wayland Community Preservation Committee August 28, 2017**

**CPC Member Attendees:** Gretchen Schuler, Chairman, Woody Baston, Maureen Cavanaugh, Susan Green, Ira Montague, Elisa Scola, John Sullivan, Susan Weinstein, Brud Wright (non-voting). These members represented a quorum of the Committee.

**Other Attendees:** Mary Antes (Board of Selectmen), Katherine Gardner Westcott, Ellen Grieco, Tonya Largy (Wayland Historical Commission), Mike Lowery (Board of Public Works), Linda Segal, Kathie Steinberg (School Committee), Arthur Unobskey (Wayland Schools Superintendent)

The meeting was called to order at 7:30 p.m.

**Public Comment:** None

**Minutes:** Woody Baston motioned for the minutes from the June 7, 2017 Community Preservation Committee (CPC) meeting be approved. Elisa Scola seconded the motion. The minutes were approved (6-0-1).

## **107 Old Sudbury Road Archaeological Study**

Tonya Largy came before the CPC to request funds to study 107 Old Sudbury Road prior to demolition, which is proposed in a Department of Public Works (DPW) Special Town Meeting (STM) article. Located near a town well, the vacant building has been declared unsafe and is proposed for demolition for water resource protection. University of Massachusetts Archaeological Services (UMAS) will provide staff and students to study the property this fall under State Archaeologist permit. Constructed sometime between 1800 and 1821, study questions include the property's association with King Philip's War and potential for Indian artifacts. The Wayland Historical Commission (WHC) supports the project. Susan Weinstein motioned to recommend up to \$5,000 from the Administrative Fund to study the property. Elisa Scola seconded the motion. The motion was approved (7-1-0).

**Special Town Meeting:** Draft articles for Special Town Meeting (STM) to be held in November were reviewed.

**Castle Gate Stone Pillars:** Mike Lowery described the proposed work, which includes relocating the pillars to avoid snow plows and masonry rehabilitation. The WHC is in favor of the project, but does not support relocating the pillars. WHC to schedule a meeting with DPW to discuss the need to move them relative to snow plowing. CPC members agreed that the location of the pillars is not within its jurisdiction. Susan Weinstein motioned to recommend \$12,000 from the Historic Preservation fund to rehabilitate the pillars. Maureen Cavanaugh seconded the motion. The motion was approved (8-0-0).

**High School Athletic Preferred Improvement Plan – Part 2:** The Wayland School Committee proposes reconfiguring the Wayland High School athletic fields to include swapping the tennis courts and softball field to accommodate more public use of the tennis courts and upgrading the basketball and volleyball courts. This is "Part 2" of a larger athletic field rehabilitation project, much of which is not eligible for Community Preservation Act funds. John Sullivan noted that the Conservation Commission will require a wetland delineation, which would need to be completed before any money is expended. The School Committee is meeting with the Conservation Commission on September 7, 2017. Susan Weinstein motioned to recommend \$126,000 from the Uncommitted Fund for the design fee for Part 2 of the High School Athletic Preferred Improvement Plan. Elisa Scola seconded the motion. The motion was approved (8-0-0).

**Annual Report:** A draft annual report was reviewed with minor edits noted. Maureen Cavanaugh motioned to approve the Annual Report, as amended. John Sullivan seconded the motion. The motion was approved (8-0-0).

**CPA Project Signs:** The CPC reviewed the draft sign, which looks great; two more are in preparation. The first sign installation will be the Mellen Law Office.

**Next Meeting:** TBD

The meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Maureen A. Cavanaugh

**TOWN OF WAYLAND - TOWN CLERK'S OFFICE**  
**NOTICE OF MEETINGS OF TOWN BOARDS/COMMITTEES/COMMISSIONS**

Posted in accordance with the provisions of the Open Meeting Law

NAME OF BOARD/COMM: **Wayland Economic Development Committee**

FILED BY: Sarkis Sarkisian, Town Planner

DATE OF MEETING: Friday, October 13, 2017

TIME OF MEETING: 8:00 a.m.

PLACE OF MEETING: Wayland Town Building

NOTE: Notices and agendas are to be posted at least 48 hours in advance of the meetings excluding Saturdays, Sundays, and legal holidays. Please keep in mind the Town Clerk's business hours of operation and make the necessary arrangements to be sure this notice is received and stamped in an adequate amount of time.

**AGENDA**

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

- 1) Prospective Member Introductions: Ryan Scott, Jonathan Isenburg
- 2) Public Comment
- 3) Approve Meeting Minutes: September 15, 2017
- 4) River's Edge Wayland
  - a) River's Edge Advisory Committee
- 5) Business Community Issues
  - a) Town Center storefronts
  - b) Town Branding
  - c) Rail Trail update
  - d) Wayland Business Association
  - e) Route 20 Wastewater
  - f) Fresh Market / Former Whole Foods site update
- 6) Town Center Municipal Pad
  - a) Senior/Community Center update
- 7) Adjourn



# EDC Meeting Minutes – Oct. 13, 2017 - Economic Development Committee - Wayland MA

Minutes  
Economic Development Committee  
Town of Wayland MA  
Planning Office  
September 15, 2017

Present: Andy Oppenheim, Frank Panaccio, Seth Roman, Becky Stanizzi (Chair)

Prospective Members: Kamal Namou (not yet sworn in), Jonathan Isenburg, Ryan Scott

Becky called the meeting to order at 8:06 a.m. in the Planning Office at Town Building.

### **Prospective Member Introductions:**

- Jonathan Isenburg and Ryan Scott introduced themselves to the committee.
- All current EDC committee members introduced themselves.

### **Public Comment:**

- Kamal discussed improvements to the bridge on Stonebridge Rd.
- Ryan asked question about Fresh Market's lease arrangement.

**Fresh Market:** (Note agenda items discussed in varied order vs agenda, given several of the topics arose during Public Comment)

- Andy is following up with Sarkis on Trader Joe's as Fresh Market replacement.

**Rail Trail:** (Note agenda items discussed in varied order vs agenda, given several of the topics arose during Public Comment)

- Signature from the Secretary of Environmental Affairs at the MBTA complete.
- Marking of trail has begun.

**Wayland Business Association:** (Note agenda items discussed in varied order vs agenda, given several of the topics arose during Public Comment)

- Seth discussed connection of B.Happy to Ace Hardware in order to see how both businesses could work together to help each other.
- Andy will contact Tom Curran of Ace Hardware to see how the committee can assist the business.

**Meeting Minutes:** (Note agenda items discussed in varied order vs agenda, given several of the topics arose during Public Comment)

- Minutes from September 15, 2017 meeting were approved 4-0

**River's Edge:** (Note agenda items discussed in varied order vs agenda, given several of the topics arose during Public Comment)

## **EDC Meeting Minutes – Oct. 13, 2017 - Economic Development Committee - Wayland MA**

- Becky provided background description of the project to the prospective members.
- Wood Partners is still going through due diligence.

### **Town Center Storefronts:**

- Frank offered to reach out to contact Zurich and National Development to meet again and learn about their tenant selection process.

### **Town Branding:**

- Committee to ask Sarkis to review at next meeting.
- Kamal offered to look at Social Media as a potential method to increase town brand awareness.

### **Route 20 Wastewater:**

- Becky provided background of issue to prospective members.

### **Town Center Municipal Pad:**

- Frank provided background of recent meeting with representatives of Zurich and National Development.

Becky asked prospective members to bring ideas for next meeting.

The next EDC meeting will be held on Friday, November 16<sup>th</sup> at 8am.

Meeting adjourned at 9:18am, 4-0 vote

Respectfully submitted, Seth A. Roman

## Minutes

Library Planning Committee – 10.19.17  
Town Building. BoS Room 7:00 p.m.

In attendance: T. Fay, L. Cavanaugh, S. Raymond, R. Sideman-Kurtz, T. White, C. Cipriani,, V. LaFarge, N. Gordon, D. Mark, T. Marsters, A. Knight, L. Lipcon, M. Cavanaugh  
Call to order: 7:05 p.m.

### Public Comment:

Mike Patterson: Build an addition to current library at a lower cost. The library needs to be “spruced up” Could use Millennium Fund and Draper Fund to do so. Could move ESOL and other programs out of the library creating more space inside and also in parking lot. Move freight shed to other side of Rt. 27. Reposition drainage pipe to alleviate flooding.

Mike Lowry: To release the library from the restrictions of the charitable trust would take legal action. BoS should pursue this now. Lea Anderson responded that The BoS has asked the LPC for a list of possible uses for the Roby portion of the library so that town counsel can weigh in.

Elisa Scola, chair of Wayland Historical Commission, says they have a need for display space/ exhibit for Wayland artifacts. Archaeology group would like space for storage and exhibits.

Historical Collection of books.

Nancy Boyle- Arts Wayland would like arts exhibit space. Would like to see history, arts, demonstrations, workshops and exhibits.

Tom Sciacca: The wetlands can not be drained. He noted we have a Supreme Court because laws and regulations have to be reinterpreted over time. Likewise, there is a need to reinterpret the definition of Library. He offered the American Library Association definition: “A library is a collection of resources in a variety of formats that is (1) organized by information professionals or other experts who (2) provide convenient physical, digital, bibliographic, or intellectual access and (3) offer targeted services and programs (4) with the mission of educating, informing, or entertaining a variety of audiences (5) and the goal of stimulating individual learning and advancing society as a whole.”

Alice Boelter: If all these organizations have space at 5 Concord Rd., who is going to absorb the cost of putting these new uses into the current building?

Minutes of the last meeting on September 18, 2017 were accepted.

Tom Fay: The Roby portion of the library was built in 1900 when population of Wayland was 2000. There was a modest addition in 1988. Population today is at 14,500. The Library Planning Committee have strong affection for the 5 Concord building and worked hard to see if the library program could possibly fit there. The LPC reviewed the Library's documents including the Long-Range Plan, it compared statistics, visited many libraries, researched trends, evaluated various parcels of land in town, went to town meeting where funds were granted for a thorough study. The hurdles to expand the current library at 5 Concord Road fall into 3 categories: 1. regulatory: Aquifer Protection Act (maximum coverage of impervious surface, 2. dimensional: set back constraints are very limiting, 3. access: enlarging building will increase traffic and exacerbate the already significant problems associated at this intersection and for entry and egress to the sight and parking.

Tom Fay turned the meeting over to Vicki LaFarge who facilitated the discussion of possible uses for 5 Concord Rd should the library move to a new site at 195 Main St.

Judy Dion: asked if consideration had been given to having 2 branches— adults at 5 Concord Rd and children's services at new site.

Mary Kowalski: asked whether there could be daily papers and periodicals in a reading room and also meeting space for ESOL and others. Noted that there is a good deal of foot traffic coming from new town center.

Tom Sciacca: Books are not what a library is about. It's about programming, meeting space, organized information. For him "library" overlaps heavily with notion of museum, displays about the environment, river exhibits, and Wayland's history.

Many expressed strong opinion that 5 Concord Rd. is Wayland's iconic building and want to see it remain open and welcoming to the public.

Rail trail will offer increased foot traffic to the building.

Molly Upton: Wayland is already a bifurcated town. The library is the one place we all come together. Doesn't want to lose that. Does not want to see 33,000 sq. ft. Wants a small, cozy place for townspeople to gather.

Anette Lewis: No matter what you do at 5 Concord Rd., you need to tell the townspeople what the maintenance and management costs of the building are.

Tom Sciacca: Speaking as a member of the Energy/ Climate Committee, he noted that there have been alterations and more could be made to reduce maintenance costs.

Other comments: Want a space where we can walk in and out. Municipal offices. Make space, Changing exhibits: residents' artifacts, Native American history, Wayland history. It was noted that Historical Society and Arts Wayland are not town organizations and it was suggested that they pay rent. It was then noted that it was the Historical Commission that spoke and it is a Town Board.

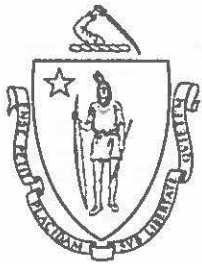
It was suggested a cultural center might get rent, grants, CPA funding, private funding. A member of the public stated she would like to see long-term agreements so this does not become an added tax burden.

When asked if development of condos would be an acceptable use, there was a decided response in the negative.

Very important that the use of the building be respectful of its nature and remain accessible to the townspeople.

Tom Fay thanked people for their participation and said there would be more opportunities to give input on future use of 5 Concord Rd.

Meeting adjourned at 8:57 p.m.



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

MAURA HEALEY  
ATTORNEY GENERAL

(508) 792-7600  
(508) 795-1991 fax  
www.mass.gov/ago

December 1, 2017

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

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

Dear Ms. Klein:

**Article 14** – Because of a procedural deficiency in the planning board hearing notice, we disapprove and delete Article 14. We also offer the following comments for the Town’s consideration if it attempts to adopt a similar by-law at a future Town Meeting.<sup>1</sup>

I. Attorney General’s Standard of Review of Town By-laws.

Pursuant to G.L. c. 40, § 32, the Attorney General has a “limited power of disapproval,” and “[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws.” Amherst v. Attorney General, 398 Mass. 793, 796 (1986). The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 (“Neither we nor the Attorney General may comment on the wisdom of the town’s by-law.”) Rather, in order to disapprove a by-law (or any portion thereof), the Attorney General must cite an inconsistency between the by-law and the state Constitution or laws. Id. at 796. “As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid.” Bloom v. Worcester, 363 Mass 136, 154 (1973) (emphasis added). “The legislative intent to preclude local action must be clear.” Id. at 155. Massachusetts has the “strongest type of home rule and municipal action is presumed to be valid.” Connors v. City of Boston, 430 Mass. 31, 35 (1999) (internal quotations and citations omitted). Nevertheless, where a by-law conflicts with state law or the constitution, it is invalid. See Zuckerman v. Hadley, 442 Mass. 511, 520 (2004) (rate of

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<sup>1</sup> In a decision issued July 21, 2017 we approved Articles 5, 23 and 24.

development by-law of unlimited duration did not serve a permissible public purpose and was thus unconstitutional).

The review of town by-laws pursuant to G.L. c. 40, § 32 also requires a review of whether the town has submitted “adequate proof that all of the procedural requirements for the adoption of such by-law have been complied with.” G.L. c. 40, § 32. In certain circumstances the Attorney General is authorized to waive any such defects in the procedural requirements for adoption of town by-laws. Pursuant to the provisions of G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000, if the Attorney General determines there is a defect in the procedure of adoption or amendment of a zoning by-law relating to the form or content of the notice of the Planning Board hearing required by G.L. c. 40A, § 5, or to the manner or dates on which the Planning Board hearing notice was mailed, posted or published as required by G.L. c. 40A, § 5, then instead of disapproving the by-law or amendment the Attorney General may elect to proceed under the defect waiver provisions of G.L. c. 40, § 32. Under those provisions, the Attorney General issues a Notice of Defect to the Town that is then posted and published and, if no claim is filed within the statutory period, the Attorney General is conditionally authorized to waive any such defect. “If no claim was made, the attorney general may waive any such defect; but, if any claim is made then the attorney general may not waive any such defect.” *See* Chapter 200 of the Acts of 2000.

## II. The Attorney General Has No Discretion to Waive the Defect in the Hearing Notice Regarding Article 14.

In a decision issued June 30, 2017 the Attorney General placed Article 14 on “hold” pursuant to Chapter 299 of the Acts of 2000 because the Planning Board hearing notice was not published until January 26, 2017 for a hearing date February 7, 2017 (which does not meet the 14-day publishing requirement of G.L. c. 40A, § 5). The Town followed the posting and publication requirements of Chapter 299, and a valid claim was received. *See* Town Clerk certification dated August 4, 2017. For this reason, the Attorney General is not authorized to waive the procedural defect in the adoption of Article 14, and we disapprove the proposed by-law based on failure to comply with the hearing publication requirements of G.L. c. 40A, § 5.

## III. Comments Regarding Substance of Article 14.

Even if the by-law had complied with all of the procedural requirements of G.L. c. 40A, § 5, certain text of the by-law appears to exceed the allowable regulation of protected uses under G.L. c. 40A, § 3, as explained below.

Article 14 proposed to delete the existing Section 603.3 from the Town’s zoning by-law and replace it with new text. The new proposed Section 603.3 would have imposed a site plan review requirement for “any proposed nonprofit educational, religious, or child care uses of land protected under G.L. c. 40A, § 3 (“Section 3 Uses”).” If the Town revisits this issue at a future Town Meeting it should be aware of the limited use of site plan approval for protected uses under G.L. c. 40A, § 3 and consult with Town Counsel regarding whether certain text in the proposed Article should be modified to comply with G.L. c. 40A, § 3.

General Laws Chapter 40A, Section 3, protects various uses from a town's zoning power, including the "educational use[s], religious use[s], or child care center[s]." The statute protects educational and religious uses as follows:

No zoning ordinance or by-law shall...prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes...; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

The protections for child care uses are detailed in slightly different language:

No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

Together these provisions establish that a Town by-law may not prohibit, or require a special permit for, educational, religious, or child care uses, but may impose reasonable regulations in eight areas: the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements. *See The Bible Speaks v. Bd. of Appeals of Lenox*, 8 Mass. App. Ct. 19, 33 (1979) ("The Legislature did not intend to impose special permit requirements, designed under [G.L. c. 40A, § 9], to accommodate uses not permitted as of right in a particular zoning district, on legitimate educational uses which have been expressly authorized to exist as of right in any zone.") The Supreme Judicial Court has indicated that local zoning requirements serving "legitimate municipal purposes" may be applied to Dover Amendment uses. *Trustees of Tufts Coll. v. City of Medford*, 415 Mass. 753, 757-758 (1993) (citing *MacNeil v. Town of Avon*, 386 Mass. 339, 341 (1982)). In addition, the Appeals Court recently upheld a site plan review requirement for Dover Amendment uses, limited to the application of reasonable regulations as set forth in G.L. c. 40A, § 3, as "consistent with a reasonable reading of the Dover Amendment, G.L. c. 40A, § 3, and *The Bible Speaks v. Board of Appeals of Lenox*, 8 Mass. App. Ct. 19, 31 (1978)." *Jewish Cemetery Assoc. of Mass., Inc. v. Bd. of Appeals of Wayland*, 85 Mass. App. Ct. 1105, \*2 (2014).

As in *Jewish Cemetery Assoc.*, it appears reasonable for the Town to use a limited site plan review as the process by which it regulates the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements for such statutorily protected uses. However, the Town should be aware of the protections afforded to disabled persons under G.L. c. 40A, § 3, ¶4:

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health



and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination.

Uses that qualify as educational, religious or child care pursuant to G.L. c. 40A, § 3 may also qualify for the protections accorded to disabled persons under G.L. c. 40A, § 3, ¶4. For example, persons recovering from or receiving treatment for addiction to alcohol or drugs are disabled individuals for the purposes of the Americans with Disabilities Act, 42 U.S. C. §§ 12102 (2) (B) (C), and a substance abuse treatment center is likely to be protected under G.L. c. 40A, § 3, ¶4. *See e.g., Granada House, Inc. v. City of Boston*, 1997 WL 106688 (Mass. Super. Ct.) (the Zoning Act bars the City's discriminatory treatment of a group home for recovering drug and alcohol users.).

In addition, certain religious or educational uses protected under G.L. c. 40A, § 3 may also be protected by the Fair Housing Act (FHA), the Americans with Disabilities Act (ADA), and/or the Rehabilitation Act (RA). *See, e.g., South Middlesex Opportunity Council, Inc. v. Town of Framingham*, 752 F.Supp.2d 85, 95 (D. Mass. 2010) (Residential substance treatment centers are covered by the FHA because federal regulations define "handicap" to include drug addiction or alcoholism); *Safe Haven Sober Houses, LLC v. Good*, 82 Mass. App. Ct. 1112, \*3 (2012); *Innovative Health Systems v. City of White Plains*, 931 F.Supp. 222 (S.D.N.Y. 1996) (the ADA and Section 504 of the Rehabilitation Act apply to zoning enforcement activities; and zoning board decision reversing issuance of building permit to outpatient alcohol and drug dependence program violated those statutes.).

Finally, we note that certain text in the proposed Article appears to go far beyond the allowable reasonable regulation of the eight limited categories allowed under G.L. c. 40A, § 3 (the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements), and instead mirrors the type of special permit criteria that is expressly prohibited under *The Bible Speaks v. Bd. of Appeals of Lenox*, 8 Mass. App. Ct. 19, 33 (1979). It should be noted that site plan approval acts as a method for regulating as-of-right uses rather than prohibiting them. *Y.D. Dugout, Inc. v. Bd. of Appeals of Canton*, 357 Mass. 25, 31 (1970). Where "the specific area and use criteria stated in the by-law [are] satisfied, the [reviewing] board [does] not have discretionary power to deny...[approval], but instead [is] limited to imposing reasonable terms and conditions on the proposed use." *Prudential Ins. Co. of America v. Westwood*, 23 Mass. App.Ct. 278, 281-82 (1986), *quoting from SCIT, Inc. v. Planning Bd. of Braintree*, 19 Mass. App. Ct. 101, 105 n.12 (1984).

We highlight the text below which appears to exceed the appropriate use of site plan review criteria for protected uses under G.L. c. 40A, § 3. We also encourage the Town to consult with Town Counsel on this issue if it chooses to revisit this topic at a future Town Meeting. We are also available to review any future Article on this issue before it is placed on the Town Meeting warrant.

603.3.1

\* \* \*

In reviewing the site plan submittal for a Section 3 Use, the following issues shall be considered:

(a) Relationship of the bulk, height of structures, and adequacy of open spaces to the natural landscape, existing buildings and other community assets in the area, and compliance with other requirements of this Bylaw, which includes but is not limited to lot coverage, yard sizes, lot areas and setbacks.

(b) physical layout of the structures, driveways, utilities and other infrastructure as it relates to the convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic and adjacent streets, and when necessary, compliance with other requirements for the disabled, minors or the elderly;

\* \* \*

(d) physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts on neighborhood properties and excessive light pollution.

### 603.3.3

In considering a site plan for a Section 3 Use, the Board shall consider whether any proposed or potential incidental uses are in harmony with the uses permitted in the underlying zoning district....

In sum, because of a procedural defect in the Planning Board hearing process that the Attorney General has no discretion to waive, we disapprove and delete the proposed by-law adopted under Article 14. We also urge the Town to consult closely with Town Counsel if it revisits the issue at a future Town Meeting.

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

Very truly yours,

MAURA HEALEY  
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