



# Town of Wayland Massachusetts

## Finance Committee

- Nancy Funkhouser
- Cherry C. Karlson
- Thomas Greenaway (Chair)
- Carol Martin
- Gil Wolin
- David J. Gutschenritter
- Bill Steinberg

## **AGENDA**

Monday, September 9, 2013, 7:00 P.M.  
Wayland Town Building

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

- 7:00 Call to order
- 7:05 Public comment
- 7:10 Committee members' response to public comment
- 7:15 Committee role, mission statement, financial strategy & goals (see attachment)
- 7:30 Operating budget process outline (see attachment)
- 7:35 FY15 operating budget guideline discussion
- 8:00 Discussion of recommended levels for reserve funds and unreserved fund balance
- 8:30 Update liaison assignments (see attachment)
- 8:40 Committee Members' reports, concerns, and topics for future meetings
- 8:50 Chair's update:
  - a) OML training session, Sept 19, 7 PM, Town Building
  - b) Attorney General OML Determination (see attachment)
  - c) Items the chair did not reasonably anticipate would be discussed at the meeting
  - d) Next working meeting September 23
- 8:55 Review & approve prior meeting minutes:
  - a) May 14, 2013, June 18, 2013, & August 26, 2013
- 9:00 Adjourn

# **FY13 Finance Committee: Responsibility, Mission Statement, & Financial Strategy**

## Responsibility

The primary role of the Wayland Finance Committee each year is to prepare the Omnibus Budget and review and comment on articles submitted for inclusion in the Annual Town Meeting Warrant. In carrying out this role, the Finance Committee considers both the short and long term fiscal position of the Town with guidance from the following mission statement and financial strategy.

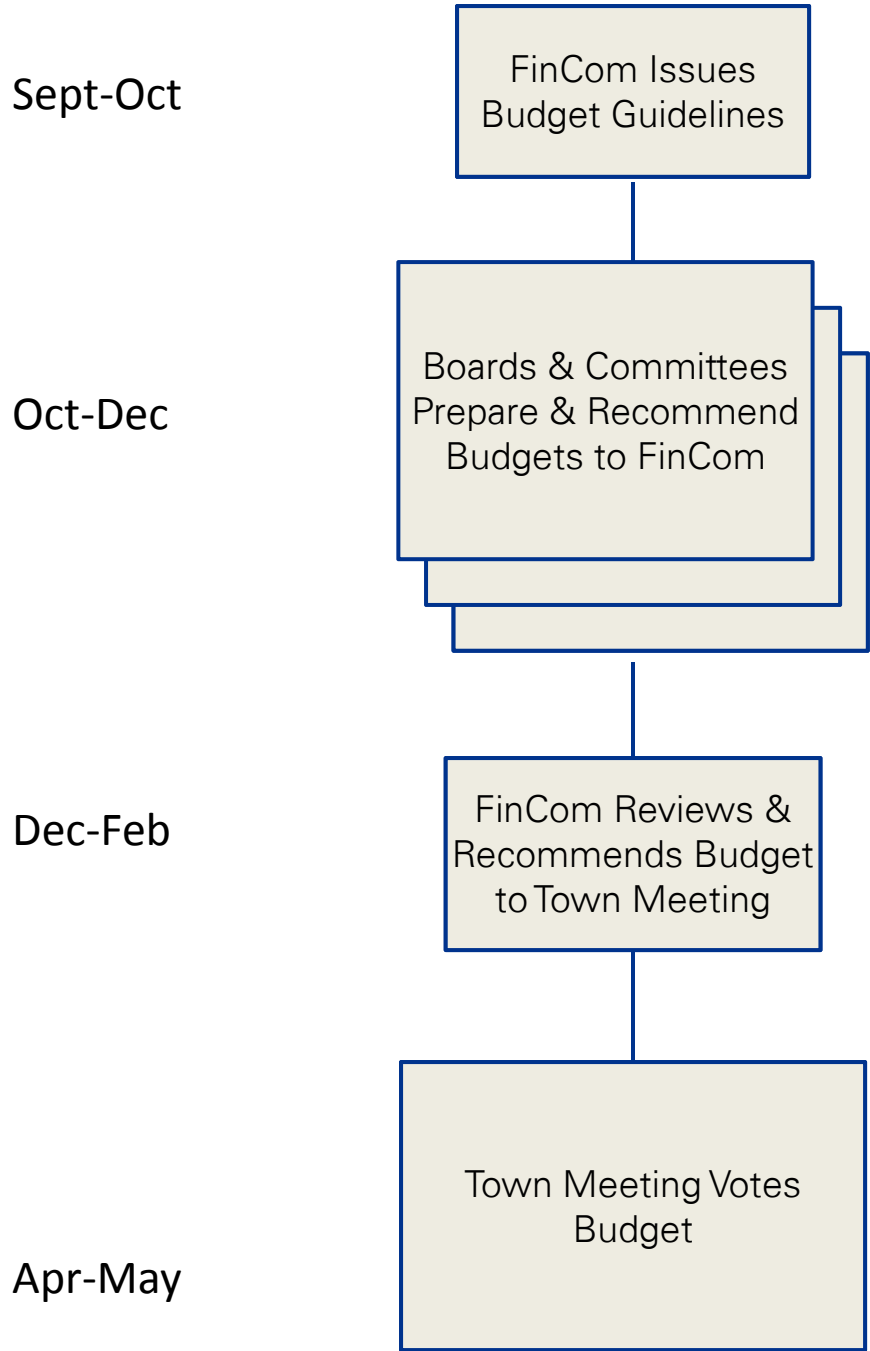
## Mission Statement

The mission of the Wayland Finance Committee is to define a financial strategy for the Town and to use this strategy as the basis for recommending to the Town a fiscally responsible operating and capital spending plan. In implementing this strategy, and within the context of its impact on property values, the Finance Committee seeks to balance the demand for services against the ability of residents with a broad range of financial situations to afford these services.

## Financial Strategy

The Finance Committee's strategy is to recommend the following: 1) maintenance of quality Town services supplied by an efficient workforce, 2) continued infrastructure investment via a capital spending plan, and 3) preservation of appropriate levels of Free Cash and other reserve funds.

# Wayland Operating Budget Process Outline



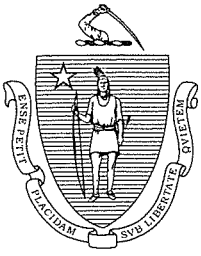
See Mass. G.L. ch. 39 §16, Mass. G.L. ch. 41 §59, Wayland Bylaws § 19.2 -- 19-5.

## Finance Committee FY13 Liaison Assignments

Dept/Committee/Board	Finance Committee Member
Board of Assessors	Karlson
Board of Health	Greenaway
Conservation	Funkhouser
Council on Aging	Martin
DPW	Gutschenritter, Lesser
Facilities	Steinberg
Library	Martin
Planning Board	Steinberg
Recreation	Gutschenritter
Public Safety	Funkhouser
Schools	Karlson, Greenaway
Minuteman Technical	Lesser
All others	Steinberg

FinCom liaison responsibilities include:

- Primary Finance Committee contact
- Budget (operating, capital and CIP process)
- Town meeting articles
- Communication with staff and board/committee chairs



THE COMMONWEALTH OF MASSACHUSETTS  
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BOSTON, MASSACHUSETTS 02108

MARTHA COAKLEY  
ATTORNEY GENERAL

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

August 26, 2013

OML 2013 – 127

William Steinberg, Chair  
Wayland Finance Committee  
41 Cochituate Road  
Wayland, MA 01778

**RE: Open Meeting Law Complaint**

Dear Mr. Steinberg:

Our office received a complaint by Mr. George Harris, dated November 28, 2012, alleging a violation of the Open Meeting Law, G.L. c. 30A, §§18-25, by the Wayland Finance Committee (the "Committee"). Specifically, the complaint alleges that a quorum of the members of the Committee exchanged emails expressing opinions on matters of public business within the Committee's jurisdiction. The complaint was initially filed with the Committee on or about October 9, 2012. The Committee requested an extension of time to respond to the complaint in a letter dated October 19, 2012. This office granted the Committee an extension until November 15, 2012. The Committee did not respond to the complaint.

Following our review, we find that the Committee violated the Open Meeting Law by deliberating over email and by failing to respond to a properly filed Open Meeting Law complaint. In reaching this determination, we reviewed the October 9, 2012 and the November 28, 2012 complaints. Additionally, we reviewed the draft minutes of the Committee's September 5, 2012 and September 10, 2012 meetings. Finally, we review a series of emails and attachments sent among Committee members between September 4, 2012 and September 10, 2012.

FACTS

The Committee is a seven-member public body. At the time the complaint was filed, there were six serving members and one vacancy.

On September 4, 2012, Committee member Cherry Karlson sent an email to the other Committee members, attaching her draft of the minutes of the Committee's August 20, 2012

meeting. It does not appear that anyone responded to this email. The draft minutes were reviewed and approved at the Committee's September 5, 2012 open meeting.

On September 9, 2012, Ms. Karlson sent an email to the other Committee members attaching her draft of the open session minutes of the Committee's September 5, 2012 meeting. The draft minutes were reviewed and approved at the Committee's September 10, 2012 meeting. Ms. Karlson subsequently sent the members draft executive session minutes from the September 5, 2012 meeting.

Prior to the Committee's September 10, 2012 meeting, Committee member David Gutschenritter sent an email to Committee member Thomas Greenaway with his comments on an article proposed for the warrant for the October 3, 2012 Wayland Special Town Meeting. Mr. Gutschenritter and Mr. Greenaway exchanged several emails on the subject. On September 9, 2012, Mr. Gutschenritter sent all the Committee members an email with his comments on the warrant article. In his email, Mr. Gutschenritter wrote, "I welcome all comments and suggestions either prior to or at tomorrow's meeting."

On September 10, 2012, Ms. Karlson sent the Committee members two emails with comments on the proposed warrant articles for the upcoming Special Town Meeting.

### DISCUSSION

The Open Meeting Law seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently. To that end, the law defines deliberation as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that 'deliberation' shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed." G.L. c. 30A, § 18. All deliberations must occur during a properly posted meeting. Id.; G.L. c. 30A, § 20. While it is clear that certain administrative tasks are excluded from the definition of "deliberation," that exception includes a strong caveat: such administrative communications are permissible "provided that no opinion of a member is expressed." See G.L. c. 30A, § 18; OML 2013-5.<sup>1</sup>

The September 4, 2012 and September 9, 2012 emails sent by Ms. Karlson to the Committee members attaching draft minutes were not deliberation. See G.L. c. 30A, § 18. Ms. Karlson distributed the documents for discussion at a subsequent meeting, and did not express any opinion on the minutes or the topics discussed therein. Furthermore, to the extent the minutes themselves reflected the opinions of members on matters under consideration by the Committee, these matters had all been discussed during an open meeting. The minutes simply memorialized conversations that had already occurred, and did not convey any new opinions. We therefore find that these emails did not violate the Open Meeting Law. See OML 2013-5.

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<sup>1</sup> Open Meeting Law determinations may be found at the Attorney General's website, [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting).

The September 9, 2012 and September 10, 2012 emails conveying members' opinions on proposed warrant articles were deliberation, however, and violated the Open Meeting Law. Although these exchanges concerned documents to be discussed at a future meeting – the warrant articles – the members expressed opinions about the substance of those documents. This action should have been taken during an open session. See OML 2011-14.

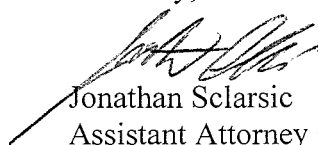
Finally, the Committee violated the Open Meeting Law by failing to respond to Mr. Harris' October 9, 2012 complaint. A public body shall, within 14 business days of receipt of a complaint, review the complaint's allegations; take remedial action, if appropriate; and send to the Attorney General a copy of the complaint and a description of any remedial action taken. G.L. c. 30A, § 23(b); 940 CMR 29.05(5). The public body shall simultaneously notify the complainant that it has sent such materials to the Attorney General and shall provide the complainant with a copy of the description of any remedial action taken. Id. The Committee requested an extension of time to respond to the complaint in a letter dated October 19, 2012. Our office granted the Committee an extension until November 15, 2012. However, the Committee never filed a response. We remind the Committee that it must respond to Open Meeting Law complaints.

### CONCLUSION

For the reasons stated above, we find that the Committee violated the Open Meeting Law by deliberating over email and by failing to respond to a properly filed Open Meeting Law complaint. We order the Committee's immediate and future compliance with the Open Meeting Law, and caution the Committee that future similar violations may be considered evidence of an intentional violation of the law. The Committee must also publicly release the emails sent in violation of the Open Meeting Law, if it has not done so already, at its next regular meeting.

We now consider this complaint resolved and this matter closed. This letter does not resolve any other complaints which may have been filed with our office or the Committee. Please contact our office at (617) 963-2540 if you have any questions.

Sincerely,



Jonathan Scarsic  
Assistant Attorney General  
Division of Open Government

cc: George Harris  
Mark Lanza, Wayland Town Counsel

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