



## Board of Selectmen

The Wellfleet Board of Selectmen will hold a public meeting on **Tuesday, July 24, 2018, at 6:30 p.m. at the Wellfleet Senior Center, 715 Old Kings Highway, Wellfleet, MA 02667.** *It is anticipated that the meeting will be recorded by the Town. Anyone else desiring to record the meeting may do so only after notifying the chair and may not interfere with the conduct of the meeting in doing so.*

**I. Announcements, Open Session and Public Comment**

**Note:** Public comments must be brief. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comment.

**II. Public Hearing(s)**

**A. Winslow Tavern** – extension of seasonal liquor license to January 1, 2019

**B. Mike Kubiak** – appeal of shellfish permit revocation

**III. Appointments/Reappointments**

**A. Reappointment of Shellfish Constable Nancy Civetta** for three-year term

**B. Comprehensive Wastewater Planning Committee** – Janet Drohan for a three-year term

**IV. Business**

**A. Consideration of change to daily beach parking fee** [T. LeBart]

**B. CCNS Advisory Commission and The Barnstable County Assembly of Delegates Update** [L. Green]

**C. Herring River Restoration Project discussion** [Wilson]

**D. Discussion regarding potential property acquisitions** [TA]  
301 Commercial Street and 3 Kendrick Avenue

**E. Request approval of a Community Host Agreement for a Registered Marijuana Dispensary for Jason Robicheau dba The Grateful Mind, 15 Bank Street.** [TA]

**F. Vote to open 2018 Special Town Meeting Warrant** [TA]

**G. Formation of Beach Parking Task Force** [Reinhart]

**H. Approval of financial staff reorganization** [ATA]

**I. Approval of FY 2019 Goals** [TA]

**J. Forming of Wastewater Management Authority** [Wilson]

**V. Town Administrator's Report**

**VI. Topics for Future Discussion**

**VII. Correspondence and Vacancy Report**

**VIII. Minutes (July 10, 2018)**

**IX. Adjournment**

RECEIVED  
2018 JUL 19 P 4:10  
TOWN CLERK  
TOWN OF WELLFLEET



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

II

### PUBLIC HEARING – A. Winslow Tavern

<b>REQUESTED BY:</b>	<b>Winslow Tavern</b>
<b>DESIRED ACTION:</b>	<b>Approve the extension of seasonal liquor license to Jan 1, 2019</b>
<b>PROPOSED MOTION:</b>	<b>I move to approve the extension of the seasonal liquor license for Winslow Tavern to January 1, 2019.</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

TOWN OF WELLFLEET  
PUBLIC NOTICE

In accordance with M.G.L. Chapter 138, notice is hereby given that the Wellfleet Board of Selectmen will hold a public hearing on Tuesday July 24, 2018 at 7:00 p.m. in the Wellfleet Council on Aging, 715 Old Kings Highway to consider the request from Winslow's Tavern, Tracey Barry Hunt, Manager to extend the seasonal liquor license to January 1, 2019.

WELLFLEET BOARD OF SELECTMEN

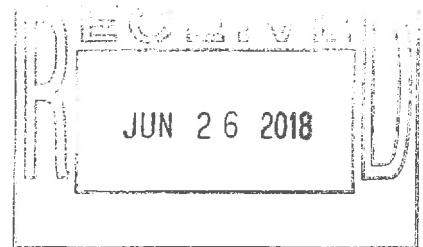


June 26, 2018

Wellfleet Board of Selectmen

Winslow's Tavern would like to extend their seasonal liquor license to January 1<sup>st</sup>, 2019 this year. We would like to keep the upstairs tavern open in the fall and early winter - Thursday night, Friday night, all day Saturday and Sunday until December 31<sup>st</sup>. Please let us know if you require further information. Thank you for consideration of this request.

Tracey Barry Hunt, General Manager/Owner  
774-722-7311  
508-349-6450  
winslowstavern@mac.com







## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# II

### PUBLIC HEARING – B. Shellfish Permit Revocation

<b>REQUESTED BY:</b>	Shellfish Constable
<b>DESIRED ACTION:</b>	Hear Mike Kubiak's (and representative) shellfish permit revocation appeal
<b>PROPOSED MOTION:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

TOWN OF WELLFLEET  
PUBLIC HEARING

In accordance with MGL Chapter 130 Sections 13, 52, and 98 and 322 CMR 7.01 (14) (h) and (i) and Town Shellfishing Policy and Regulations sections 4.12 and 11.7, notice is hereby given that the Wellfleet Board of Selectmen will hold a public hearing on Tuesday, July 24, 2018 at 7:00 p.m. in the Wellfleet Council on Aging to hear an appeal from Mike Kubiak regarding the revocation of his commercial shellfish permit for failure to display and pattern of abuse.

Recommendation of the Shellfish Constable is online in BOS packet for 7/10/18.

WELLFLEET BOARD OF SELECTMEN

**ZISSON & VEARA, P.C.**  
ATTORNEYS AT LAW

828 MAIN STREET  
DENNIS, MA 02638-0043  
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E. JAMES VEARA  
(ejv@zisson-veara.com)

PAUL V. BENATTI  
(pvb@zisson-veara.com)

RICHARD L. ZISSON  
(1942 - 2006)

EDWARD E. VEARA  
RETIRED

July 11, 2018

**VIA EMAIL & FIRST-CLASS MAIL**

Wellfleet Board of Selectmen  
c/o Dan Hoort  
300 Main Street  
Wellfleet, MA 02667

**Re: Mike Kubiak – Permit Revocation Appeal**

Dear Members of the Board:

On behalf of Mike Kubiak, please allow this letter to serve as a request for a public hearing to allow Mr. Kubiak to appeal the vote of the Board revoking his permit until 2019 via a vote taken at its meeting of July 10, 2018. As Mr. Kubiak's livelihood is at issue, request is made that the appeal be scheduled for the Board's meeting of Tuesday, July 24, 2018.

Kindly confirm that we would be on that agenda and please let me know the time and place of the meeting.

Thank you.

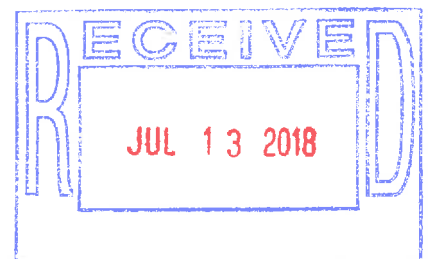
Cordially,



E. James Veara

EJV:sjb

cc: Mike Kubiak via email only





# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

DATE: July 19, 2018

TO: Town of Wellfleet Selectboard Members

FROM: Shellfish Constable

RE: Mike Kubiak Hearing re: revocation of his shellfishing permit and Police Incident Report

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Dear Selectboard Members:

I am including here again, the documentation relating to my request and your unanimous vote on July 10, 2018, to revoke Mike Kubiak's commercial shellfishing permit for the rest of this calendar year (through Dec. 31, 2018). My request remains the same, and I am recommending that you uphold your previous vote and revoke his commercial shellfishing permit through Dec. 31, 2018.

In addition, I wanted you to know about a situation that occurred with Mr. Kubiak on Monday, July 16. Please see the attached incident report from the Wellfleet Police Department. Don't hesitate to call me with any questions or concerns. 617-901-7193.

Sincerely,

Nancy Civetta  
Shellfish Constable  
Town of Wellfleet

[wellfleet-ma.gov/shellfish-department](http://wellfleet-ma.gov/shellfish-department)

Phone (508) 349-0325



Fax (508) 349-0305

## NARRATIVE FOR DETECTIVE GERALDINE E LAPENSE

Ref: 18-160-OF

Entered: 07/18/2018 @ 1053  
Modified: 07/18/2018 @ 1137Entry ID: GEL  
Modified ID: GEL

On July 16, 2018 KUBIAK, Michael came into the WPD to deliver a statement he wrote regarding a past assault and battery, which was passed on to myself, Det. LaPense. According to KUBIAK's statement he went into the beach sticker building at approximately 1150 this date to locate an aerial map of wellfleet which he knew to hang on the wall in the Shellfish Department office, which occupies one corner of the building. KUBIAK saw that the door was ajar and entered the office. While there he took photos of the four maps which hung along the walls. As he was taking his last photo Shellfish Constable, CIVETTA, Nancy entered and shut down her computer. KUBIAK then left the office to peruse the various guide books located in the corner of the beach sticker building to find additional maps. While he was standing there CIVETTA approached him and asked if she could help him. According to KUBIAK, CIVETTA stood very close to him and suddenly grabbed him by the upper left tricep, without his permission, and stated, "don't go into my office again."

At approximately 1300 I left a message on CIVETTA's phone to call me at her earliest convenience. CIVETTA did return my call the following day and I asked her what took place between her and KUBIAK. CIVETTA admitted that she did place her hand on KUBIAK's arm but had not intended to assault him, only to get his attention. CIVETTA further stated that physical contact with people was part of her nature and not meant to be aggressive. I asked CIVETTA if there had been any witnesses to this event and she thought that one of the employees, RICHARDS, Rose might have seen what happened. When I spoke to RICHARDS she stated that as she was coming out of the restroom she did observe CIVETTA and KUBIAK in the office however, did not see what transpired between them in the guidebook area.

Following my investigation I contacted KUBIAK on July 18, 2018. I advised him that the information I received was sufficient to file a Magistrate's Hearing at Orleans District Court. After consulting with his attorney KUBIAK called me back and stated that an incident report recording these events would suffice. KUBIAK's statement was scanned into IMC.



# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

DATE: July 5, 2018

TO: Town of Wellfleet Selectboard Members

FROM: Shellfish Constable

RE: Decision to revoke commercial shellfishing permit for Mike Kubiak as per Wellfleet Shellfishing Policy and Regulations Section 11.7 Revocation of Shellfishing Permits: *The Board of Selectmen reserves the right to revoke any such permit for particularly egregious violations and/or a pattern of abuse of these regulations. In the event that a permit is revoked, that individual may not harvest shellfish in the Town nor be aboard any vessel which is actively engaged in shellfishing until their permit is restored, with licensed areas being the only exception. A public hearing must be held within 30 days to allow a permit holder to appeal the revocation or suspension of said permit.*

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Dear Selectboard Members:

Obtaining a shellfishing permit is a privilege, not a right. It is a privilege granted by the Commonwealth of Massachusetts and the Town of Wellfleet to remove natural resources from the public domain. With this privilege comes responsibility. Permit holders must adhere to many layers of oversight from town to state to federal. By signing a permit application and associated state affidavits, shellfishermen agree to abide by the established rules governing the harvest and sale of shellfish products. These protocols ensure that healthy shellfish are put into the market for consumers and that there will be sustainable fisheries into the future.

Each coastal town's shellfish constables and natural resources officers are the officials who oversee that the rules are respected. Mass. Environmental Police Officers as well as a variety of other government agency officials also enforce these regulations.

Because shellfishing is the number one year-round industry in the town with nearly 15 percent of the town's population earning a living from it, I do not take the matter I am bringing before you lightly. However, in the public's best interest, I request that you revoke Mike Kubiak's 2018 commercial shellfishing permit.

Attached you will find back-up documentation as follows:

*(Please be advised that there is profanity in some of these documents.)*

- Daily Patrol Report for June 19, 2018
- Incident report from June 19, 2018
- Mass. Environmental Police Report from June 19, 2018

[wellfleet-ma.gov/shellfish-department](http://wellfleet-ma.gov/shellfish-department)

Phone (508) 349-0325



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- Incident report cataloguing Wellfleet Shellfish Department's problems with Mr. Kubiak over the past six months
- Memo from the Harbormaster Dept. outlining its issues with Mr. Kubiak, as well as back up documents.
- A written warning letter for an enforcement issue on March 21, 2018, sent via certified mail
- A ticket letter for the June 19 incident, sent via certified mail
- A notification letter about the Selectboard discussing and perhaps voting on the revocation of his commercial permit on July 10, 2018, sent via certified mail.
- Mr. Kubiak's signed Town of Wellfleet shellfishing permit application
- Mr. Kubiak's signed Commonwealth of Mass. shellfishing permit application
- Mr. Kubiak's signed Commonwealth of Mass shellfish affidavit

On June 19, 2018, Mr. Kubiak refused to allow me to inspect his cooler, violating the central tenet on which base our work. Displaying shellfish to enforcing officers is the foundation upon which the fishery is managed. This alone is enough to request a permit revocation. His continued challenges prevent us from carrying out our duties effectively and efficiently.

Not only does Mike Kubiak present a risk to adequate enforcement of our regulations and therefore human health and the public's safety, but he also demonstrates a lack of professional judgment with his disregard for the officers charged with enforcement and valuable Town resources. I am requesting that you revoke Mike Kubiak's commercial shellfishing permit for the rest of 2018, beginning immediately.

I am available to answer any questions you may have.

Sincerely,



Nancy Civetta  
Shellfish Constable  
Town of Wellfleet



## Daily Patrol Report

Date: 6/19/2018 Tide time/height: 11:06 - 8 Weather: sunny windy

11:06 - 8

Weather: sunny windy

[illegible]

Reporting Officer(s) Signatures:







# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

## INCIDENT REPORT

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### *Officer Information*

Enforcing Officer: Nancy Civetta

Date of Offense: 6/19/18      Date of Report: 6/19/18—7/3/18

Ticket Numbers: 4465

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### *Offender Information*

Name of Offender: Mike Kubiak

Address of Offender: 110 Avery Ave., Wellfleet Ma 02667

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### *Offense Information*

Specific Bylaw and/or Regulations: 4.12. Inspection on Demand: All persons harvesting, carrying away or otherwise having in their possession shellfish or marine organisms of any kind, in a boat, container or vehicle shall exhibit all such shellfish for inspection on demand by the Shellfish Officers, Police Officers or any other duly authorized agents; and 322 CMR 7.01 (14) It is unlawful to: (h) fail to display catch... and (i) harass, threaten...

Act(s) Constituting Violation: At approximately 3:00 p.m. on June 19, I observed Mike Kubiak onboard his f/v Shuckin' Around coming around the jetty into Wellfleet's Inner Harbor. I had seen him exiting the harbor around 1:00 p.m., so I presumed he had gone shellfishing.

Background info: Deputy Constable Chris Manulla, had reported to me earlier in the day that Mr. Kubiak had been out in the harbor in his boat when he came in to work at 8:30 a.m., and later in the morning he passed him in his truck leaving the pier. I noticed his vessel tied up to f/v Kimberly Ann on the L-pier at around 10:30 a.m. All indications were that he was shellfishing.

I thought he had been out fishing twice today, not unusual for draggers when low tide is in the middle of the day. Mr. Kubiak docked his boat at the transient dock by the Harbormaster's Office, and walked toward his truck which was parked at the beginning of the L-Pier, near where I was watching my colleagues work on our cultch barge.

At approximately 3:10 p.m., I met him at his truck. He was wearing clothing and rubber boots that were dirty with mud, which also indicated to me that he had been shellfishing. I asked him if I could inspect his catch. I asked if he had oysters and he said yes, but then quickly said, I wasn't answering your question. I asked if I could inspect his coolers, and he said no. He said his lawyer told him he did not have to allow me to look in his coolers. I explained that as part of my normal

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## Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

monitoring duties. I inspect commercial shellfishermen's catches. I said it is part of my regular, everyday routine. I randomly inspect all shellfishermen; it's my job.

He refused and said he wanted an EPO or a police officer there. I noticed that Mr. Kubiak began filming me, which is his right to do; however, he should have informed me that he was going to film me, which he did not. He simply started filming with his phone. He filmed all interactions from here on out.

I called Lt. Kevin Clayton. I asked if he or Dan McGonagle were available to come to Wellfleet because I had a shellfisherman who did not want to display his catch to me and did not believe in my authority to do so. Lt. Clayton reaffirmed my power and said neither of them were available. I let Mr. Kubiak know that an EPO was not available. I asked if he would please let me look in his coolers. He refused, saying he wanted the police to come. I called the police and said that a shellfisherman was requesting that an officer come to the pier to discuss the issue. The dispatcher said that they were on their way. The time was 3:20 p.m.

As soon as Patrolmen De Oliveira and Pimental arrived, Mr. Kubiak told them he wanted a supervisor. Ptl. De Oliveira radioed for a supervisor. Sergeant La Rocco also came to the L-pier. I explained to all three that I have the authority to inspect the catch of any shellfisherman with a commercial permit, and that this includes vessels, trucks, coolers, bags, cages, etc. I said that I know my authority well and did not need them there to execute my authority. I went to our office and grabbed our Shellfishing Policy and Regulations. I informed him and the officers that the failure to display is an infraction of our regulations, section 4.12 Inspection on Demand. I believed him to have been fishing twice today, so I was simply asking to see his cooler. Mr. Kubiak repeated that he was refusing to let me look. When I repeated that all I needed was for him to display...he cut me off and said do you want me to display my cock?

He continued to speak with the officers and then requested that we get out of the sun and go to the police station. I said, if he has catch in his truck--and I don't know if he does as I have not been able to inspect his coolers--then he can't leave the landing without the catch being tagged and logged. Sergeant La Rocco said that they would follow him to the station. I agreed, and said I would meet them there.

I went to my office and pulled my written warning to Mr. Kubiak from 3/21/18, where he had also questioned my authority. In this letter, I provided him with the following: "As the appointed Shellfish Constable for the Town of Wellfleet, my actions are permitted by MGL Chapter 130: Section 9: Searches, Seizures and Arrests Without Warrant and MGL Chapter 130: Section 12: Seizure and Forfeiture of Fish Unlawfully Taken, Boats and Apparatus; Sale; Proceeds." I also printed out MGL Chapter 130, Section 13: Display of Fish on Demand; Violations, and brought the entire Chapter 130 with me.

Phone (508) 349-0325



Fax (508) 349-0305



# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

I went to the police station and spoke with Sergeant La Rocco. He told me the EPO Matt Simmons was trying to reach me. I called Officer Simmons and explained the situation. He confirmed my authority to inspect shellfishermen, and he asked me to tell Mr. Kubiak that failure to display is an arrestable offense and ask him if he would still like him to come. I referred our conversation to Mr. Kubiak, and he replied, yes, he wanted the EPO to come. It was 4:00 p.m. and Officer Simmons had to travel to Wellfleet from somewhere in the Cape Cod region. Mr. Kubiak exhibited some yoga poses while waiting for the EPO to arrive. Officer Simmons arrived to the Wellfleet Police Department parking lot at approximately 4:55 p.m.

Officer Simmons interviewed me about the situation, and I told him all that had transpired. He approached Mr. Kubiak and asked him if he was shellfishing today. Mr. Kubiak said that he is a landscaper and does a number of different things. Officer Simmons asked if he holds a commercial shellfishing permit, to which Mr. Kubiak replied, yes. When Officer Simmons asked Mr. Kubiak if he could look in his coolers, Mr. Kubiak challenged him asking what right he had. Officer Simmons explained that shellfish officers and EPOs inspect catches and failure to display is an arrestable offense. He asked him if he would let him look in his coolers. Mr. Kubiak said yes. Officer Simmons looked through one cooler, which was full of ice. He looked in another that was empty. In the bed of the truck, he found a tote with a harvester tag with Shawn Arsenault's name. Officer Simmons looked in the cab of the truck without entering it, and Mr. Kubiak took issue with him peering into his truck.

Officer Simmons asked me if I was satisfied with the result, and I said yes. Mr. Kubiak asked Officer Simmons if he could have a word in private with him. Officer Simmons related to me afterward that Mr. Kubiak said he was challenging me because he felt I was singling him out. He also admitted he had been striped bass fishing and does not respect my authority.

Background: The last time the Shellfish Dept. interacted with Mr. Kubiak was on June 11 on boat patrol. At that time, Deputy Constable Chris Manulla told him he could not wet store shellfish in the harbor, and Mr. Kubiak responded by saying that he would call his lawyer.

Mr. Kubiak left, and the police officers, Officer Simmons and I met in the conference room. We debriefed the encounter. The role of the police in this incident was to keep the peace. The role of the EPO was to support the shellfish constable in my duties. I discussed the shameful waste of state and town resources for something as simple as opening coolers so I could ascertain what catch, if any, he had, and make sure all regulations were being adhered to. This encounter took more than two hours of two Wellfleet Police Dept. patrolmen and one sergeant's time, and at least two hours of a state EPO's time, as well as travel. None of the five officers involved (including myself) were able to attend to other department duties while we were caught up with him. This was an unnecessary and egregious waste of state and town time and money. Given this incident, I discussed the potential of me requesting that the Board of Selectmen revoke his shellfishing permit. All the officers were in agreement about this approach.

Phone (508) 319-0325



Fax (508) 319-0305



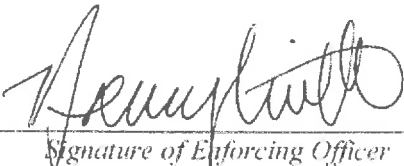
# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

Mr. Kubiak has show a pattern of disregard for the authority of myself and my colleagues. I will assemble these details in a separate report. He consistently creates a scene, challenges our actions and puts restrictions on how we execute our enforcement responsibilities with him. These demands mean he takes valuable time that our department could be using to monitor others for health and safety issues. Mr. Kubiak signed both state and town commercial permits, agreeing to abide by state and town regulations. His behavior is not that of a professional shellfisherman putting food on the table for consumers, and I see him as a risk.

I will issue him a ticket for a \$50.00 fine for his refusal to the Shellfish Constable of 4.12. Inspection on Demand. I will also bring him to the Selectboard and request the revocation of his shellfishing permit per our regulations Section 11.7 Revocation of Shellfishing Permits: The Board of Selectmen reserves the right to revoke any such permit for particularly egregious violations and/or a pattern of abuse of these regulations. In the event that a permit is revoked, that individual may not harvest shellfish in the Town nor be aboard any vessel which is actively engaged in shellfishing until their permit is restored, with licensed areas being the only exception. A public hearing must be held within 30 days to allow a permit holder to appeal the revocation or suspension of said permit.

  
Signature of Enforcing Officer

7-3-18  
Date





Massachusetts Environmental Police  
Incident Report

Page: 1  
07/05/2018

Incident #: 18-233-OF  
Call #: 18-11628

Date/Time Reported: 06/19/2018 1540  
Report Date/Time: 06/19/2018 1845  
Status: No Crime Involved

Reporting Officer: EPO MATTHEW SIMMONS  
Approving Officer: Lieutenant KEVIN CLAYTON

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

#	INVOLVED	SEX	RACE	AGE	SSN	PHONE
1	KUBIAK, MICHAEL 110 AVERY AVE WELLFLEET MA 02667	M	W	**	*****	*****

Military Active Duty: N  
BODY: NOT AVAIL. COMPLEXION: NOT AVAIL.  
DOB: \*\*\*\*\* PLACE OF BIRTH: \*\*\*\*\*  
LICENSE NUMBER: \*\*\*\*\* ETHNICITY: NOT HISPANIC

#	EVENTS(S)
	LOCATION TYPE: Parking Lot/Garage Zone: REGION M-6 WELLFLEET HARBOR PIER WELLFLEET MA 02667
1	INSPECTION OF PROPERTY

#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
1	<del>XXXXXXXXXX</del>						
2	CIVETTI, NANCY 255 COMMERCIAL ST WELLFLEET MA 02667 DOB: NOT AVAIL.	WITNESS	F	W	**	NOT AVAIL	*****

Ref: 18-233-OF

IMC Call#18-11628

Incident#18-233-OF

On Tuesday June 19th, 2018, I Officer Simmons of the Massachusetts Environmental Police (MEP) was on patrol in marked cruiser EP-206. I was wearing my standard MEP police uniform with my badge conspicuously displayed to the outer garments.

At approximately 1530, I received a call from MEP dispatch requesting I meet Wellfleet police and Wellfleet Shellfish constable **Nancy Civetti** [REDACTED] at the Wellfleet police station. While transiting to Wellfleet, I spoke with Nancy on the phone. **Nancy** told me she was on patrol at the Wellfleet town pier when she observed **Michael Kubiak's** (DOB) [REDACTED] tie up his boat and leave in his truck which contained large fishing style coolers. Nancy knows Michael to be a licensed shell fisherman and has inspected him in the past. **Nancy** said she believed the coolers contained shellfish and attempted to inspect them but Michael refused. Nancy told me **Michael**, Wellfleet police and she would be waiting form my arrival in the Wellfleet police station parking lot located on Lawrence Road.

Once arrived at Wellfleet Police department, I was met by **Michael**, Sargent **La Rocco** of Wellfleet Police and **Nancy**. I separated **Nancy** from **Michael** and **Sargent La Rocco** and asked her to explain the events that took place prior to my arrival. **Nancy** explained to me she was at the Wellfleet town pier today at approximately 1300 when she observed **Michael** leaving the pier in a fishing boat. It is important to note this pier is commonly used by fisherman to load and offload oyster and other fish species/catch. **Nancy** said she observed **Michael** operating his boat to an area that is known for people to fish for oysters. **Nancy** also noted the tide at the time **Michael** was operating his boat was consistent with tides commonly fished by people commercially harvesting oysters. **Nancy** said approximately 2 hours later **Michael** returned to the pier in the boat. **Nancy** presumed **Michael** had been out fishing. This time she approached him as he was in the area of his truck. Nancy explained to me she asked **Michael** if he had oysters in his possession, **Nancy** said **Michael** replied yes but when **Nancy** asked to inspect his coolers **Michael** said he did not have any shellfish, refused to display his coolers and was argumentative.

As I approached **Michael**, I observed him wearing rubber boots commonly used by fisherman and noticed his shirt and pants had what appeared to be mud from the ocean floor smeared in different areas. This is something I commonly see on people that are actively shell fishing or have just concluded their fishing activities. **Michael** approached me holding his cell phone. It appeared he might have been recording our conversation but never stated so. He went on to say he had contacted his lawyer. I told him that was within his right and began to ask him if he had been out shell fishing today. **Michael** responded that he landscapes and holds several jobs. I asked **Michael** if he was a licensed commercial shell fish harvester, **Michael** challenged my authority to ask him that question then later responded "yes". I approached **Michael's** pickup truck and observed 2 large coolers approximately 4' wide by 4' long and 4' high and 1 fishing tote. The coolers were sealed. The coolers did not have a shellfish harvest tag attached to them. The bed of the truck was open so that a person standing beside it could view them without entering. I also noticed a shellfish harvest tag on the fishing tote. The Harvest tag was filled out as proof of someone who harvested oysters. When asked about the harvest tag, **Michael** said he borrowed the tote and the tag must have been left on accidentally.

Ref: 18-233-OF

I asked **Michael** for consent to inspect the inside of the coolers for shellfish. **Michael** asked what my authority was to search his coolers. I told **Michael** he would be in violation of M.G.L. 130 Section 13 if he refused to display the inside of his coolers. I also told **Michael** this is a criminal offense. While **Nancy** and Sargent **La Rocco** observed, I asked **Michael** again if I had consent, **Michael** said "yes". I opened the first cooler with the help of **Michael** and observed ice. I opened the second cooler and observed ice. **Michael** asked if he could have a word in private with me. I said yes.

**Michael** told me **Nancy** works for the town and over steps her authority, he also told me she doesn't know what she's doing out there. **Michael** told me he did indeed go fishing while he was on his boat when **Nancy** presumed but he was targeting striped bass and was un-successful. I told **Michael** if he has complaints about **Nancy's** enforcement the proper way to deal with it is to report it to the Wellfleet police department.

**Michael Kubiak's** DMF permit#175405

### 322 CMR 7.01(14) h and i

(14) Prohibitions. It is unlawful to:

(h) fail to display fish harvested or possessed under authority of a permit to any officer authorized to enforce the marine fishery laws of the Commonwealth; (i) harass, threaten, intimidate, coerce or assault any officer authorized to enforce the marine fishery laws of the Commonwealth;





# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

## INCIDENT REPORT

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### *Officer Information*

Enforcing Officers: Nancy Civetta, John Mankevetch, Chris Manulla  
Date of Report: 6/25/18—7/3/18

Ticket Numbers: n/a

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### *Offender Information*

Name of Offender: Mr. Kubiak ~~XXXXXX~~

Address of Offender: 110 Avery Ave., Wellfleet Ma 02667

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### *Offense Information*

This document has been put together to demonstrate that Mr. Mike Kubiak has displayed a pattern of obstructionism with local shellfishing authorities over the past six months that merits the revocation of his commercial shellfishing permit. It is important to note that this department has treated Mr. Kubiak fairly, inspected him randomly and assisted him when he got himself into trouble, for example, by pulling his stuck truck out of the sand and advising the Harbormaster when his boat was sinking.

Because many shellfishermen use boats to harvest shellfish, we work very closely with the Harbormaster Dept., sharing information on issues, collaborating on problem solving and generally assisting each other. The Harbormaster Dept. has also been having issues with Mr. Kubiak that we have been aware of, so we submit here their memo with supporting documents, as well.

### **Date: 3/21/2018**

Constable Nancy Civetta and Asst. Constable John Mankevetch reported the following in the Daily Patrol log: "Mike Kubiak was way over his limit, and we measured his catch into a bushel basket. We dumped at least a quarter bushel back into Herring River. Full incident report on file and a written warning was issued and a letter to accompany it will be sent." See attached.

From Incident Report: During our interaction, Mr. Kubiak questioned my authority. In the letter I sent him, I provided him with the following: "As the appointed Shellfish Constable for the Town of Wellfleet, my actions are permitted by MGL Chapter 130: Section 9: Searches, Seizures and Arrests Without Warrant and MGL Chapter 130: Section 12: Seizure and Forfeiture of Fish Unlawfully Taken, Boats and Apparatus: Sale: Proceeds."

Phone (508) 349-0325



Fax (508) 349-0305



# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

**Date: 3/22/2018**

Constable Civetta and Asst. Constable Mankevetch encountered Mr. Kubiak again at Herring River, and logged this into Daily Patrol Report: "checked limit: all OK - he said he took 15 extra oysters to make up for the 15 dead from his catch the day before [*Constable added context:* because he said they died because we dumped his catch], even though we let him keep it [his bushel limit: instead of confiscating it] after measuring it out and dumping his excess."

**Date: 4/18/18**

Mr. Kubiak's skiff was docked at the boat ramp and had shellfish on board. He was at his truck. As is normal, routine practice, Constable Civetta and Deputy Constable Chris Manulla went to the skiff to check the shellfish. As we were inspecting the catch (two bushels of bagged oysters), Mr. Kubiak approached and yelled, "Hey!" As he neared us, he said we have no right to inspect his boat without him there. We informed him that we do have that right. He admonished us that he would like to be there whenever we inspect his catch and that he would like us to wait for him before inspecting from now on.

**Exact Date Uncertain, but very soon after 4/18/18:**

Mr. Kubiak came to our office. Both Constable Civetta and Deputy Manulla were there. Mr. Kubiak challenged our interpretation of MGL Chapter 130 and Chapter 90B about our right to inspect. At the end of the conversation, we asked if he had gone shellfishing that day, and he said yes. We asked what he had brought in, and he said shellfish and that they were on his boat. We walked over to his boat to inspect his catch. He continued to complain about the letter the Constable sent him and about us inspecting his boat when he wasn't there. Deputy Manulla said: "If you had just told us you had two bushels, we wouldn't have needed to check you. I will respect your wishes, but if your boat is at the dock with shellfish on board and you aren't here, I am going to check it." Mr. Kubiak said OK.

**Date: 6/11/18**

Deputy Manulla made notes in our Daily Patrol Log: "At around 11:30 am, I did boat patrol. I came to Mr. Kubiak's boat. I asked him if he was fishing for oysters, saying I just wanted to check to see if he had ice. He said he was fishing for oysters but he was wet storing them. I asked him where he was wet storing them. He told me that's none of my business. I told him if he had permission from grant holder, and we had his information and paper work down, he could store on grants. He said he never saw that in writing and that the three of us wardens say something different. I told him if he wet stores in the harbor, I will confiscate his product and have his license suspended. He told me that he will call his lawyer. I said ok." Verbally, Deputy Manulla also explained protocols for adhering to vibrio procedures while harvesting oysters from a boat.

**Date: 6/19/18**

Specific Bylaw and/or Regulations: 4.12. Inspection on Demand; and MGL CH. 130 Section 13: Display of fish upon demand; violations. See Incident Report 6/20/18.





## Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

**Date: 6/22/18**

Mr. Kubiak was observed tampering with the Town's shellfish propagation bed. By the time we got close enough to see his activity with the binoculars, we observed him measuring the height of the aquaculture gear and then he left. If we see him there again, we will ask him to leave because this spring he was filmed by the Harbormaster assisting another shellfishermen in stealing town property (a winch from the Harbormaster's area at the pier), and we don't trust him on our propagation bed.

  
Signature of Enforcing Officer

7-3-18  
Date

Phone (508) 349-0325



Fax (508) 349-0305



## TOWN OF WELFLEET MARINA

300 MAIN STREET

WELFLEET, MASSACHUSETTS 02667

508-349-0320

Email : [michael.flanagan@wellfleet-ma.gov](mailto:michael.flanagan@wellfleet-ma.gov)

[william.sullivan@wellfleet-ma.gov](mailto:william.sullivan@wellfleet-ma.gov)

Web page : [www.wellfleet-ma.gov](http://www.wellfleet-ma.gov)



July 3, 2018

Dear Wellfleet Board of Selectmen,

We are writing this letter in support of the Wellfleet Shellfish Department and their decision to bring to you the potential revocation of Mr. Mike Kubiak's commercial shellfish permit. We realize this decision is not made lightly and would like to make clear that our input has not been made callously.

The list of interactions that we have had with Mr. Kubiak is as long as our arms, none of which were positive or well intentioned. While constant negative interactions are certainly not against any laws they do prove intent and demonstrate a pattern of recklessness and abuse. The Commonwealth of Massachusetts, the Town of Wellfleet, and the Wellfleet Marina have laws, rules, and regulations which we try to enforce to our best efforts equally to all. Mr. Kubiak has shown no regard for these practices. below I highlight only a few examples to demonstrate this pattern.

In October of 2017, he was approached and asked about his dockage for his skiff which displayed no Marina sticker (customary practice). His response was to tell us with many expletives that we have no right to question him or ask him about any of these details. The following morning, he nailed a letter to the side of the Harbormaster building with a 16 penny (spike) nail. (See attached note dated 10-3-17.)

As the winter moved in, we tried our best to take a more hands-off approach with Mr. Kubiak, keeping a distant but watchful eye over his actions so as to not escalate the situations with such a hot head. Giving him gentle reminders that his truck was parked sideways on the boat launch ramp, which is two lanes, that his skiff does not stay overnight or for days on the launch ramp docks, that his truck was not to be parked sideways across parking spots, in fire lanes, or in the handicap ones. We even went so far as to let him borrow tools and power cords to work on his boat. All in an act of treating someone like others, with the benefit of the doubt, as well as kid gloves. Unfortunately, this approach did not correct the situations.

December 29, 2017. Mr. Kubiak attempted to bring a boat into Wellfleet Harbor from New Bedford, unbeknownst to us. If he had let us in on his plan to attempt to bring a significantly larger boat into Wellfleet Harbor permanently, we could have told him that the Harbor was iced in, as anyone could see by simply driving to the harbor and looking. As well as where did he plan to berth this boat? This act risked lives, it was RECKLESS, and it put lives at risk. We received a rescue call from the U.S. Coast Guard, we were not able to respond as no one was getting a boat in or out of Wellfleet Harbor due to the ice. Dennis Harbormaster and Fire

Department received the call as they were not totally iced up yet. They put their lives at serious risk to go out and save a man who did not take one safety precaution or have one bit of safety gear on his boat (which would be in violation in itself). (See attached Dennis Fire Dept. reports and Cape Cod Times story.)

When the ice was gone, he brought the boat into the Harbor continuing to push the limits. We had all the Gangways to the docks pulled out of the water for the winter (normal practice). The commercial fishing boats rely on the ladders built on the piers to access their boats in the winter. We left the fuel dock in to supply the commercial fleet with fuel which Mr. Kubiak continually tied his boats on no matter how many times we told him this was in violation of not only our own but state laws as well. He then continued to tell us that he was going to sue us because he could hurt himself unloading his boats that were illegally docked, even though there were other proper spots to unload fishing boats.

During the spring and right up through to last week, Mr. Kubiak was informed that he had to move his boats to his mooring that he was told he had to have if he wanted to keep his boats in the harbor. When consistently reminded of this his response was there was plenty of room, don't bother him, he will do what he wants, and we can't do anything because he is a commercial fisherman. He was reminded it was almost Fourth of July and people have paid for these slips, when they arrive their slips should be open. We started again with the violation stickers, not only on his but any boat we find left in the wrong. We were met with another note promising that he would leave us with a 5-gallon bucket of fecal matter if he finds out who put the violation sticker on his boat. (See attached note dated 6-22-18.) This could be considered assault with intent to commit bodily harm with bodily fluids, a possible felony if convicted. After still no compliance, we towed his boat to his mooring.

We have not seen him in the past couple of days, but we can let you know of his future actions regarding these matters.

We have acted in manners appropriate to all Massachusetts General Laws regarding Harbormasters. He is also in constant violation of Marina rules and regulations. We have seen no proof that any of this will change anytime soon. The actions Mr. Kubiak has displayed are a danger to himself and to others around him, he has put many lives at risk, and we feel that pattern will continue as long as he has a commercial fishing license.

Sincerely,

William Sullivan  
Assistant Harbormaster

October 3rd 2017

Mike Flanagan,

Attached is the returned check dated 6-30-17 that Will Sullivan requested on 10-2-17.

I Apologize for becoming so upset on this afternoon having to raise my voice uncomfortably loud and cursing at Will. However, the manner in which Will performed his duties was totally unprofessional.

My advice to Will is/was as follows:  
Prior to accusations and interrogations while standing over my boat. Will should introduce himself as a Town of Wellfleet employee, or be wearing the easily identifiable Town Seal on his outer most garment. As I mistook him as a deranged tourist for several minutes of the argument.

Pat Flanagan

Sincerely  
M. Kubiak  
110 Avery Ave  
Wellfleet MA

P.S. You, Sohn, Patrick  
Keep up the good  
work.



## DENNIS FIRE DEPARTMENT

680 Main Street • West Dennis, MA 02670-2523  
508-398-0363 • fax 508-398-5925



MARK DELLNER

JOHN DONLAN

EMILY PESSOTTI

ROBERT BROWN

### "FOR IMMEDIATE RELEASE"

Dennis Harbor and Fire Department respond to boat in trouble,

SESUIT HARBOR, EAST DENNIS (MA) December 29, 2017 – One person was rescued when his motor quit on Cape Cod Bay. The Dennis Assistant Harbormaster Bill Mckenzie along with Dennis Firefighter's Wayne Mayo and Shane Sargent responded when a call was received at 1:32pm from the Coast Guard Southeast Sector Woods Hole.

The vessel the "Shuck'n Around" piloted by Captain Michael Kubiak became disabled when ice was sucked into the impellers. Due to the shallowing tides a smaller rescue vessel was needed to reach the disabled clamming boat. The Dennis Harbor boat was able to get a line to the disabled vessel and towed them to safely back to Sesuit Harbor. Fire department personnel were on hand to evaluate any hypothermia in this frigid weather.



Deputy Robert Brown  
Dennis Fire Department



<b>A</b> 01075 <small>APP *</small>		MM DD YYYY 12 29 2017 <small>Month * Day * Year *</small>		2 <small>Version</small>		17-0004935 <small>Incident Number *</small>		000 <small>Options *</small>		<input type="checkbox"/> NFIRS -1 <input checked="" type="checkbox"/> Basic					
<b>B Location*</b> <input checked="" type="checkbox"/> Street Address 351 SESUIT NECK RD <small>Address/Highway Prefix Street or Route, Street Type</small> <input type="checkbox"/> Intersection <input type="checkbox"/> In front of <input type="checkbox"/> Rear of <input type="checkbox"/> Adjacent to <input type="checkbox"/> Directions DENNIS MA 02638 <small>City State Zip</small> <small>Circle street or direction, as applicable</small>															
<b>C Incident Type *</b> 365 Watercraft rescue <small>ICD-9-CM</small>				<b>E1 Date &amp; Times</b> Midnight is 0000 Check Boxes: <input checked="" type="checkbox"/> Alarm <input type="checkbox"/> Arrival <input type="checkbox"/> Controlled <input checked="" type="checkbox"/> Last Unit <input checked="" type="checkbox"/> Cleared Month Day Year Hr Min Sec 12 29 2017 13:21:25 12 29 2017 13:29:05 12 29 2017 16:39:36				<b>E2 Shift &amp; Alarms</b> Local Option 2 OUT <b>E3 Special Studies</b> Special Study 104 Special Study Value							
<b>D Aid Given or Received*</b> 1 <input type="checkbox"/> Mutual aid received 2 <input type="checkbox"/> Automatic aid recvd. 3 <input type="checkbox"/> Mutual aid given 4 <input type="checkbox"/> Automatic aid given 5 <input type="checkbox"/> Other aid given N <input checked="" type="checkbox"/> None				<b>F Actions Taken *</b> 00 Action taken, Other <small>Primary Action Taken (1)</small> <small>Additional Action Taken (2)</small> <small>Additional Action Taken (3)</small>				<b>G1 Resources *</b> <input checked="" type="checkbox"/> Check this box and skip this section if an Apparatus or Personnel Code is used. Apparatus Personnel Suppression EMS Other 0002 <input type="checkbox"/> No code if resources listed in table are not used.				<b>G2 Estimated Dollar Losses &amp; Values</b> LOSSES: Required for all fires of known origin. Property \$ 000,000 Contents \$ 000,000 PRE-INCIDENT VALUE: Property \$ 000,000 Contents \$ 000,000			
<b>Completed Modules</b> <input type="checkbox"/> Fire-2 <input type="checkbox"/> Structure-3 <input type="checkbox"/> Civil Fire Cas.-4 <input type="checkbox"/> Fire Serv. Cas.-5 <input type="checkbox"/> EMS-6 <input type="checkbox"/> HazMat-7 <input type="checkbox"/> Wildland Fire-8 <input checked="" type="checkbox"/> Apparatus-9 <input checked="" type="checkbox"/> Personnel-10 <input type="checkbox"/> Arson-11			<b>H1* Casualties</b> None Deaths Injuries Fire Service Civilian <b>H2 Detector</b> Required for Confined Fires. 1 <input type="checkbox"/> Detector alerted occupants 2 <input type="checkbox"/> Detector did not alert them U <input type="checkbox"/> Unknown			<b>H3 Hazardous Materials Release</b> N <input type="checkbox"/> None 1 <input type="checkbox"/> Natural Gas: slow leak, no evacuation or HazMat actions 2 <input type="checkbox"/> Propane gas: <21 lb tank (as in home BBQ grill) 3 <input type="checkbox"/> Gasoline: vehicle fuel tank or portable container 4 <input type="checkbox"/> Kerosene: fuel burning equipment or portable storage 5 <input type="checkbox"/> Diesel fuel/fuel oil: vehicle fuel tank or portable 6 <input type="checkbox"/> Household solvents: household spill, cleanup only 7 <input type="checkbox"/> Motor oil: from engine or portable container 8 <input type="checkbox"/> Paint: from paint cans totaling < 55 gallons 0 <input type="checkbox"/> Other: Special HazMat actions required or spill > 55gal. Please complete the HazMat form.			<b>I Mixed Use Property</b> NN <input type="checkbox"/> Not Mixed 10 <input type="checkbox"/> Assembly use 20 <input type="checkbox"/> Education use 33 <input type="checkbox"/> Medical use 40 <input type="checkbox"/> Residential use 51 <input type="checkbox"/> Row of stores 53 <input type="checkbox"/> Enclosed mall 58 <input type="checkbox"/> Bus. & Residential 59 <input type="checkbox"/> Office use 60 <input type="checkbox"/> Industrial use 63 <input type="checkbox"/> Military use 65 <input type="checkbox"/> Farm use 00 <input type="checkbox"/> Other mixed use						
<b>J Property Use*</b> Structures 131 <input type="checkbox"/> Church, place of worship 161 <input type="checkbox"/> Restaurant or cafeteria 162 <input type="checkbox"/> Bar/Tavern or nightclub 213 <input type="checkbox"/> Elementary school or kindergarten 215 <input type="checkbox"/> High school or junior high 241 <input type="checkbox"/> College, adult education 311 <input type="checkbox"/> Care facility for the aged 331 <input type="checkbox"/> Hospital Outside 124 <input type="checkbox"/> Playground or park 655 <input type="checkbox"/> Crops or orchard 669 <input type="checkbox"/> Forest (timberland) 807 <input type="checkbox"/> Outdoor storage area 919 <input type="checkbox"/> Dump or sanitary landfill 931 <input type="checkbox"/> Open land or field 341 <input type="checkbox"/> Clinic, clinic type infirmary 342 <input type="checkbox"/> Doctor/dentist office 361 <input type="checkbox"/> Prison or jail, not juvenile 419 <input type="checkbox"/> 1-or 2-family dwelling 429 <input type="checkbox"/> Multi-family dwelling 439 <input type="checkbox"/> Rooming/boarding house 449 <input type="checkbox"/> Commercial hotel or motel 459 <input type="checkbox"/> Residential, board and care 464 <input type="checkbox"/> Dormitory/barracks 519 <input type="checkbox"/> Food and beverage sales 539 <input type="checkbox"/> Household goods, sales, repairs 579 <input type="checkbox"/> Motor vehicle/boat sales/repair 571 <input type="checkbox"/> Gas or service station 599 <input type="checkbox"/> Business office 615 <input type="checkbox"/> Electric generating plant 629 <input type="checkbox"/> Laboratory/science lab 700 <input type="checkbox"/> Manufacturing plant 819 <input type="checkbox"/> Livestock/poultry storage (barn) 882 <input type="checkbox"/> Non-residential parking garage 891 <input type="checkbox"/> Warehouse 936 <input type="checkbox"/> Vacant lot 938 <input type="checkbox"/> Graded/care for plot of land 946 <input type="checkbox"/> Lake, river, stream 951 <input type="checkbox"/> Railroad right of way 960 <input type="checkbox"/> Other street 961 <input type="checkbox"/> Highway/divided highway 962 <input type="checkbox"/> Residential street/driveway 981 <input type="checkbox"/> Construction site 984 <input type="checkbox"/> Industrial plant yard Property Use 941 Open ocean, sea or tidal															



**K1 Person/Entity Involved**

☐ If the person or entity involved is a business, check this box and attach the three business address labels.

Business Name (Print Name) \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_  
E-mail \_\_\_\_\_  
Business Type \_\_\_\_\_  
Business Hours \_\_\_\_\_  
Business Address \_\_\_\_\_  
Business City \_\_\_\_\_  
Business State \_\_\_\_\_  
Business Zip \_\_\_\_\_  
Business Phone \_\_\_\_\_  
Business Fax \_\_\_\_\_  
Business E-mail \_\_\_\_\_

☐ More people involved? Check this box and attach Supplemental Forms (NFIRS-1S) as necessary

**K2 Owner**

☐ If the person or entity involved is a business, check this box and attach the three business address labels.

Business Name (Print Name) \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_  
E-mail \_\_\_\_\_  
Business Type \_\_\_\_\_  
Business Hours \_\_\_\_\_  
Business Address \_\_\_\_\_  
Business City \_\_\_\_\_  
Business State \_\_\_\_\_  
Business Zip \_\_\_\_\_  
Business Phone \_\_\_\_\_  
Business Fax \_\_\_\_\_  
Business E-mail \_\_\_\_\_

☐ Check this box if you are the owner of the vessel and attach the three owner address labels.

Owner Name (Print Name) \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_  
E-mail \_\_\_\_\_  
Owner Type \_\_\_\_\_  
Owner Hours \_\_\_\_\_  
Owner Address \_\_\_\_\_  
Owner City \_\_\_\_\_  
Owner State \_\_\_\_\_  
Owner Zip \_\_\_\_\_  
Owner Phone \_\_\_\_\_  
Owner Fax \_\_\_\_\_  
Owner E-mail \_\_\_\_\_

**L Remarks**

ASSIT THE HARBORMASTER WITH A BOAT THAT IS ICED IN OFF LT ISLAND IN WELLFLEET

12/29/2017 05:24:22 PM wmayo

Responded with Harbormaster Bill McKenzie in Marine 57 to the area of Bilingsgate along with the Coast Guard to assist a 26 foot boat with 1 person on board that was iced in and lost power. Before our arrival the 47 foot coast guard vessel had made contact with the boat and had begun to tow the boat away from the ice. The coast guard had us continue so we could tow the boat to sesuit harbor. We towed the boat back to sesuit which took approximately 1.5 hours. The person on the boat is Mike Kubiak, 110 Avery Ave, Wellfleet, Ma [REDACTED]

**L Authorization**

29555 MAYO, JR., WAYNE A FEP 12 29 2017

29555 MAYO, JR., WAYNE A FEP 12 29 2017

01075

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MM DD YYYY

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2017

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17-0004935

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Complete  
Narrative

## Narrative:

ASSIT THE HARBORMASTER WITH A BOAT THAT IS ICED IN OFF LT ISLAND IN WELLFLEET

12/29/2017 05:24:22 PM wmayo

Responded with Harbormaster Bill McKenzie in Marine 57 to the area of Bilingsgate along with the Coast Guard to assist a 26 foot boat with 1 person on board that was iced in and lost power. Before our arrival the 47 foot coast guard vessel had made contact with the boat and had begun to tow the boat away from the ice. The coast guard had us continue so we could tow the boat to sesuit harbor. We towed the boat back to sesuit which took approximately 1.5 hours. The person on the boat is Mike Kubiak, 110 Avery Ave, Wellfleet, Ma 01983-340-9653

# CAPE COD TIMES

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## Ice-stricken boat towed from Cape Cod Bay

By Sean F. Driscoll

Posted Jan 2, 2018 at 5:46 PM

Updated Jan 2, 2018 at 6:58 PM

DENNIS — A 30-foot commercial fishing boat had to be towed off Cape Cod Bay on Friday after being overcome by ice that threatened to sink the vessel, according to Dennis officials.

The boat, the Shuck'n Around, had been purchased by Wellfleet resident Michael Kubiak, who was sailing it from New Bedford when the 30-foot vessel became disabled, said Deputy Harbormaster William McKenzie. McKenzie was notified of the situation at about 1 p.m. by the U.S. Coast Guard, who requested the harbormaster's help in towing the boat to shore because its boat is more suitable to towing a vessel of that size, he said.

"The boat was pretty much overcome with ice," McKenzie said. "The drains were iced up, the engine started sucking in ice and had become disabled. There was about 3-foot seas out there, so any spray that came up instantly turned into ice and snow."

Along with Dennis firefighters Wayne Mayo and Shane Sargent, McKenzie headed to the Shuck'n Around at about 1:30 p.m. and was able to secure it for the 8-mile journey back to Sesuit Harbor.

"I did have it in my mind that if the boat became too heavy that we were going to have to take (Kubiak) off the boat and let the boat go," he said. "He's lucky; the bottom line is he's real lucky."

Although Kubiak was not wearing gear that would withstand the cold temperatures, McKenzie said he was uninjured after returning to shore at about 4 p.m. No citations had been issued as of Monday concerning the incident, but it was still under review, McKenzie said.

The Shuck'n Around remained tied up at the town dock Monday morning, McKenzie said.

— Follow Sean F. Driscoll on Twitter: [@seanfdriscoll](https://twitter.com/seanfdriscoll).

Wick,

Whoever

left the

Sticker on

Boat, can

my pump out

Expect to pump out

a 5 gallon  
Bucket SOON  
Chinese night  
After - M.K.



## Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

Mike Kubiak  
110 Avery Ave.  
Wellfleet, MA 02667

March 21, 2018

Re: Written warning for violation of Town of Wellfleet Shellfishing Policy and Regulations Sections 4.4 Daily Limit and 6.3 Daily Area Catch Limits – 1 bushel = 32 quarts (Herring River = 1 bushel)

Dear Mike:

This morning at the Herring River, I found you in violation of the above stated regulations. I chose not to confiscate your entire catch and left you with a full bushel of oysters to sell. I issued you the enclosed written warning and returned the ample quarter bushel of oysters that you were over your limit back to the wild.

You questioned my authority to "board" your commercial fishing vessel. As the appointed Shellfish Constable for the Town of Wellfleet, my actions are permitted by MGL Chapter 130; Section 9: Searches, Seizures and Arrests Without Warrant and MGL Chapter 130; Section 12: Seizure and Forfeiture of Fish Unlawfully Taken, Boats and Apparatus; Sale; Proceeds, as well as Wellfleet Shellfishing Policy and Regulations 11.9 Disposition of Unlawful Catch. These laws and regulations also would have allowed me to confiscate your entire catch.

Continued infractions of the Town's Shellfishing Policy and Regulations could result in a suspension of your commercial permit. The actions this department takes are to protect the Town's valuable shellfish resources and ensure a healthy and sustainable shellfishery for the future.

I am available to discuss this with you should you desire.

Sincerely,

  
Nancy Civetta  
Shellfish Constable  
Town of Wellfleet

[wellfleet-ma.gov/shellfish-department](http://wellfleet-ma.gov/shellfish-department)

Phone (508) 349-0325



Fax (508) 349-0305



# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

Mike Kubiak  
110 Avery Ave.  
Wellfleet, MA 02667

June 25, 2018

Re: 4.12. Inspection on Demand: All persons harvesting, carrying away or otherwise having in their possession shellfish or marine organisms of any kind, in a boat, container or vehicle shall exhibit all such shellfish for inspection on demand by the Shellfish Officers, Police Officers or any other duly authorized agents; and 322 CMR 7.01 (14) It is unlawful to: (h) fail to display catch... and (i) harass, threaten...

Dear Mike:

On Tuesday, June 19, you refused to allow me to inspect your coolers on your truck at the Town Pier when you came in from fishing. This constitutes a "failure to display," which is both a town and state infraction as outlined above. You requested the assistance of the Wellfleet Police Department and then the Mass. Environmental Police. Two patrolmen (Ptl. De Oliveira and Ptl. Pimental) and one supervisor (Sgt. La Rocco) from WPD and one Mass. Environmental Police Officer (Off. Simmons) responded. You were informed that refusing to display your coolers was an arrestable offense. You then allowed the Off. Simmons to inspect your coolers and truck.

However, you had refused to allow the Wellfleet Shellfish Constable to inspect your coolers, which violated the regulation above. In addition, you harassed the Constable in the execution of her ordinary duties. I am issuing you a ticket for \$50.00. Off. Simmons from the MEP agrees with my decision.

Continued infractions of the Town's Shellfishing Policy and Regulations could result in a suspension of your commercial permit. The actions this department takes are to protect the Town's valuable shellfish resources and ensure a healthy and sustainable shellfishery for the future. I am available to discuss this with you should you desire.

Sincerely,

Nancy Civetta  
Shellfish Constable, Town of Wellfleet

[wellfleet-ma.gov/shellfish-department](http://wellfleet-ma.gov/shellfish-department)

Phone (508) 349-0325

Fax (508) 349-0305



# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

Mike Kubiak  
110 Avery Ave.  
Wellfleet, MA 02667

July 5, 2018

Re: Wellfleet Shellfishing Policy and Regulations Section 11.7 Revocation of Shellfishing Permits: The Board of Selectmen reserves the right to revoke any such permit for particularly egregious violations and/or a pattern of abuse of these regulations. In the event that a permit is revoked, that individual may not harvest shellfish in the Town nor be aboard any vessel which is actively engaged in shellfishing until their permit is restored, with licensed areas being the only exception. A public hearing must be held within 30 days to allow a permit holder to appeal the revocation or suspension of said permit.

Dear Mike:

After careful thought and a lot of research and review of our interactions over the last six months, I have decided to request that the Selectboard revoke your commercial shellfishing permit. The Selectboard members will discuss this and may vote on it at their next meeting on Tuesday, July 10, 2018, at 7:00 p.m. at the Council on Aging, 715 Old Kings Hwy. I hope you will attend.

I have provided the Selectboard with the enclosed documents and am available to discuss this with you should you desire.

Sincerely,

Nancy Civetta  
Shellfish Constable, Town of Wellfleet

[wellfleet-ma.gov/shellfish-department](http://wellfleet-ma.gov/shellfish-department)

Phone (508) 349-0325

Fax (508) 349-0305



Any intentional false answers to any of the above questions will be just cause for the revocation or non-issuance of a Commercial Shellfish Permit. In signing below, I take responsibility for understanding the laws, regulations and amendments thereto governing the taking of shellfish and attest that I have received some but not all of the useful website links to pertinent content on my printed permit form.

Signature of Applicant \_\_\_\_\_

Mailing Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Cell \_\_\_\_\_

Date of Birth \_\_\_\_\_

Email \_\_\_\_\_

Eye Color \_\_\_\_\_

Hair Color \_\_\_\_\_

Height \_\_\_\_\_

Weight \_\_\_\_\_

Date \_\_\_\_\_

Approved by \_\_\_\_\_

Shellfish Constable

Date \_\_\_\_\_

Note: Application is subject to a 30-day review period by the Board of Selectmen and Shellfish Constable

## TOWN OF WELFLEET SHELLFISH POLICIES AND REGULATIONS

### Section 6. Commercial Shellfishing

A commercial permit may be issued to any person fourteen (14) years of age or older, who is a domiciled resident of Welfleet. Individuals aged fourteen (14) through sixteen (16) may be issued junior commercial permits. Only in the calendar year in which a person reaches fourteen (14) years of age may that person apply for a junior commercial permit at any time after the occurrence of that person's birthday. Residents over 65 may be issued senior permits. Any commercial permit will be revoked if the holder ceases to be a domiciled resident of Welfleet. Commercial permits will not be issued to unnaturalized foreign born persons who have not resided in Barnstable County at least five (5) years prior to making application (MGL Chapter 130, Section 55).

#### Commercial Permit Fee Schedule

Commercial - \$310.00, Senior Commercial - \$60.00, Junior Commercial - \$110.00, Eel Permit - \$3.00

Annual commercial permits will be issued from December 1 through January 31st of the permit year, subject to a thirty (30) day review of the application by the Shellfish Constable. Annual commercial permits are valid from Jan. 1 through Dec. 31. **Permits will only be issued after the applicant has shown proof of having a valid State commercial permit with a shellfish endorsement and a valid shellfish transaction card from the DMF, CMR 322.7.01 (2) g, i, k.**

The Board of Selectmen may at its discretion grant permits after January 31st if the applicant demonstrates all three of the following conditions:

- that unusual circumstances existed which would reasonably excuse a failure to file an application prior to February 1st, and
- that a substantial hardship would be caused by the refusal of a permit, and
- that the granting of the late permit would not affect the opportunity of applicants who have applied in a timely manner to harvest a reasonable quantity of shellfish.

**Resident** - A declared resident of the Town of Welfleet. Written proof that Welfleet is the domicile as well as the legal residence of the applicant shall be required to the satisfaction of the Shellfish Constable and Board of Selectmen. Proof of legal residence may include voter registration, automobile registration, driver's license, income tax filings, census data or passport.





12/12/17  
When applying  
for a boat permit,  
you must  
provide  
vessel information  
Please report for  
Nov + Dec.

Commonwealth of Massachusetts  
Division of Marine Fisheries  
251 Causeway Street  
Boston, MA 02114

December isn't  
over, 173767  
Now mailed 12/17

KUBIAK, MIKE P  
110 AVERY AVE  
WELLFLEET, MA 02667

Please make change(s) to mailing address email and/or phone here if necessary.

Mailing Address

City/Town: State Zip

Email  
Phone

Cell/Mobile: ()

Massachusetts Resident = Y

U.S. Citizen = Y

KS  
11/18/18  
230659

### RENEWAL NOTIFICATION FORM FOR SHELLFISH & SEAWORMS PERMIT

Your 2017 Shellfish & Seaworms Permit expires on December 31, 2017. If you would like to renew this Shellfish & Seaworms Permit, please review the information in section 1 and make corrections as needed. Return with the appropriate fee in the enclosed envelope.

#### Section 1: Shellfish & Seaworms - Permit Information

KUBIAK, MIKE P  
Boat Name: Shuckin Around Length: 26' DOB: MS/Doc #: Homeport: Wellfleet MA  
Buoy Color(s): Fed Permit ID #: 646330 / MS 801196  
Endorsement(s): SHELLFISH

#### Section 2: Please read the following permit information, and provide information as required.

Your current Trip-Level Reporting method is: **REPORTING PAPER (PTL)**

If you would like to change the way you currently report, please do so on the reverse side of the application.

Reporting Compliance as of 11/21/2017

Missing Months: NOV, DEC

#### Section 3: Payment Information

1. The fee for this permit is \$40.00
2. Send the entire form with a check or money order made payable to the Commonwealth of Massachusetts in the enclosed return envelope.
3. Please sign your check and write your DMF PERMIT ID, which is 173767, on the MEMO line of your check (Do Not Staple).
4. Please be sure to sign and date your application below. Thank you!
5. You must renew your permit prior to fishing.

PRINT NAME: Mike Kubiak

SIGNATURE: [Signature]

Date: 12-9-17

I hereby certify under the pains and penalties of perjury that all information contained in this application is true and accurate, and that I have read and agree to comply with all applicable statutes contained in MGL c. 130, and the regulations contained in 322 CMR.

210  
130  
\$340.00

If this is a permit renewal, please use this form to make any changes to your permit (e.g. add an endorsement, change permit type)

**COMMERCIAL PERMIT:** Please select only one commercial permit type from the list below (Rod & Reel and Student Lobster permit types cannot be endorsed for shellfish or scallop shucking).

	MASS RESIDENT	NON- RESIDENT
BOAT 89+ FT	<input type="checkbox"/> \$260	<input type="checkbox"/> \$520
BOAT 60-99 FT	<input type="checkbox"/> \$195	<input type="checkbox"/> \$390
<b>BOAT 0-59 FT</b>	<input checked="" type="checkbox"/> <b>\$130</b>	<input type="checkbox"/> \$260
INDIVIDUAL	<input type="checkbox"/> \$65	<input type="checkbox"/> \$130
ROD & REEL	<input type="checkbox"/> \$35	<input type="checkbox"/> \$100
SHELLFISH & ROD & REEL	<input checked="" type="checkbox"/> \$35	<input type="checkbox"/> \$130
SHELLFISH & SEAWORMS	<input type="checkbox"/> \$40	<input type="checkbox"/> \$80
OFFSHORE LOBSTER (non-trap) *	<input type="checkbox"/> \$310	<input type="checkbox"/> \$570
STUDENT LOBSTER **	<input type="checkbox"/> \$80	<input type="checkbox"/> \$145

\* You must submit a copy of your federal permit.

\*\* Student lobster permit applicants must submit verification of full-time student status & parental consent. Student lobster permit holders must affix trap tags to their gear; trap tags will be supplied by DMF.

Student Lobster Buoy Colors: \_\_\_\_\_

#### TRIP-LEVEL REPORTING DESIGNATION:

To obtain a MA commercial permit, you must select one of the following reporting methods. Failure to select a method will result in the return of your application. For more information, please refer to the enclosed material on Trip-Level Reporting.

- ☐ **Federal Reporting Vessel (FRV):** choose this option if you already report all trip-level data through a federal program (VTR, Surf Clam / Ocean Quahog Logbook, HMS) for the listed vessel.
- ☒ **Paper (PTL):** choose this option if you want to submit paper reports, either by mail, fax or e-mail attachment.
- ☐ **Electronic (ETL):** choose this option if you want to report via a secure web-based program. Please remember to include your email address on the front of this form.

**PERMIT ENDORSEMENTS:** Your commercial permit must be endorsed if you wish to participate in any of the regulated fisheries listed below. Select each species you want authorization to commercially harvest by marking the corresponding box.

#### Endorsements not allowed on student lobster permits

	MASS RESIDENT	NON- RESIDENT
TAUTOG	<input type="checkbox"/> \$30	<input type="checkbox"/> \$60
New applicants must submit an affidavit which is available online at: <a href="http://www.mass.gov/marinefisheries">http://www.mass.gov/marinefisheries</a>		
AMERICAN EEL	<input checked="" type="checkbox"/> \$30	<input type="checkbox"/> \$60
DOGFISH	<input checked="" type="checkbox"/> \$30	<input type="checkbox"/> \$60
New applicants must submit an affidavit which is available online at: <a href="http://www.mass.gov/marinefisheries">http://www.mass.gov/marinefisheries</a>		
NORTHERN SHRIMP	<input checked="" type="checkbox"/> \$30	<input type="checkbox"/> \$60
SCUP	<input checked="" type="checkbox"/> \$30	<input type="checkbox"/> \$60
SEA HERRING	<input checked="" type="checkbox"/> \$30	<input type="checkbox"/> \$60
SEA URCHIN	<input checked="" type="checkbox"/> \$30	<input type="checkbox"/> \$60

New applicants must submit an affidavit, which is available online at: <http://www.mass.gov/marinefisheries>

**STRIPED BASS** ☒ \$30 ☐ \$60

Application deadline February 28<sup>th</sup>

New applicants must submit an affidavit which is available online at: <http://www.mass.gov/marinefisheries>

CONTAMINATED SURF CLAM ☐ \$30 ☐ \$60

DREDGE: This endorsement is for the harvest of surf clams from contaminated areas only and for the purpose of BAIT only.

SHELLFISH ENDORSEMENT ☒ \$0

New applicants must submit an affidavit which is available online at: <http://www.mass.gov/marinefisheries>. Must have a town permit

SEA SCALLOP SHUCKING ☒ \$0

SEA SCALLOP DIVER ☒ \$0

Residency restrictions

BAY SCALLOP SHUCKING ☐ \$0

If you select Bay Scallop shucking, you must submit a copy of your Certified Sanitary Inspection approved by the Mass DPH.

SURFACE GILLNET ☐ \$30 ☐ \$60

To harvest menhaden, sea herring and/or mackerel from state waters with a gillnet, requires a Surface Gillnet endorsement on your commercial permit. The maximum net length is 300 linear feet. See 322 CMR 4.14 for closure dates.

**LIMITED ENTRY:** New permits and endorsements are no longer being issued for the categories listed below. However, they may be available by transfer. For more information on the transfer of limited entry permits contact DMF at (617) 626-1520.

**Commercial Permits:** (1) Coastal Lobster, and (2) Offshore Lobster (trap)

<b>Endorsements:</b>	Sink Gillnets	Bluefish Gillnet	Mobile Gear Coastal Access	Bluefin Tuna Purse Seine
	Fish Pot-Scup	Fish Pot-Conch	Fish Pot-Sea Bass	Bay Quahog-Dredge
	Fluke	Surf Clam Dredge	Ocean Quahog Dredge	Horseshoe Crab
	Groundfish Endorsement*	Black Sea Bass	Menhaden	

\*Groundfish Endorsement (GE) - This endorsement is required for any commercial operation catching, landing and possessing groundfish in state waters, but not fishing under a federal Multispecies or monkfish permit. In addition to monkfish, the ten federally managed groundfish species covered by the GE are cod, haddock, pollock, redfish, white hake, yellowtail flounder, winter flounder, windowpane flounder, American plaice, ocean pout, wolffish and witch flounder.

**Important Notice Governing Permit Renewals:** All regulated fishery endorsements, approved for any commercial fishing permit, renewed by the Division may not be transferred by the holder of his/her business from one commercial fishing permit or fishing vessel to another during the fishing year. Applicants are advised to pay particular attention to which permitted fishing vessel they intend to apply the regulated fishery endorsement(s). Once renewed by the holder, regulated fishery endorsements are not transferable from one commercial fishing permit or fishing vessel to another during the fishing year.

Permit renewal applicants are reminded that all renewal applications and related forms, including but not limited to catch reports, must be fully and accurately completed by the permit holder, must include all of the information that is being requested on the form(s), and may not be changed or altered in any way. Failure to fully and accurately complete any renewal application and related forms, or changing or altering any part or parts thereof shall automatically result in the disapproval of a renewal of the permit. The permit renewal application, related forms and payment fee will be returned to the applicant by USPS along with a brief description of those specific parts of the renewal application that are incomplete, incorrect or have been changed or altered by the applicant. In such a case, the applicant will need to complete and submit an application for a new commercial fishing permit.



David E. Pierce, Ph.D.  
Director

# Commonwealth of Massachusetts

## Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617)626-1520

fax (617)626-1509

Revised:  
December, 2017

### SHELLFISH HARVESTING, HANDLING, AND TRANSPORT AFFIDAVIT

**\*\* THIS AFFIDAVIT MUST BE READ, SIGNED, AND RETURNED WITH THE PERMIT APPLICATION IN ORDER TO OBTAIN A COMMERCIAL SHELLFISH PERMIT**

**SHELLFISH HARVESTING, HANDLING and TRANSPORT:** Massachusetts shellfish are renowned for their high quality. Commercial harvesters, including shellfish growers, are required by the National Shellfish Sanitation Program (NSSP) and by **Massachusetts Division of Marine Fisheries (DMF)** and **Department of Public Health (DPH)** regulations to harvest shellfish only from open non-polluted areas, and to take steps that protect the shellfish from temperature abuse and exposure to contamination during handling and transport to wholesale dealers for sale.

Disease-causing bacteria and viruses can be found in raw shellfish. Contamination may occur at any point in the food distribution system, including the point of harvest. Since molluscan shellfish filter water to obtain food, any bacteria, viruses and protozoa in the water will be concentrated by the shellfish. Shellfish from waters contaminated with sewage wastes accumulate higher levels of disease-causing pathogens which can cause **Norovirus, hepatitis, cholera**, and various other forms of viral and bacterial gastroenteritis. Exposure to contaminants during transport and lack of temperature control can further degrade the shellfish and allow growth of pathogens that can cause illness from **Vibrio** bacteria. Remember, shellfish is considered ready-to-eat. Consumers may not cook it; a step that generally kills pathogens.

**HARVEST:** Individuals commercially harvesting shellfish must have a state commercial fishing permit or other DMF permit endorsed for commercial shellfish harvesting and the companion Shellfish Transaction Card (322 CMR 7.01 (2)).

Shellfish for direct marketing may only be harvested from waters classified as **Approved or Conditionally Approved** by DMF and in the "open status". Harvesters should consult with local shellfish authorities or DMF to determine those areas that are open and safe for harvesting or closed to protect public health due to sanitary problems, biotoxins (Red Tide), oil spills or chemical contaminants. Information on shellfish growing area classifications can be found by searching "DSGA" on DMF's website.

**HANDLING:** Harvesters shall ensure shellfish are harvested, handled, and transported in a manner to prevent contamination and deterioration. All containers used to hold shellfish shall be clean, free of debris, and fabricated using safe, easily cleanable materials (smooth surface). Shellfish shall be covered or in a closed vehicle during transport to prevent exposure to direct sun light and contaminants.

**Boats used in harvesting** must be kept clean. Shellfish shall be stored on raised areas to prevent contact with bilge water and away from fuel, oil and other chemicals. Shellfish shall be covered to prevent exposure to hot sun and birds. Each harvest boat must have a sanitation device or container with a tight fitting cover and be secured and placed to prevent contamination of shellstock by spillage or leakage. Each container must be indelibly labeled "Human Waste" in contrasting letters at least three (3) inches in height.

(Over)

Containers should be emptied only into a sewage disposal system and cleaned. The overboard discharge of human waste is prohibited in Massachusetts.

Dogs, cats and other animals are **not** allowed on harvest vessels.

**All containers of shellfish must be individually tagged.** The tag shall contain the full name of the harvester, DMF Commercial Shellfish Permit ID number, date and time of harvest (time of exposure of first shellfish harvested), the type and quantity of shellstock, the initials MA, the shellfish area name and number, and if applicable the aquaculture site number. The following statement shall be written in bold capitalized type "**THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS**" (322 CMR 16.03).

**TRANSPORT:** All species of shellfish, regardless of the time of year, should be transported to a permitted wholesale dealer as soon as possible to be placed under refrigeration. Shellfish may also be sold to a wholesale dealer at the landing site. Shellfish bound for market may not be stored at any unpermitted facility prior to delivery to a permitted wholesale dealer.

The **NSSP** and **DPH** have **maximum timelines** for delivery of shellfish to a permitted wholesale dealer by the harvester after harvest or exposure. **Shellfish must be delivered to the dealer on the same day of harvest.** In May, June, July, August, September and October shellfish must be delivered to the dealer on the same day of harvest in **less than 18 hours from time of harvest or exposure.**

**Only Surf Clams and Ocean Quahogs** intended for thermal processing are exempt from these standards.

**Additional requirements apply to oysters during the V.p. control season (322 CMR 16.05).**

#### **ADDITIONAL INFORMATION**

Harvesters who do not submit federal vessel trip reports must report shellfish landings to DMF on a trip-level basis.

To obtain additional information referenced in this document visit: [www.mass.gov/marinefisheries](http://www.mass.gov/marinefisheries).

Harvesters shall be familiar with DMF's Shellfish Harvest and Handling Regulations at 322 CMR 16.00.

You may also contact: Division of Marine Fisheries, 706 South Rodney French Boulevard, New Bedford, MA 02744 Tel. (508) 990-2860.

#### **SIGNATURE REQUIRED FOR PERMIT RENEWAL OR INITIAL ISSUANCE\***

To obtain a permit or renew a permit, it is an NSSP requirement that each harvester acknowledge that they have read and understand the information provided in this document. After reading, please sign below and return the entire document with your permit application. It is advised that you retain a copy of this document for your files. The contents of this affidavit will be adopted as conditions to your 2018 commercial shellfish permit; a Statement of Permit Conditions will be published in the legal notice section of DMF's website.

Full Name (print) Mike Kubick

Address 110 Avery Ave

Signature [Signature]

Date 12-9-17



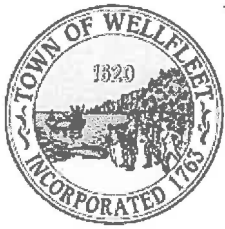
## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# III

### RE-APPOINTMENT – A. Shellfish Constable

<b>REQUESTED BY:</b>	TA
<b>DESIRED ACTION:</b>	Reappointment of Nancy Civetta as Wellfleet's Shellfish Constable for a three-year term
<b>PROPOSED MOTION:</b>	I move to reappoint Nancy Civetta as Wellfleet's Shellfish Constable for a three-year term ending on June 30, 2021.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# III

### APPOINTMENTS – B. Comprehensive Wastewater Planning Committee

<b>REQUESTED BY:</b>	Principal Clerk
<b>DESIRED ACTION:</b>	Appointment of Janet Drohan to the CWPC for a three-year term ending on June 30, 2021.
<b>PROPOSED MOTION:</b>	I move to appoint Janet Drohan to the CWPC for a three-year term ending on June 30, 2021.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



**TOWN OF WELLFLEET**  
**APPLICATION FOR TOWN BOARDS & COMMITTEES MEMBERSHIP**

Wellfleet depends on its citizens to carry out many of our government's activities. Your community needs your help. *Please volunteer.*

FILL OUT THE FORM BELOW and mail it to:  
Wellfleet Selectmen's Office, Town Hall, 300 Main Street, Wellfleet, MA 02667

☐ Name Janet Drohan Date July 17, 2018

Mailing Address PO Box 922 S Wellfleet, MA 02663

Phone (Home) 508-349-7570 (cell) 203-241-9069

E-mail jpdrohan@yahoo.com

☐ Please describe briefly any work experience, including volunteer service, that you feel would be useful to the Town: \_\_\_\_\_

BOH - Wellfleet

SPAT Board - Wellfleet

241 Community Kitchen - Wellfleet

☐ Please add any other information that you think may be useful, including education or other formal training, specialized courses, professional licenses or certifications, etc.:

Working member of "Climate Change and Shellfishing for 2 years

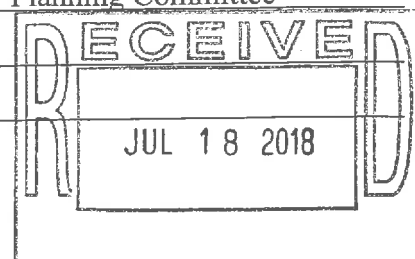
Former member of Comprehensive Wastewater Committee

Citizen Science work at Wellfleet Bay Wildlife Sanctuary Audubon

☐ Committees/Boards of Interest: 1) Comprehensive Wastewater Planning Committee

2) \_\_\_\_\_

3) \_\_\_\_\_





## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IV

### BUSINESS – A. Beach Parking Fees

<b>REQUESTED BY:</b>	Todd LeBart
<b>DESIRED ACTION:</b>	Consideration of change to daily beach parking fee
<b>PROPOSED MOTION:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



## WHITE CREST BEACH DAILY PARKING REVENUES

2016			2018		
06/25/16	\$ 4,300.00	215	06/25/18	\$ 600.00	15
06/26/16	\$ 1,980.00	99		COLD	
06/27/16	\$ 1,040.00	52	06/27/18	\$ 1,320.00	33
06/28/16	\$ 80.00	4	06/28/18	\$ 440.00	11
06/29/16	\$ 260.00	13		RAIN	
06/30/16	\$ 1,460.00	73	06/30/18	\$ 2,680.00	67
		<b>456</b>			<b>126</b>
07/01/16	\$ 940.00	47	07/01/18	RAIN	
07/02/16	\$ 4,560.00	228	07/02/18	\$ 4,200.00	105
07/03/16	\$ 5,160.00	258	07/02/18	\$ 7,360.00	184
07/04/16	\$ 4,540.00	227	07/03/18	\$ 4,040.00	101
07/05/16	\$ 120.00	6	07/04/18	\$ 4,560.00	114
07/06/16	RAIN		07/05/18	\$ 7,680.00	192
07/07/16	\$ 4,400.00	220	07/06/18	\$ 7,460.00	187
07/08/16	\$ 2,060.00	103	07/08/18	\$ 2,920.00	73
07/09/16	\$ 260.00	13	07/09/18	\$ 8,315.00	208
		<b>1,102</b>			<b>1,164</b>
<b>TOTAL</b>	\$ 31,160.00	1,558		\$ 51,575.00	1,290

\* The summer of 2016 was the hottest on record in NE to date.

## Doubled parking fee raises temperature at Wellfleet's White Crest Beach

By Sophie Ruehr / Banner Correspondent

Posted Jul 18, 2018 at 7:20 PM

Updated Jul 18, 2018 at 7:20 PM

WELLFLEET — “There’s a huge problem with all of our beaches,” said Chair Janet Reinhart at the select board’s July 10 meeting. The problems, including limited parking and mountains of trash, will be discussed in a closed-door meeting with the police chief, town administrator, beach director and the owner of the Beachcomber “sometime soon,” Reinhart said. The department heads will then schedule a public meeting at which residents can voice their opinions, said beach administrator Suzanne Grout Thomas.

The town’s plan to expand the lot at White Crest Beach this year to make up for parking spaces lost to erosion triggered a blizzard of objections and threats of a lawsuit during the winter. The plan was dropped before the April town meeting could consider it.

Now long lines of cars waiting to park at Newcomb Hollow Beach and an increase in the daily fee at White Crest from \$20 to \$40 are causing complaints. White Crest is the only ocean beach at which nonresidents without a sticker can pay to park. At all other ocean beaches managed by the town, vehicles must have a three-day pass or a resident beach sticker.

The higher fee has “absolutely not” affected the number of cars parking at White Crest, said Grout Thomas. “We’re making twice as much each day as we were last summer. It’s the same number of cars, but two times the revenue.”

The White Crest lot has 196 marked spaces, but with cars parked around the perimeter it can hold 220 vehicles. “I did the math: for a 75-day season, we had 114 vehicles per day average,” she said of last summer. “The numbers are about the same this summer.”

White Crest Beach guard Rachel Anderson said nine out of ten cars pay the \$40. "A few will turn around, but those people will come back if everywhere else is full," she said.

Guard Sam Rothwell worked the White Crest lot last summer. He said the number of people who balk at the \$40 fee is similar to the number that went elsewhere to avoid the \$20 fee last year.

The Beachcomber restaurant is the ultimate destination for many who park at White Crest. It runs a free shuttle from White Crest to Cahoon Hollow, which Anderson estimates makes 100 trips per day at peak season.

The town parking lot above Cahoon Hollow Beach is being leased by the Beachcomber this summer for \$50,000, said Beachcomber staffer Lucas Baybutt. The \$20 parking fee includes a \$20 food voucher at the restaurant. Cars with town stickers can still park at the Cahoon Hollow lot for free, but Baybutt said the lot fills up early.

Beachcomber owner Todd LeBart said that the high fee at White Crest is causing him unwarranted criticism. "People are getting confused," LeBart said. "Since we run the shuttle, they think we're the ones setting the fees." He thinks the higher fee makes the ocean beach less accessible. "The fee puts Cahoon Hollow out of reach for some people," he said. "We'd like to see White Crest charged the same as the rest of the beaches. Nauset is \$20. That's the going rate."

Selectman Kathleen Bacon, who proposed the White Crest fee hike, said the reason was to keep nonresidents away. "It wasn't really about revenue," she said at the board's meeting. "It was about increasing accessibility for residents. I'm inclined to just drop the whole thing. You either have a resident pass or you don't go to our beaches."

Later Bacon said the loss of parking to erosion was an unexpected "conundrum" that led to illegal parking along Ocean View Drive last summer. She thought the higher fee might encourage people to spend the day at Marconi or at bay beaches instead of at White Crest.

Selectman Helen Miranda Wilson said that the increased revenue would be used to maintain the beaches and resolve issues like the proliferation of trash. "We have way more impact from way more visitors than we used to have," she said.

Town Administrator Dan Hoort said expanding the White Crest lot was still being considered. But paying for that expansion was not the reason for the fee increase, he said.

In the minutes of the selectmen's April 10 meeting, during which the fees were discussed, Bacon is recorded saying the increase would be a "seasonal trial program," with a plan to reevaluate it in September. The board would have also raised resident sticker fees, but the 2018 prices had already been posted. The board decided on \$40 to avoid having to make change at the lot.

Bacon said last week that the increase was long overdue. "It had been \$20 for a long, long time," she said.

Grout Thomas said \$40 is a "little high." She pointed out that the board could easily change the fee at White Crest mid-season.

LeBart is optimistic that the Beachcomber and town can reach a solution together. "We love being in Wellfleet," he said. "We want to be able to share it with people from out of town, and we want to make sure that now and in the future people who love Wellfleet can enjoy all it has to offer without having to pay an exorbitant fee."

At their closed meeting, department heads will "set the parameters" of the public hearing to come later, according to Bacon. "Trash, busloads of people being dropped off, enormous amounts of alcohol being consumed — we need to decide how we want to maintain our beaches and public safety," she said. "Parking is just part of the problem. It's a big ball of wax."



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IV

### **BUSINESS – B. CCNS Advisory Commission and the BC Assembly of Delegates Update**

<b>REQUESTED BY:</b>	<b>L. Green</b>
<b>DESIRED ACTION:</b>	<b>CCNSAC and BCAD Update</b>
<b>PROPOSED MOTION:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

# HOUSE . . . . . No. 2472

---

## The Commonwealth of Massachusetts

---

PRESENTED BY:

*Sarah K. Peake*

---

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to nuclear power plant protections.

---

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>

# HOUSE . . . . . No. 2472

---

By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 2472) of Sarah K. Peake and others relative to emergency planning zones for nuclear power plants. Public Health.

---

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninetieth General Court  
(2017-2018)  
\_\_\_\_\_

An Act relative to nuclear power plant protections.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 5K of chapter 111 of the General Laws, as appearing in the 2014  
2 official edition, is hereby amended by adding the following paragraph:-

3  
4           (I) The plume exposure pathway emergency planning zone, as defined in 44 C.F.R.,  
5 section 350.2, shall be the area located within a 10 mile radius of the nuclear power plant and  
6 shall also include cities and towns located in distinct geographic areas where any overland  
7 evacuation of individuals, either planned or otherwise, from that area would cause those  
8 evacuating to traverse highways or bridges bringing them closer to the power station.  
9 Predetermined protective action plans shall be in place for the plume exposure pathway  
10 emergency planning zone which shall include sheltering and evacuation details.

11           SECTION 2. The department shall promulgate rules and regulations to implement the  
12 provisions of section 1 within 180 days of the effective date of this act.



## United States Department of the Interior

NATIONAL PARK SERVICE  
Cape Cod National Seashore  
99 Marconi Site Road  
Wellfleet, MA 02667  
508.771.2144

IN REPLY REFER TO:  
A18

July 10, 2018

Joint Committee on Ways and Means Chairs  
24 Beacon Street  
Boston, MA 02133  
Senator Karen E. Spilka  
Representative Jeffrey Sanchez

Dear Chairs:


We, the members of the *Cape Cod National Seashore Advisory Commission* write to support bill H.2472 (Rep. Peake) Emergency plans for unique geographical locations. This bill amends section 5K of chapter 111 of the General Laws, as appearing in the 2014 official edition. As representatives of Barnstable County and the six outer Cape towns, we are in a unique geographic location. Our citizens and visitors will be blocked from leaving the Cape in the event of radiological accident at the Pilgrim Nuclear Power Station in Plymouth. Instead we will be required to shelter in place. We do not have adequate shelters for a citizens or tourists.

As you know the Nuclear Regulatory Commission requires a plume exposure emergency planning zone within a ten mile radius of a nuclear power plant. We fall outside the 10 mile zone, but might well receive a radiological plume. Should we attempt to evacuate, our only route would bring us closer to the power station.

Therefore, we urge your committee to support this bill which would require predetermined protective action plans, including sheltering and evacuation details, for vulnerable geographic locations such as Cape Cod.

Respectfully,

The member of the CCNSAC.

  
Rich F. Delaney



Maureen Burgess  
Mark Robinson  
Mary-Jo Avellar  
Sheila Lyons  
Larry Spaulding  
Don Nuendel  
Lilli Green  
Joe Craig

CC: Rep. Peake  
Senator Cyr.

# FACA Background

- Passed by Congress in 1972 to regulate numerous groups providing advice to the Federal Government
- FACA:
  - Is a procedural statute
  - Allows Congressional oversight (file charters, file reports, appropriations)
  - Provides for public participation
- Codified at 5 U.S.C. App. 2; 41 C.F.R. Part 102-3

# Applicability

- Groups established or utilized by the Executive branch for the purpose of obtaining advice or recommendations
- “Utilized” means ‘actual management and control’
- Does not apply to:
  - individual advice
  - operational committees
  - inter/intra-governmental committees
  - Exchanges of facts or information

# Consequences of a FACA violation

- Good news:
  - No criminal penalties, no fines
- Bad news:
  - Litigation
    - time-consuming
    - future meetings could be prohibited
    - use of the group's past recommendations and/or supporting documents could be prohibited



# Requirements

- Advisory functions only
- Establish by law, Presidential authority, or discretionary
- File a Charter containing authority, mission, goals, objectives, and logistics
- Maintain a balanced membership
- Maintain all committee documents for public inspection

## Requirements, cont.

- Hold open public meetings
- Allow public to speak and/or file written statements at meetings
- Announce all meetings in the Federal Register – 15 days in advance
- Create and certify detailed public minutes
- Designate Federal employee (DFO) who:
  - Approves and calls meetings
  - Approves agenda
  - Attends meetings and adjourns if in the public interest
- Terminate according to statute, when purpose completed, or after 2 years (unless renewed)

# Subcommittees

- Defined as groups reporting to full advisory committee; may include non-committee members
- Do not directly advise the president or any federal agency
- Must act only under direction of DFO.
- FACA notice and open meeting requirements do not apply to subcommittee meetings.
  - Permissible *only* so long as subcommittee reporting to full committee for its consideration and deliberation



# Miscellaneous

- Public availability of FACA Committee records
- Conflict of interest considerations



# Cape Cod NS Advisory Commission

Established by Section 8 of Public Law 87-126, August 7, 1961, as amended by Title VII, Subtitle E, Section 7402 of Public Law 111-11, the Omnibus Public Land Management Act of 2009, March 30, 2009 and in accordance with the FACA.

Current charter expires September 26, 2018

# Objectives and Scope of Activities

To consult with the Secretary of the Interior with respect to matters relating to the development of the CCNS and with respect to carrying out the provisions of Sections 4 and 5 of the Act establishing the seashore.

Advice of Commission shall be sought before the issuance of permits for industrial or commercial use of property within the seashore, and before the establishment of any public use area for recreational activity within the seashore, and any proposed action which would create a substantive change in natural conditions or in existing structures within the seashore.



# Membership and Designation

- Composed of 10 voting members, as follows:
  - 6 members to be appointed from recommendations made by each of the boards of selectmen from the towns
  - 1 member to be appointed from recommendations made by the county commissioners of Barnstable County
  - 2 voting members to be appointed from recommendations of the Governor of the Commonwealth
  - 1 member to be designated by the Secretary
- Each town, and Barnstable County, also nominate an alternate member

# Membership Designation

- Member is recommended by their nominating entity (Board of Selectmen, Commonwealth, etc.)
  - each entity nominates one voting member and one alternate
- Recommendation is sent to Washington, DC for review and approval by the Secretary
- Secretary appoints member for a 2 year term, if approved

**Committee Name: Cape Cod National Seashore Advisory Commission**

**Term Length:** 2 years. Members may serve after the expiration of the member's term until a successor is appointed (54 USC100906 (c)).

**Membership Criteria:** a. Six members appointed from recommendations made by each of the boards of selectmen of the towns of Chatham, Eastham, Orleans, Provincetown, Truro, and Wellfleet, Commonwealth of Massachusetts; one member from the recommendations made from each such board;

b. One member appointed from recommendations of the county commissioners of Barnstable County, Commonwealth of Massachusetts;

c. Two members appointed from recommendations of the Governor of the Commonwealth of Massachusetts; and

d. One member appointed at the discretion of the Secretary.

e. The member appointed by the Secretary under subparagraph 1d shall represent interests other than those of the Federal, State, or local government.

**Establishment Authority:**

Section 8 of P.L. 87-126, August 7, 1961, as amended by Title VII, Subtitle E, Section 7402 of P.L. 111-11, the Omnibus Public Land Management Act of 2009, March 30, 2009.

**Committee expires Sept. 26, 2018.**

**Contacts:**

Brian Carlstrom, Superintendent  
Kathy Tevyaw, Deputy Superintendent

Members	Representation	Term Begins	Term Ends
Mary Jo Avellar	Provincetown (Reappointment)	Under Review	
Lise Balk King	Provincetown (Alternate) (New appointment)	Under Review	
Joseph F. Craig	Chatham (Reappointment)	Under Review	
Donald T. Nuendel	Eastham	1/8/2007	9/10/2017
Nathaniel Goddard	Eastham (Alternate)	9/10/2015	9/10/2017
Lawrence O. Spaulding, Jr.	Orleans (Reappointment)	Under Review	
Robert Summersgill	Orleans (Alternate)	11/5/2015	11/5/2017
Lilli-Ann Green	Wellfleet	7/6/2016	7/6/2018
Kathleen Bacon	Wellfleet (Alternate)	7/6/2016	7/6/2018
Ronald Beaty	Barnstable County Commissioners (New Appointment)	Under Review	
Sheila R. Lyons	Barnstable County Commissioners (Alternate) (Reappointment)	Under Review	
Maureen Burgess	Truro	8/9/2012	9/10/2017
Jay Coburn	Truro (Alternate)	9/10/2015	9/10/2017
Robert Dwyer	Commonwealth of Massachusetts (New Appointment)	Under Review	
Melissa Phillips	Commonwealth of Massachusetts (New Appointment)	Under Review	
Richard Delaney	Secretary of the Interior (Reappointment)	Under Review	
NOTE: Request for nominations notice delivered to Federal Register for publication 5/10/2016. Nomination package prepared for surname for L. Green and K. Bacon. In surname. Members appointed 7/6/2016. As of 4/24/2018: four new and five reappointment nominees under review.			





### The Three Hundred and Sixth Meeting of the Cape Cod

#### National Seashore Advisory Commission

The Three Hundred and Sixth meeting of the Cape Cod National Seashore Advisory Commission will take place on Monday, March 13, at 1:00 P.M., in the meeting room at Headquarters, 99 Marconi Station Road, in Wellfleet, Massachusetts to discuss the following:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting (December 12, 2016)
3. Reports of Officers
4. Reports of Subcommittees
  - Update of Pilgrim Nuclear Plant Emergency Planning Subcommittee
  - Nickerson Fellowship
5. Superintendent's Report
  - Storm damage erosion update
  - Shorebird Management Plan Environmental Assessment - update
  - Kite surfing update
  - Seashore projects
  - Nauset Spit Update

#### Nauset Marsh dredging

Improved Properties Town Bylaws

Herring River Wetland Restoration

Highlands Center Update

Ocean stewardship topics - shoreline change

Climate Friendly Parks

Healthy Parks, Healthy People

#### 6. Old Business

Update on Horton's Campground private commercial properties related to their CSC's  
Live Lightly Campaign progress report

#### 7. New Business

8. Date and agenda for next meeting

9. Public comment

10. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend in addition to the Commission members. Interested persons may make oral written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the Park Superintendent prior to the meeting.

# Cape Cod Meeting Minutes

[https://www.nps.gov/caco/learn/management/  
meeting-minutes.htm](https://www.nps.gov/caco/learn/management/meeting-minutes.htm)



# Invasive Plant Management at Cape Cod National Seashore



**Stephen Smith**  
Plant Ecologist, Cape Cod National Seashore





# Exotic vs. Invasive Plants - what are they?

- *Native plant*: species that has naturally existed in an area for an extended period of time; a species is generally considered native if it was present at a given site prior to European contact (pollen records).
- *Exotic plant*: not indigenous to a given location but instead has been accidentally or deliberately introduced to a new location by human activity
- ***Invasive exotic plant***: a plant which is able to proliferate and aggressively alter or displace indigenous biological communities after arrival



Cypress spurge



## What makes some invasive species so successful?

- rapid growth
- early maturity
- easily pollinated by wind or local insects
- large quantities of seeds and fruit
- effective seed dispersal
- leaf out earlier, stay green longer, or bloom at an earlier or later time
- prolific growth results in dense shade
- allelopathy
- lack of herbivory (no natural herbivores)



Japanese knotweed



## Why are invasive species “bad”?

- change species composition
- reduce species diversity
- alter soil properties (esp. N-fixing, allelopathic)
- change habitat structure for wildlife
- alter fuel structure/fire regimes (esp. vines)
- frequently have a lower or no value as food for wildlife
- loss of natural heritage



***NPS Management Policy 2006***  
**prohibits parks from permitting  
non-native species to displace  
native species when it can be  
prevented (section 4.4.4,  
*Management of Exotic Species*)**



## Executive Order 13112

Issued in February of 1999

### National Invasive Species Council

- 1) provide leadership and oversight on IS issues.
- 2) promote action at local, State, tribal and ecosystem levels.
- 3) recommend measures to enhance international cooperation.
- 4) develop a web-based information network on IS.
- 5) develop NEPA guidance related to IS.
- 6) draft and update a National Invasive Species Management Plan every two years.



# Executive Order 13751

issued in December 2016

- Amends Executive Order 13112
  - directs actions to continue coordinated Federal prevention and control
- Incorporates human and environmental health, climate change, tech. innovations, and other emerging priorities







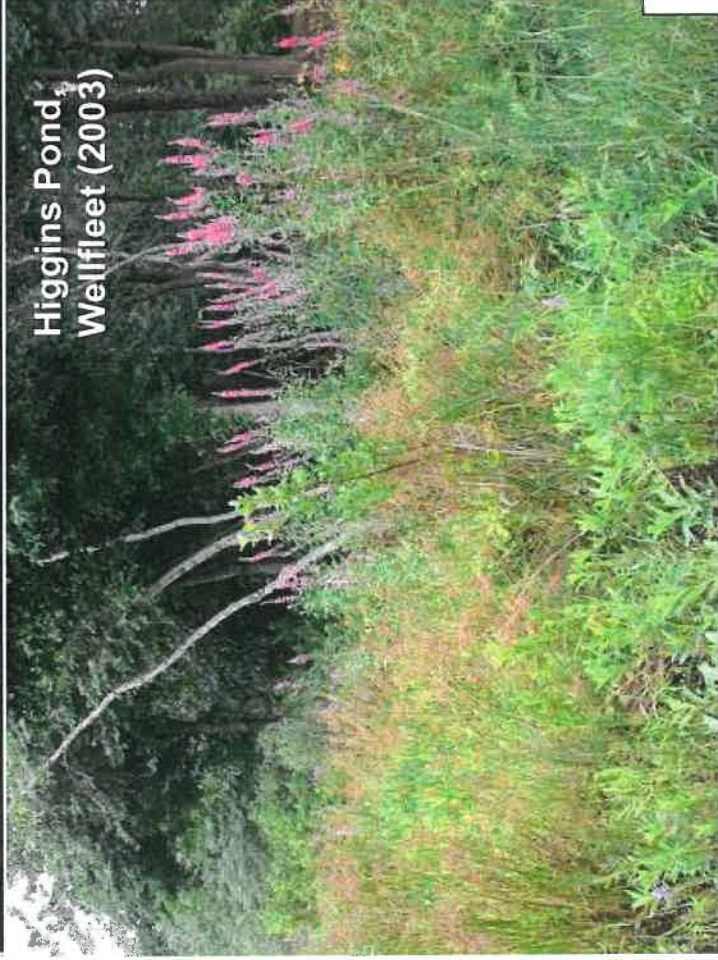
# Exotics Environmental Assessment (2003)

- We will manage exotic species; they pose a significant threat to the ecosystem; better than the alternative of no-action (doing nothing)
- Prioritization of targets (which species, habitats?)
  - Degree of infestation*
  - Proximity to sensitive, rare species*
  - Visibility to public, etc.*
- Careful choice of methods to best suit the circumstances
  - Mechanical*
  - Hydrologic*
  - Biological*
  - Tidal restoration*
  - LAST RESORT: Chemical (herbicide)*





Higgins Pond,  
Wellfleet (2003)



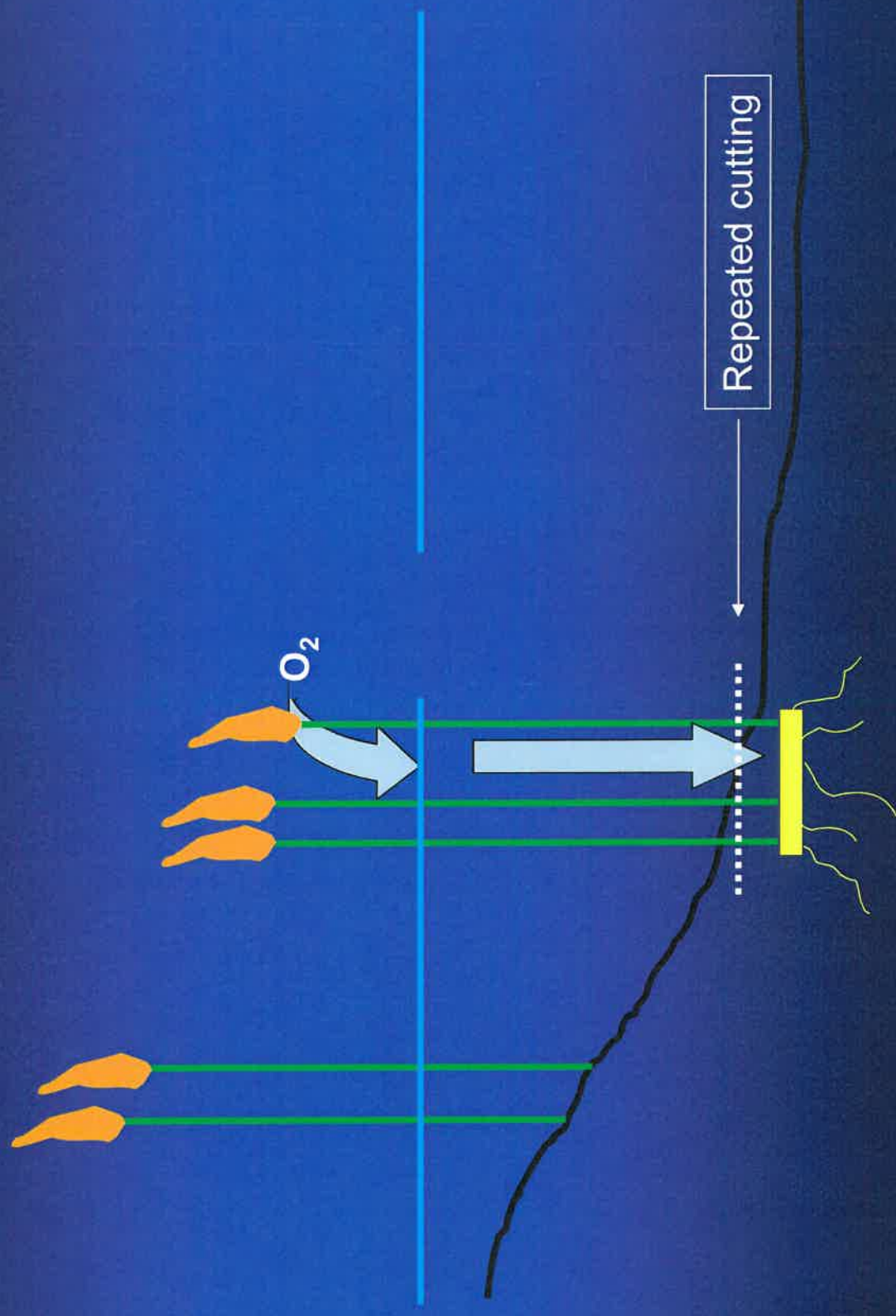
**~ 20-30m of shoreline infested with  
purple loosestrife**

# Manual control





**Manual control:** *Phragmites* was repeatedly cut underwater during a time of unusually high water levels (opportunistic)







drowned Phragmites stems in Ryder Pond (July 2004)

9 2:35 PM



## Biological control of purple loosestrife



*Galerucella californiensis*

- have ZERO impact on any other plant species or any wildlife (they are consumed themselves by birds)

- beetles have been released in more than 2,000 test sites in at least 30 states (USDA approved method, 1992)

- NPS sites include Acadia National Park, Delaware Water Gap National Recreation Area, and Kenilworth Aquatic Gardens (National Capital Park, D.C.)

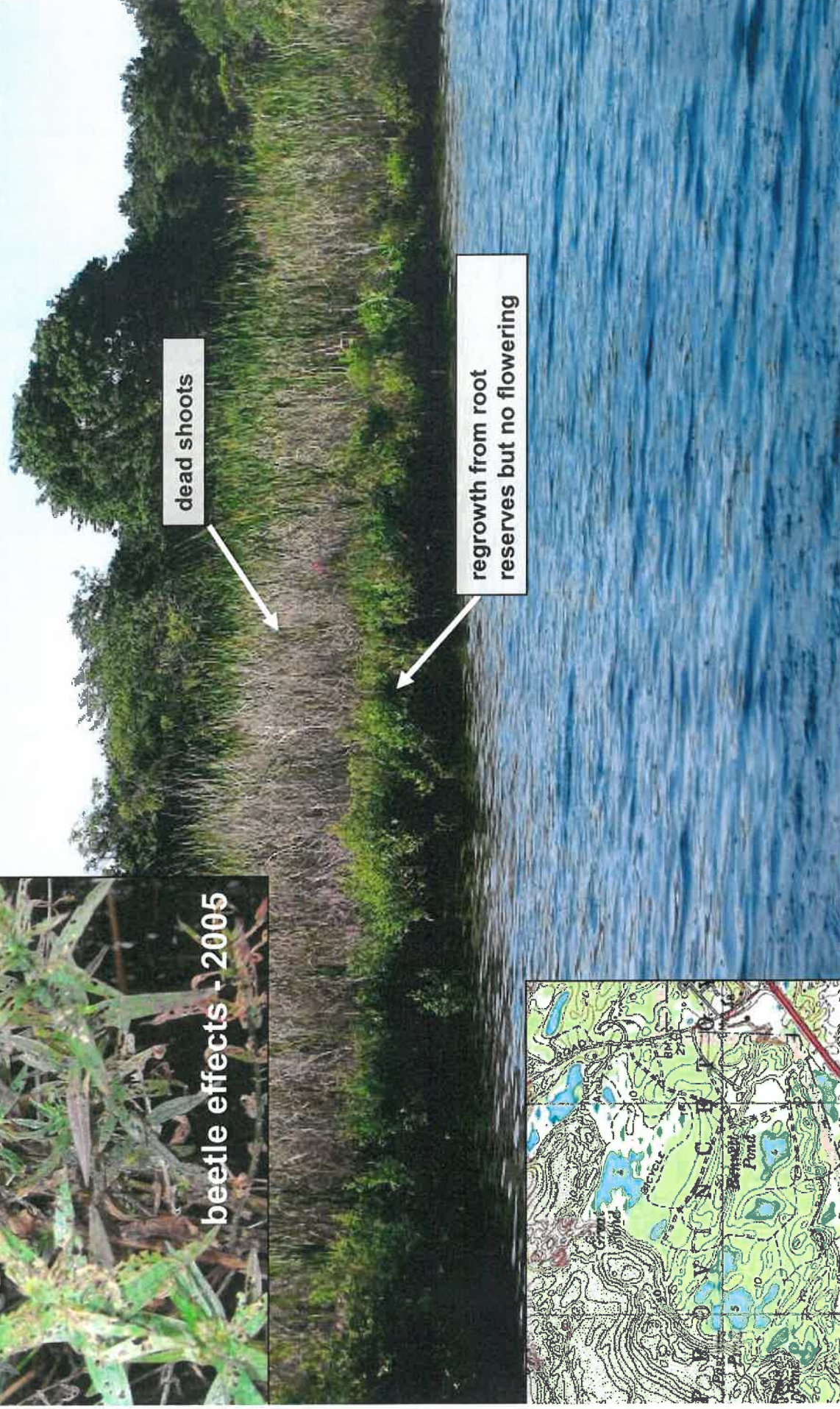


*Galerucella pusilla*





# Great Pond (Ptown)







## **Phragmites control through tidal restoration**

- salt kill when salinities > 25 ppt (32 ppt full strength seawater)

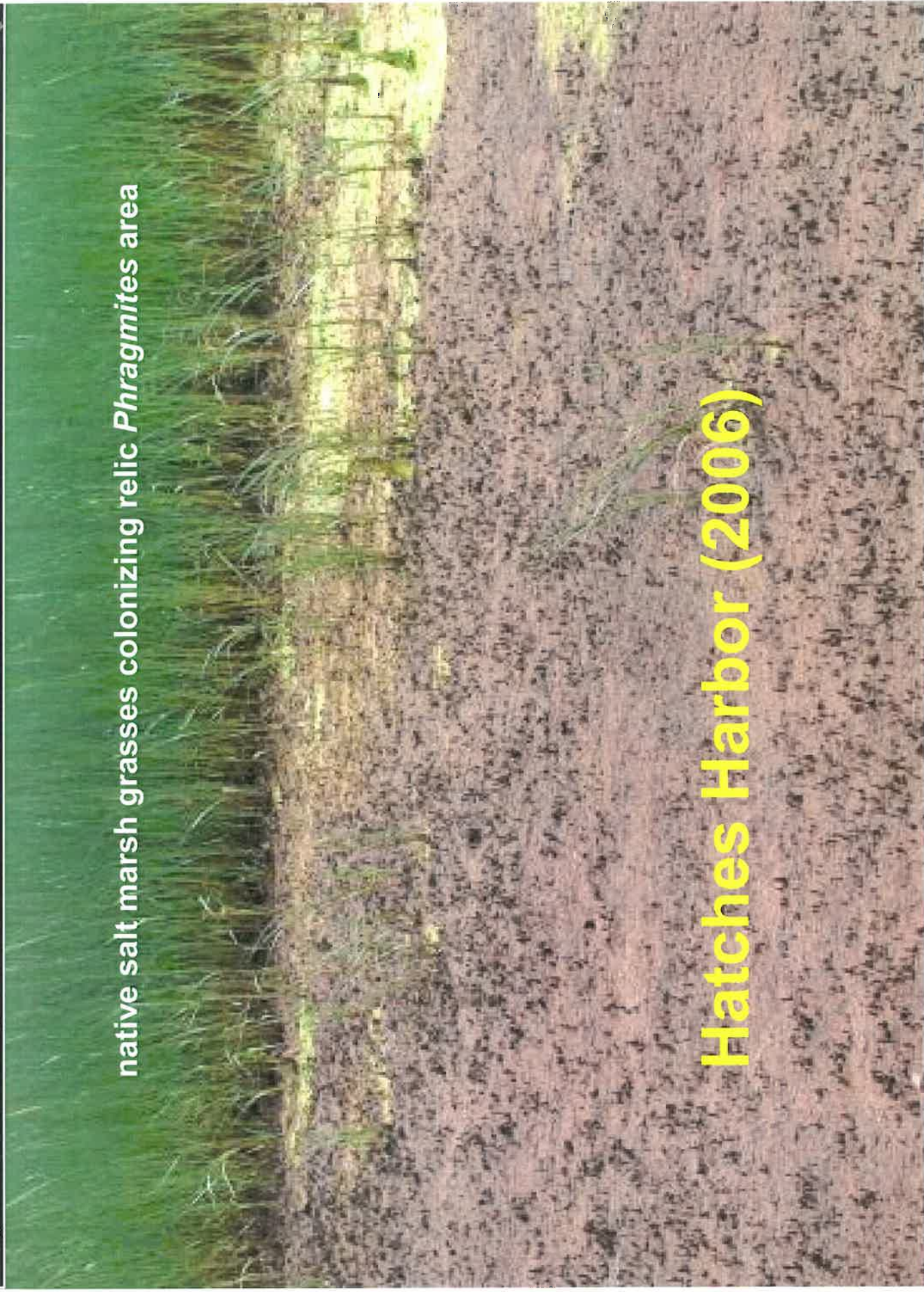






native salt marsh grasses colonizing relic *Phragmites* area

Hatches Harbor (2006)





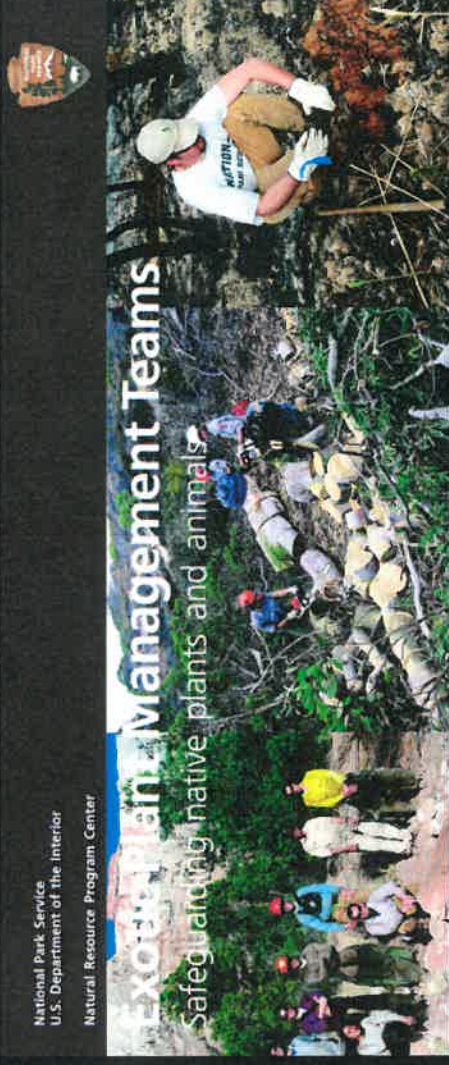
# **Last resort: Herbicide**

## ***Evaluation process:***

- Division and park approval
- Regional approval through NPS Integrated Pesticide Management Program
- Consultation with Northeast Exotic Plant Management Team (NPS), who do all herbiciding
- Notice to homeowners if in close proximity
- Press releases in high visitation areas
- Signage during application
- Only apply during suitable weather conditions (i.e., light or no wind, etc.)
- Clip and drip, backpack sprayer, or truck-mounted sprayer method
- Has mostly been conducted in mid-September







- Exotic Plant Management Team (EPMT)
  - Strike forces of plant management specialists to assist parks in the control of exotic plants



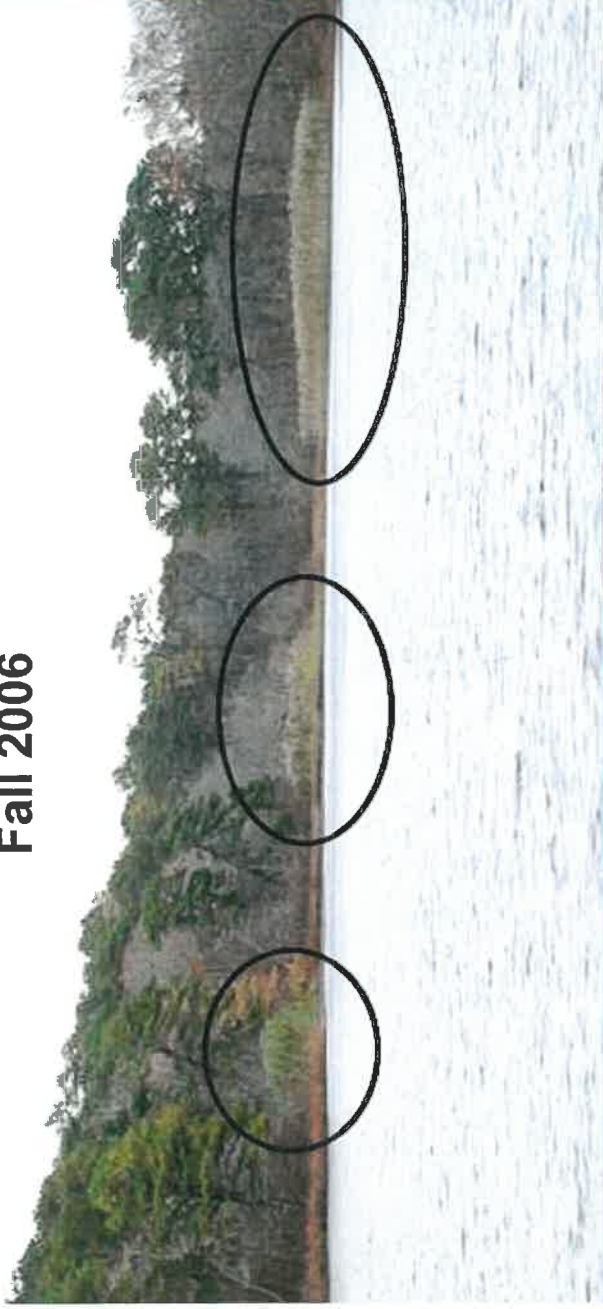




“clip & drip” method with glyphosate in  
Pamet Bog (Truro)



Fall 2006



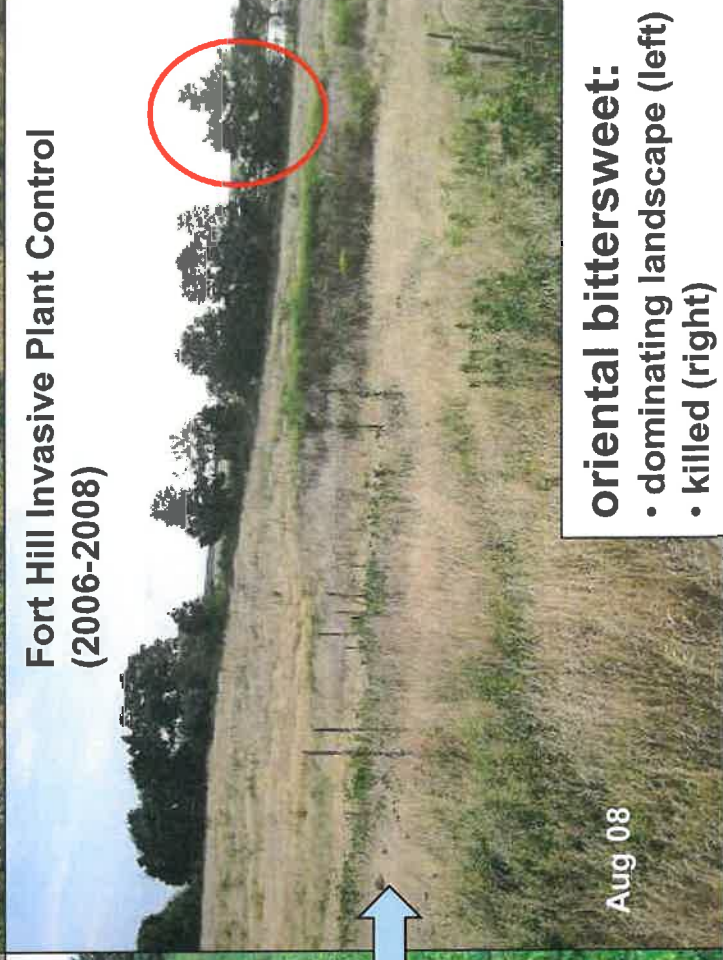
Fall 2007

## Herring Pond (Wellfleet)

- No *Phragmites* recorded in 2001 (recent invasion)
- Needs re-treatment and new stand has appeared







Fort Hill Invasive Plant Control  
(2006-2008)

**oriental bittersweet:**

- dominating landscape (left)
- killed (right)





### **What happens to glyphosate in the environment?**

Glyphosate binds tightly to soil. It can persist in soil for up to 6 months depending on the climate and the type of soil it is in. Glyphosate is broken down by bacteria in the soil.

Glyphosate is not likely to get into groundwater because it binds tightly to soil. In one study, **half** the glyphosate in dead leaves broke down in 8 or 9 days. Another study found that some glyphosate was taken up by carrots and lettuce after the soil was treated with it.

### **Can glyphosate affect birds, fish, or other wildlife?**

Pure glyphosate is low in toxicity to fish and wildlife, but some products containing glyphosate may be toxic because of the other ingredients in them. Glyphosate may affect fish and wildlife indirectly because killing the plants alters the animals' habitat.



**Source: National Pesticide Information Center**



## Glyphosate toxicity and carcinogenicity: a review of the scientific basis of the European Union assessment and its differences with IARC

Jose V. Tarazona,<sup>✉1</sup> [Daniele Court-Marques](#),<sup>1</sup> [Manuela Tiramani](#),<sup>1</sup> [Hermine Reich](#),<sup>1</sup> [Rudolf Pfeil](#),<sup>2</sup> [Frederique Istace](#),<sup>1</sup> and [Federica Crivellente](#)<sup>1</sup>

[Author information](#) ► [Article notes](#) ► [Copyright and License information](#) ► [Disclaimer](#)

This article has been cited by other articles in PMC.

### Abstract

[Go to:](#)

Glyphosate is the most widely used herbicide worldwide. It is a broad spectrum herbicide and its agricultural uses increased considerably after the development of glyphosate-resistant genetically modified (GM) varieties. Since glyphosate was

## Pesticide applicators have highest level of exposure to glyphosate and studies have shown that there is no elevated risk of cancer or other diseases in this cohort

topic of disagreement between IARC and regulatory evaluations, but has received greater attention. This review presents the scientific basis of the glyphosate health assessment conducted within the European Union (EU) renewal process, and explains the differences in the carcinogenicity assessment with IARC. Use of different data sets, particularly on long-term toxicity/carcinogenicity in rodents, could partially explain the divergent views; but methodological differences in the

evaluation of the available evidence have been identified. The EU assessment did not identify a carcinogenicity hazard, revised the toxicological profile proposing new toxicological reference values, and conducted a risk assessment for some representatives uses. Two complementary exposure assessments, human-biomonitoring and food-residues-monitoring, suggests that actual exposure levels are below these reference values and do not represent a public concern.

## ***Sites in CACO where herbicide has been used:***

- Fort Hill
- Herring River above High Toss Road
- Herring Pond, Long Pond
- Pamet Bog
- Dune slack wetlands alongside Hatches Harbor Road
- Province Lands VC

## ***Target species:***

- *Phragmites*
- Spotted knapweed
- Scotch broom
- Oriental bittersweet
- Black locust
- Honeysuckle (*Lonicera* spp.)
- Multiflora rose







- Park-wide, and compared to many other parks and natural areas, CACO actually has a relatively minor invasive species problems
- Some ecosystems, like kettle ponds, are virtually exotics-free with the exception of some recent appearances of *Phragmites*
- *Phragmites* has the potential to totally or partially displace the native pondshore vegetation, but this can be prevented NOW when the populations are at a manageable size! Non-chemical methods are generally ineffective at controlling *Phragmites* in this setting







*Thank you!*







## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IV

### BUSINESS – C. Herring River Restoration Project

<b>REQUESTED BY:</b>	H.M. Wilson
<b>DESIRED ACTION:</b>	Discussion of HRRP
<b>PROPOSED MOTION:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IV

### BUSINESS – D. Property Acquisition

<b>REQUESTED BY:</b>	TA
<b>DESIRED ACTION:</b>	Discussion of potential property acquisition at 301 Commercial Street and 3 Kendrick Avenue, respectively
<b>PROPOSED MOTION:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IV

### BUSINESS – E. Community Host Agreement

<b>REQUESTED BY:</b>	TA
<b>DESIRED ACTION:</b>	Approve a Community Host Agreement for a registered Marijuana Dispensary for Jason Robicheau dba The Grateful Mind, at 15 Bank Street
<b>PROPOSED MOTION:</b>	I moved to approve a Community Host Agreement for a registered Marijuana Dispensary for Jason Robicheau dba The Grateful Mind, at 15 Bank Street.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

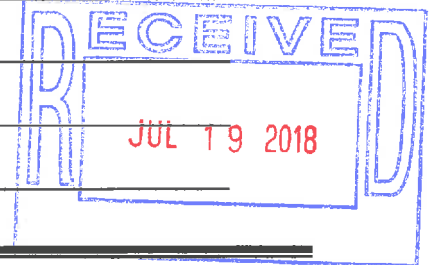


# Board of Selectmen

## Request for Placement on Agenda

Name: JASON ROBICHEAU  
Address: 15 BANK STREET, WELFLEET, MA 02667  
Company or Organization Representing: THE GRATEFUL MIND  
Phone Number: 508-579-4461  
Email Address: jasonrobicheau@soulfoodcapecod.com

Specific Request: I'M REQUESTING THAT THE BOARD  
APPROVE A Host Community AGREEMENT FOR  
AN ADULT USE RETAIL MARIJUANA ESTABLISHMENT  
(RME) AT 15 BANK STREET, WELFLEET



To be Filed out by Dept. \_\_\_\_\_

Applicant Notified: \_\_\_\_\_ Date of Hearing: \_\_\_\_\_

Date Request Completed: \_\_\_\_\_



July 19, 2018

Janet Reinhart, Chair  
Wellfleet Board of Select  
300 Main Street  
Wellfleet, MA 02667

Re: Jason Robicheau, DBA The Grateful Mind  
Request for approval of Host Community Agreement (Adult Use Retail Cannabis  
Establishment).  
Location: 15 Bank Street, Wellfleet

Dear Ms. Reinhart and Board Members:

I'm requesting that the Board approve a Host Community Agreement for an adult use Retail Marijuana Establishment ("RME"). The Grateful Mind proposes locating the RME at 15 Bank Street, the SOUL Food property. I respectfully request that the Board consider this request at its meeting on July 24, 2018.

I will be responsible for the security procedures at the proposed Wellfleet location. These procedures are governed by the Department of Public Health and Cannabis Control Commission regulations and are extremely well defined. My largest concern is the safety of the general public and my customers and employees, and I intend to set the bar for regulatory compliance on all levels. I will demonstrate the methods I will use to insure my shop is a safe provider of recreational products, including defined measures to prevent diversion to minors at a properly noticed Community Outreach Meeting. I'm also willing to conduct additional meetings to address particular concerns of the Town and its residents.

Should the Board wish to tour the 15 Bank Street property in connection with these requests, I will make the property available at your convenience. Please let me know and I will arrange such a visit.

I am including a proposed Host Community Agreement for review by the Board and Staff in advance of your meeting. Please feel free to comment or revise these documents

Thank you in advance for your attention and consideration of this request.

Respectfully submitted,

A handwritten signature in dark ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Jason Robicheau DBA The Grateful Mind

THE GRATEFUL MIND HOST COMMUNITY AGREEMENT FOR THE SITING OF A  
RECREATIONAL MARIJUANA ESTABLISHMENT IN THE TOWN OF WELLFLEET  
MASSACHUSETTS

This Host Community Agreement (the "agreement") is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2018 (the "effective date") by and between the Town of Wellfleet, Massachusetts, acting by and through its Board of Select, with a principle address of 300 Main Street, Wellfleet, MA 02667 (hereinafter the "Municipality") and The Grateful Mind with a principle office address of 15 Bank Street, Wellfleet, MA 02667 (hereinafter "Company") (Municipality and Company, collectively the "Parties").

Recitals

Whereas, Company intends to locate a licensed Recreational Marijuana Establishment ("RME") at 15 Bank Street, Wellfleet, MA 02667 for the retail sale of marijuana at the Facility in accordance with the laws of the Commonwealth of Massachusetts ("MA law") and those of the Municipality ("Local law");

Whereas, Company desires to provide community impact fee payments to the Municipality pursuant to M.G.L. c. 94G, § 3(d) in order to address any reasonable costs imposed upon the Municipality by Company's operations in the Municipality; and

Whereas, the Municipality supports Company's intention to operate an RME for the retail sales of recreational marijuana in the Municipality.

Now Therefore, of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual promises set forth below, the parties agree as follows:

Agreement

1. Host Community Payments

- a. RME Related Payments. In the event that Company obtains a license, for the operation of an RME in the Municipality from the CCC, and receives all necessary approvals from the Municipality to operate a RME, then Company agrees to the following:
  - i. Company shall make annual payments to the Municipality of three percent (3%) of the gross sales of recreational marijuana and recreational marijuana products (collectively "Recreational Marijuana") at the Facility (the "RME Payment").
  - ii. The initial RME Payment shall be due on the first (1st) day of the fourteenth (14th) month following the date that Company begins retail sales of Recreational Marijuana in the Municipality (the "Initial RME Payment").
  - iii. Subsequent Payments shall be due on each anniversary date of the Initial RME Payment for the term of the agreement.

2. Term and Termination. The term of this agreement shall be five (5) years from the Effective Date (the "Term"). This agreement shall automatically terminate at the end of the Term. In the event Company ceases all operations in the Municipality, this Agreement shall become null and void. In the event Company loses its license, approval, and/or permits to operate in the Municipality revoked by the relevant Licensing Authority(ies) or the Municipality, this Agreement shall become null and void. The Municipality may terminate this Agreement at any time during the Term of this Agreement. The Company shall not be required to cease operations following the termination of this agreement. The Parties may agree to renegotiate or renew this Agreement prior to the end of the Term.
3. Payments. Company shall make the payments to the Municipality as set forth in Section 1 of this agreement. While the Municipality has the sole discretion for determining how to spend the RME Payment(s), the Municipality understands and acknowledges that, as required by M.G.L. c. 94G, §3(d), the Payments shall be reasonably related to the costs imposed upon the Municipality by Company's operation of an RME in the Municipality. Furthermore, the Municipality understands and acknowledges that, pursuant to M.G.L. c. 94G, § 3(d), any cost to the Municipality imposed by Company's operation of an RME in the Municipality shall be documented and considered a public record pursuant to MA Law.
4. Acknowledgements. The Municipality understands and acknowledges that Payments due pursuant to this Agreement are contingent upon Company's receipt of all state and local approvals to operate an RME in the Municipality.
5. Review. During the Term of their Agreement, the Municipality and Company will review the Payment(s) every twelve (12) months to ensure that the Payments are reasonably related to the costs imposed upon the Municipality by Company's operations the RME in the Municipality (the "Annual Review"). In the event the Annual Review finds that the Payments are not related to the costs imposed upon the Municipality by Company's operation of the RME in the Municipality, the Parties agree to adjust the Payments to reflect the costs accordingly.
6. Local Taxes. At all times during the Term of this Agreement, property, both real and personal, owned or operated by Company shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by Company or by its landlord, and neither Company or its landlord shall object or otherwise challenge the taxability of such property.
7. Community Support and additional Obligations.
  - a. Employment/Salaries - Company shall use good faith efforts in a legal and nondiscriminatory manner to give priority to hire qualified residents of the Municipality as employees of the Facility.
  - b. Company shall, at least annually, provide the Municipality with copies of all reports submitted to the Licensing Authority(ies) regarding Company's operations at the Facility.
  - c. Company will work cooperatively with all necessary Municipal departments, Boards,

Commissions, and Agencies to ensure that Company's operations are compliant with all of the Municipality's codes, rules, and regulations.

8. Support. The Municipality agrees to submit to the required Licensing Authority(ies) all documentation and information required by the Licensing Authority(ies) from the Municipality for Company to obtain approval to operate an RME at the Facility. The Municipality agrees to support Company's application for an RME with the required Licensing Authority(ies) but makes no representation or promise that it will act on any other license or permit request in any particular way other than by the Municipality's normal and regular course of conduct and in accordance with their codes, rules, regulations and any statutory guidelines governing them.
9. Security. Company shall at all times comply with MA Law and Local Law regarding security of the Facility.
10. Governing Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to the principles of conflicts of the law thereof. The Parties expressly waive any defense to enforcement based upon nonconformance with Federal Law regarding the illegality of Marijuana.
11. Amendments/Waiver. Amendments or waivers of any term, condition, covenant, duty or obligation contained in this agreement may be made only by written amendment executed by all parties, prior to the effective date of the amendment.
12. Severability. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both Parties would be substantially or materially prejudiced.
13. Successors/Assigns. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. The Municipality shall not assign or transfer any interest or obligations in the Agreement without the prior written consent of Company, which shall not be unreasonably delayed, conditioned, or withheld. Company shall not assign or transfer any interest or obligation in the Agreement without the prior written consent of the Municipality, which shall not be unreasonably delayed, conditioned, or withheld.
14. Entire Agreement. This Agreement constitutes the integrated agreement between the Parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the Parties hereto.



15 Notices. Except as otherwise provided herein, any notices given under this Agreement shall be addressed as follows:

To the Municipality:

Town of Wellfleet Board of Select  
300 Main Street  
Wellfleet, MA 02667

To the Company:

The Grateful Mind  
15 Bank Street  
Wellfleet, MA 02667

Notice shall be deemed given (a) two (2) business days after the date when it is deposited with the U.S. Post Office, if sent by first-class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight courier, if next business day delivery is required, (c) upon the date personal delivery is made, or (d) upon the date when it is sent by facsimile, if the sender receives a facsimile report confirming such delivery has been successful and the sender mails a copy of such notice to the other party by U.S. first-class mail on such date.

—Signature Page Follows—

In Witness Whereof, the Parties hereto have duly executed this Host Community Agreement on the date set forth above.

Town of Wellfleet

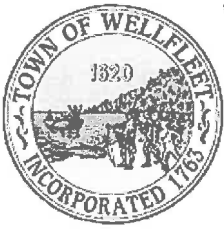
The Grateful Mind

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Janet Reinhart  
Chair, Board of Select

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Jason Robicheau  
Owner



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

IV

### BUSINESS – F. Special Town Meeting

<b>REQUESTED BY:</b>	TA
<b>DESIRED ACTION:</b>	Vote to open 2018 Special Town Meeting Warrant.
<b>PROPOSED MOTION:</b>	I move to open the 2018 Special Town Meeting Warrant.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

**2018 SPECIAL TOWN MEETING  
MONDAY, SEPTEMBER 24<sup>th</sup>, 7:00 PM**

**Key dates**

<b>WARRANT OPENS</b>	Tuesday, July 24, 2018	Not a required/formal action
<b>LAST DAY TO SUBMIT PETITIONS</b>	Monday, August 20, 2018 5:00PM	Charter, Sec. 2-4-2
<b>WARRANT CLOSES</b>	Tuesday, August 21, 2018 7:00PM	
<b>BOS MAKES RECOMMENDATIONS</b>	Tuesday, August 21, 2018 7:00PM	
<b>SENT TO COMMITTEES FOR RECOMMENDATIONS</b>	Wednesday, August 22, 2018	
<b>LAST DAY FOR CONSTABLES POST WARRANTS</b>	Monday, September 10, 2018	Charter, Sec. 2-3-2
<b>LAST DAY FOR TA TO MAIL WARRANTS</b>	Monday, September 10, 2018	Charter, Sec. 5-3-2 (1)
<b>LAST DAY TO REGISTER VOTE (NEW VOTERS)</b>	Friday, September 14, 2018 8:00PM	MGL, c. 51, §§ 26, 28





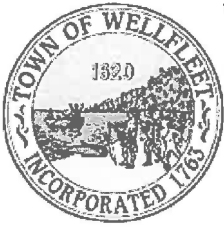
## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IV

### BUSINESS – G. Formation of Beach Parking Task Force

<b>REQUESTED BY:</b>	<b>J. Reinhart</b>
<b>DESIRED ACTION:</b>	<b>Formation of Beach Parking Task Force</b>
<b>PROPOSED MOTION:</b>	<b>I move to approve the formation of a Beach Parking Task Force under the direction of the Town Administrator.</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IV

### BUSINESS – H. Staff Reorganization

<b>REQUESTED BY:</b>	ATA
<b>DESIRED ACTION:</b>	Approval of the financial staff reorganization
<b>PROPOSED MOTION:</b>	I move to approve the financial staff reorganization as presented by the Town Administrator and the Assistant Town Administrator.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

**Radu Luca**

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**From:** Dan Hoort  
**Sent:** Monday, July 16, 2018 1:33 PM  
**To:** All Staff  
**Subject:** Staff reorganization

Good Afternoon everyone,

I am pleased to inform you of the following changes in personnel in the financial departments of Town Hall as well announce an exciting job opportunity.

Effective today, the following employees will be taking on new roles as outlined below:

- Karen C. Murphy has been promoted to Assistant Town Collector and will report directly to Rosemary Moriarty, Treasurer/Collector;
- Jane G. Tesson has been promoted to Assistant Town Accountant and will continue to report to Connie Boulos, Town Accountant; and
- Miriam Spencer will serve as full-time Assistant Town Treasurer and report directly to Rosemary Moriarty, Treasurer/Collector.

Since Miriam will no longer serve as Assistant Town Clerk/Assistant Town Treasurer, I am pleased to report that the position of full-time Assistant Town Clerk has been posted for immediate hire.

This position has been posted internally today, July 16, 2018 and will remain posted internally until Friday, July 27, 2018. It has also been posted externally and will remain open until the position is filled.

This is an exciting change that will benefit both the Town of Wellfleet and Town staff and continues my commitment to provide advancement opportunities whenever possible and compensate our employees with a fair and competitive wage. This reorganization creates efficiencies that save the Town money and part of those savings are being used to reinvest in staff who are taking on additional responsibilities. As staff you are the heart of municipal government and the faces that our residents see every day.

Please join me in congratulating those staff members listed above.

Dan

**Daniel R. Hoort**  
**Town Administrator**  
**Town of Wellfleet**  
300 Main Street  
Wellfleet, MA 02667  
(508) 349-0300



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IV

### BUSINESS – I. FY2019 Goals

<b>REQUESTED BY:</b>	TA
<b>DESIRED ACTION:</b>	Approval of FY2019 Goals
<b>PROPOSED MOTION:</b>	I move to approve the FY2019 Goals as presented by the Town Administrator in the Summary.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



# Summary of FY 2019 Selectboard Goals

## Property and Buildings

- Develop a maintenance dredging plan (KB) (JR) (HMW)
- Town should purchase a dredge (JH)
- Decide on Shellfish Shack (KB) (JR) (HMW) (JH)
- Develop a beach parking replacement plan (KB) (JR) (HMW)
- Address town-wide parking issues (JR)
- Address Shellfish Dept office and work space needs (HMW)
- Potential property acquisition – Marina land by shellfish office (JR)
- Potential property acquisition – News Dealer property (JR) (JH)
- Expand Wellfleet Library (JH)
- Discuss Town owned land in S Wellfleet at Marconi (JH)

## Housing

- Determine feasibility of housing at 95 Lawrence Road (KB) (HMW)
- Explore “market mechanisms” for affordable/year-round rental housing (JC) (JR)
- Explore funding mechanisms to support lower income paths to home ownership (JC)
- Address Affordable Housing (JH)

## Economic Development

- Encourage new business growth in Wellfleet (JC)
- Explore pro-business policies that create and sustain jobs (JC)

## General

- Work with DPW & Arbor Committee to plant more shade trees, particularly in central district (KB) (HMW)
- Re-consider plan for Town Hall lawn (HMW)
- Phase out Pay-As-You-Throw and develop single stream recycling (KB)
- Install a transmission cell tower at northeast corner of land at the transfer station (KB)
- Appoint a new WMA (Wastewater Management Authority) to follow through on the Section 208 plan (HMW)
- A coastal management plan, to be developed by committee and the NRAB (KB)
- Pursue the Comprehensive Wastewater Committee’s recommendation for a Water Resource Director (JC)
- Have conversation with Cape Cod Commission (JH)
- Consider beach smoking ban (JH)

KB – Goals suggested by Select person Kathleen Bacon

JC – Goals suggested by Select person Justina Carlson

JH – Goals suggested by Select person Jerry Houk

JR – Goals suggested by Select person Janet Reinhart

HMW – Goals suggested by Select person Helen Miranda-Wilson

BOARD OF SELECTMANS GOALS. 2018- 2019

1. DEVELOP A MAINTENANCE DREDGE PLAN.
2. REMOVE + DEMOLISH SHELLFISH SHACK AT MAYO BEACH.
3. DEVELOP AND WORK TOWARDS A BEACH PARKING REPLACEMENT PLAN,
4. DEVELOP A TRANSMISSION CELL TOWER ON THE TOWN PROPERTY AT THE NORTHEAST CORNER OF LAND AT THE TRANSFER STATION.
5. DEVELOP, THRU A HOUSING FEASIBILITY STUDY MIXED INCOME HOUSING AT 95 LAWRENCE RD.
6. WORK WITH THE D.P.W. AND ARBOR COMMITTEE TO PLANT MORE SHADE TREES. PARTICULARLY IN THE CENTRAL DISTRICT
7. PHASE OUT THE P.A.Y.T. SYSTEM AT THE TRANSFER STATION AND DEVELOP SINGLE STREAM RECYCLING FOR THE FUTURE.

Respectfully Submitted, June. 14TH. 2018

Kathleen E. Bacon

## Dan Hoort

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**From:** Kathleen Bacon <kathleenbacon16@gmail.com>  
**Sent:** Wednesday, July 18, 2018 11:25 AM  
**To:** Dan Hoort  
**Subject:** Selectboard goals

Dan , could I add this to my selectboard goals for 2018.

A coastal management plan , to be developed by committee and the nrab. Thankyou , it is appreciated . Kathleen Sent from my iPad

## Board of Selectmen Goals 2017-2018

JUSTINA  
CARLSON

### Maintain Healthy Sustainable Harbor

1. Dredge the harbor (HMW)
2. Develop maintenance dredging program (KB)
3. Restoration of estuaries including Herring River and Mayo Creek
4. Maintain and improve water quality
5. Research alternative septic systems
6. Pursue the Comprehensive Wastewater Committee's recommendation for a Water Resource Director (JC)

### Develop town wide parking plan (KB)

### Increase resident and visitor safety

1. Develop plan for sidewalks, pedestrian ways, access, signage
- Create economic development initiatives
1. Develop plan for downtown area to enhance and support multiple uses
  2. Encourage new business growth in Wellfleet (JC)
  3. Explore pro business policies that create and sustain jobs (JC)

### Update Master Water Plan with Board of Water Commissioners

Pursue the Board of Water Commissioner's recommendation for a Water Resource Director (JC)

### Develop housing plan for all economic levels and needs

1. Affordable
2. Seasonal work force
3. Community year-round housing
4. Explore "market mechanisms" for affordable/year round rental housing (JC)
5. Explore funding mechanisms to support lower income paths to home ownership (JC)

### Protect, grow and continue to develop the shellfishing industry

Work to maximize non-tax revenues including:

1. Fees (HMW)
2. Grants (HMW)
3. Possible new revenue sources

Develop plan for all town buildings and property including:

1. Shellfish shack (HMW)
2. Old COA building (KB) (HMW)
3. Landing strip property (HMW)
4. Marina area including bathrooms



5. Current shellfish office (HMW)

Continue to **pursue 'green' opportunities** for Wellfleet including:

1. Electric charging stations (KB)
2. Increased vehicle efficiency
3. Increased building utility efficiency
4. Reduce carbon footprint
5. Increased bicycling opportunities.
6. Increased recycling, possibly through single-stream (KB)

Develop **education programs** for: (HMW)

1. Board of Selectmen
2. Staff
3. Volunteers
4. Shellfish men and women
5. Business owners
6. Residents through increased government programming

**Fiber Optics** (HMW)

**Direct Planning Board** to review undersized lots and possibly designate them as buildable for affordable housing (KB)

## Dan Hoort

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**From:** Janet Reinhart <lifeexercises@comcast.net>  
**Sent:** Thursday, July 5, 2018 12:37 PM  
**To:** Dan Hoort  
**Subject:** Re: Selectmen's Goals

### Janet Reinhart's Goals

Shellfish Shack Decision

Parking- Town and Beach

Property Purchase Possibilities

Marina

News Dealer

Ongoing:

Housing

Marina Dredging

On July 5, 2018 at 10:41 AM Dan Hoort <Dan.Hoort@wellfleet-ma.gov> wrote:

At this point I have goals from Kathleen and Justina. If you would like to put forth goals for FY 2019 please get them to Radu and I by July 18<sup>th</sup> so we can address them during the July 24<sup>th</sup> meeting.

Thanks

## Dan Hoort

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**From:** Helen Miranda Wilson <helmirwil@c4.net>  
**Sent:** Thursday, July 5, 2018 11:05 AM  
**To:** Dan Hoort  
**Subject:** Helen's 2018 goals.

Not in order of importance:

- Resolve seasonal beach parking problem.
- Deal with the Shellfish Department/ office and work space needs and old shellfish shack.
- Push Housing groups to come to a decision about the Lawrence Road lot so we can get it on the next TM warrant.
- Get some shade trees growing on the Town Hall lawn and have an irrigation system installed. Reconsider the plan for the lawn, as requested.
- Keep pushing for funding for the big dredge so we can get to the next stage: a maintenance dredging program.
- Appoint a new WMA (Wastewater Management Authority) to follow through on the Section 208 plan.  
Right now, it's us.

## JERRY HOOK - GOALS

- #1 Buy our own dredge.
- #2 Consider buying News dealer
- #3 Save shellfish shack if possible?
- #4 Expand library.
- #5 Have Conversation CC Commission
- #6 Own land S Wellfleet Marconi
- #7 Affordable Housing

~~SMOKING~~  
SMOKING at BEACH'S





## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IV

### BUSINESS – J. Wastewater Management Authority

<b>REQUESTED BY:</b>	Wilson
<b>DESIRED ACTION:</b>	Forming of the Wastewater Management Authority (WMA)
<b>PROPOSED MOTION:</b>	I move to approve the forming of the Wastewater Management Authority (WMA).
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

The Wastewater Management Authority (WMA) shall be appointed by the Selectboard and will be comprised of three members who will serve three-year, overlapping terms, with staff support from the Health/Conservation Agent.

One member shall be on the Board of Health. Two members shall (preferably) have a background in related areas of expertise, including membership or past service on other boards or committees that have jurisdiction over matters related to natural resources.

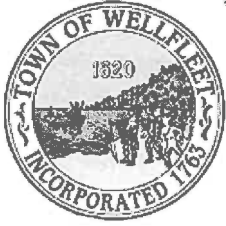
The WMA will ensure the Town of Wellfleet's compliance with Federal water quality standards working within the Section 208 framework and by following the requirements of the Massachusetts Department of Environmental Protection to carry out and document ongoing efforts to mitigate the effects of nutrients in our watershed.



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

V



## TOWN ADMINISTRATOR'S REPORT

To: Board of Selectmen  
From: Dan Hoort, Town Administrator  
Subject: Town Administrator's Report  
Date: July 20, 2018

This report is for the period July 7, 2018 through July 20, 2018.

### 1. General

- Initial planning has begun for September 24<sup>th</sup> special town meeting.
- Working with Eversource and National Park Service for installation of electric vehicle charging stations.

### 2. Fiscal Matters

- None

### 3. Meetings

- July 10 – Tom Cole, Cable Advisory Committee
- July 10 - Select Board meeting
- July 11 – Rae Ann Palmer & Brian Carlstrom
- July 12 – Cable Advisory Committee
- July 17 – Board of Water Commissioners meeting
- July 18 – Discussion of beach parking issues
- July 20 – Preservation Hall Economic Vitality Group meeting

### 4. Complaints.

- Mother wanted to purchase resident beach stickers for daughters who meet none of the requirements for a resident beach sticker.

### 5. Miscellaneous.

- Open Meeting Law training being planned for September

### 6. Personnel Matters:

- none

**No deliberation should take place during this item. Any deliberation or question and answers not previously posted on the agenda may be considered an open meeting law violation**





## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

VII

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# CORRESPONDENCE AND VACANCY REPORT

Date: August 9, 2018  
To: Board of Selectmen  
From: Jeanne Maclauchlan  
Re: Vacancies on Town Boards

**Building and Needs Assessment Committee (5 Members)**

Vacant Positions	Appointing Authority	Length of Term
2 Positions	Board of Selectmen	3 years
Requesting Appointment: No applications on file		

**Cape Light Compact Governing Board (1 representative, 1 alternate)**

Vacant Positions	Appointing Authority	Length of Term
1 Alternate Position	Board of Selectmen	1 year to complete term
Requesting Appointment: No applications on file		

**Commission on Disabilities (up to 7 Members)**

Vacant Positions	Appointing Authority	Length of Term
6 Positions	Board of Selectmen	3 years
Requesting Appointment: No applications on file		

**Comprehensive Wastewater Management Planning Committee (7 Members)**

Vacant Position	Appointing Authority	Length of Term
2 Positions	Board of Selectmen	3 years
Requesting Appointment: <b>One application on file</b>		

**Conservation Commission (7 Members)**

Vacant Positions	Appointing Authority	Length of Term
1 Positions	Board of Selectmen	3 years
Requesting Appointment: No applications on file		

**Council on Aging Committee (At least 11 Members)**

Vacant Positions	Appointing Authority	Length of Term
1 Position	Board of Selectmen	3 years
Requesting Appointment: No applications on file		

**Cultural Council (no more than 15 members)**

Vacant Positions	Appointing Authority	Length of Term
4 positions	Board of Selectmen	3 years
Requesting Appointment: No applications on file		

**Energy Committee (11 members total)**

Vacant Positions	Appointing Authority	Length of Term
1 position	Board of Selectmen	1 year to complete term
1 BOS Rep	Board of Selectmen	BOS Term
Requesting Appointment: No applications on file		

**Finance Committee (9 members, 2 alternate)**

Vacant Positions	Appointing Authority	Length of Term
1 Position	Town Moderator	3 years
2 Alternate Positions		3 years
Requesting Appointment: No applications on file		

**Herring Warden (1 Warden, 1 Assistant Warden)**

Vacant Positions	Appointing Authority	Length of Term
1 Assistant Position	Board of Selectmen	3 years
Requesting Appointment: No applications on file		

**Local Housing Partnership (5 Community Members)**

Vacant Positions	Appointing Authority	Length of Term
2 Community Position	Board of Selectmen	
Requesting Appointment: No applications on file		

**Personnel Board (4 members + TA + FinCom Rep)**

Vacant Positions	Appointing Authority	Length of Term
1 Position	Board of Selectmen	3 years
Requesting Appointment: No applications on file		

**Planning Board (7 members)**

Vacant Positions	Appointing Authority	Length of Term
2 Positions	Board of Selectmen	5 years
Requesting Appointment: No applications on file		

**Zoning Board of Appeals (5 Members, 4 Alternates)**

Vacant Positions	Appointing Authority	Length of Term
1 Alternate Position	Board of Selectmen	3 years
Requesting Appointment: No applications on file		



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# VIII

### MINUTES

<b>REQUESTED BY:</b>	<b>Executive Assistant</b>
<b>DESIRED ACTION:</b>	<b>Approval of meeting minutes of 7.10.2018</b>
<b>PROPOSED MOTION:</b>	<b>I move to approve the minutes of July 10, 2018 as amended.</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

# DRAFT

## **Wellfleet Select Board Meeting Tuesday, July 10, 2018, at 7:00 p.m. Wellfleet Senior Center, 715 Old Kings Highway, Wellfleet MA 02667**

**Select Board Members Present:** Chair Janet Reinhart - Chair; Helen Miranda Wilson – Vice Chair, Justina Carlson – Clerk, Kathleen Bacon, Jerry Houk.

**Also Present:** Dan Hoort - Town Administrator, Joe Powers – Assistant Town Administrator / Town Clerk, Radu Luca – Executive Assistant to the Town Administrator.

Chair Janet Reinhart called the meeting to order at 7:00 p.m.

### **I. Announcements, Open Session and Public Comment**

**Note:** Public comments must be brief. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comment.

Wilson thanked Steve Cooney and his wife ChristiAne Mason for their service to the Town on the Planning Board, Marina Advisory Committee and the Energy Committee, respectively.

Chris Roberts asked for clarification from the Board on the increase in day passes for parking at White Crest Beach. Bacon said our parking is scarce and at a premium. Reinhart said there would be a meeting soon and discuss this item. Bacon also mentioned people could park at Marconi Beach and the rationale for the increase in fees at White Crest Beach was to make it more accessible to our residents. Houk said at the meeting two weeks prior that the fees should be discussed and readdressed and he thinks the \$40 fee is too much. Silverman asked whether the meeting on the WCB parking lot would be a public meeting. Reinhart responded and said yes.

### **II. Public Hearing(s)**

- A.** Grant 01-01 Ext. Transfer from Ralph Bassett, Laura Lambert and Kevin Cormier to Ralph Bassett, George Pierce III and Rodney Avery

The Shellish Constable and Bassett, Cormier and Pierce were present to support this application.

**I move to approve the shellfish grant 01-01 Ext. transfer from Ralph Bassett, Laura Lambert and Kevin Cormier to Ralph Bassett, George Pierce III and Rodney Avery.**  
**Motion: Bacon                      Second: Wilson                      5-0-0. Motion carries.**

- B.** Grant 01-05 Transfer from Justin Lynch to Justin Lynch and Eben Kenny

The Shellish Constable and Lynch and Kenny were present to support this application. Bacon asked Kenny if he already has a grant. The answer was no.



**B. Decision to revoke shellfish permit for Mike Kubiak as per Shellfishing Policy and Regulations Section 11.7 Revocation of Shellfishing Permits [Shellfish Warden]**

The Shellfish Constable presented a synopsis of the memos to the Board justifying her decision to revoke Kubiak's shellfishing permit for the remainder of the year. Mike Kubiak and his family were present.

Civetta said that this is a decision her department and herself would not take lightly. Civetta enumerated a list of Kubiak's infractions and violations of the Town and State Shellfishing Policies and Regulations.

Wilson asked Civetta for an exact date for the potential end of the revocation. Civetta said December 31, 2018.

Wilson said that the Town and the State rules and regulations on shellfishing should be respected by anyone. This is a food handling business and it may become a public safety issue very easily. She also added that the refusal to allow an inspection of the catch was a serious offense and the shellfish constables and the other fishermen should not be bullied and harassed.

Carlson disclosed that her partner owns a shellfish grant and is directly involved in the business. She then asked whether Kubiak would be allowed to present his case as well.

Mike Kubiak read out loud a letter from Jamie Veara addressed to the Town Administrator in which they ask for a two-week extension for a decision on this matter so that Kubiak's attorney could be present as well to present his case.

Houk said he read the whole packet in which Kubiak had mentioned he would speak with his attorney and now Kubiak is saying he only had one day to look for an attorney. Kubiak clarified and said that he had one day to look for an attorney from the moment he received the Selectboard packet the Friday night prior to the meeting, which included the agenda item pertaining to his license revocation. Houk added that the foul language used by Kubiak when addressing the Shellfish Constable is not acceptable. Bacon recommended the BOS allowed Kubiak a two-week extension for his attorney to be present and defend his case. Carlson concurred with Bacon, especially when someone's livelihood is at stake. Wilson asked Kubiak if he refused to present his catch to the Shellfish Constable. Kubiak responded and said that allegation of him not allowing the Shellfish Constables to inspect the catch would be heard in the Orleans District Court and he would not like to address this issue for the time meeting. Wilson said that the refusal of an inspection is a good reason for revocation. Bacon reiterated and said that Kubiak should be given a chance to respond to the allegations when his layer was present. Houk concurs with Wilson and would like to vote on the revocation of the permit. Civetta said that our regulations allow for an appeal to any decision within a 30-day period.

Ginny Parker, Chuck Cole and Robert Costa did a presentation on the Town of Wellfleet Elder Spruce Care Plan to save the two trees in front of Town Hall.

Wilson said that according to our Environmental Bylaws, the arborist is not allowed to use fungicide on the trees and she is not sure whether the trees need watering. She would like to see the ivy and the maple tree taken out and would like to see the trees pruned. Carlson would like to commend the group for taking on the initiative to do right by these trees, especially pursuing the vote on Town Meeting floor. Cole asked of the BOS if they could stage a concert at the trees after July 18. Bacon suggested that if the group hired the certified arborist we should ask for a certificate of liability insurance indemnifying the Town for at least \$1 mil. Costa said that these trees have been neglected for a long time and that those trees serve multi-purpose for the people coming or living here and he is in favor of very little change and preservation of resources because that's what makes this town special for everyone. Costa also suggested that the DPW removed the lights so that maintenance could be done. Wilson made some suggestions with regard to removing the ivy and the maple tree in the vicinity of the two trees.

**I move to authorize Ginny Parker, Chuck Cole, Robert Costa and Roger Putnam to implement a care plan for the two evergreen trees in front of the Wellfleet Town Hall through privately raised funds.**

**Motion: Houk**

**Second: Wilson**

**5-0-0. Motion carries.**

**E. Consider Eversource insecticide spraying ban [Houk]**

Wilson made note of the email she had send to the BOS prior to the meeting about a piece of legislation on the Towns' rights about creating their own bylaws and regulations. She said that we can't ban pesticides in the State of Massachusetts for the time being, but if this piece of legislation passed, we could. Bacon would like to wait on this until a decision has been made at State level.

Wilson said she would like to work with the TA on a draft letter of support to our State legislators and representatives in support of this legislation.

**F. Select date for Special Town Meeting [TA]**

The TA's and ATA's recommendation is to hold a Special Town Meeting on September 24, 2018. The Town Moderator was also consulted before making this recommendation to the Selectboard. Houk thinks a September date generate a low turnout, but Silverman doesn't think we shouldn't have a problem getting a quorum.

**I move to call a Wellfleet Special Town Meeting on Monday, September 24, 2018 at 7 pm.**

**Motion: Carlson**

**Second: Wilson**

**5-0-0. Motion carries.**

**G. Selectboard FY 2019 Goals [Chair]**

**I move to approve the minutes of 6.14.2018 as presented.**

**Motion: Wilson**

**Second: Bacon**

**5-0-0. Motion carries.**

**I move to approve the minutes of 6.20.2018 as presented.**

**Motion: Wilson**

**Second: Bacon**

**4-0-1. Motion carries. Wilson**

**abstained because she didn't have the chance to read them.**

**I move to approve the minutes of 6.26.2018 as amended.**

**Motion: Wilson**

**Second: Bacon**

**5-0-0. Motion carries.**

## **XI. Adjournment**

The meeting was adjourned at 9:05 pm.

Respectfully submitted,

Radu D. Luca,

Executive Assistant to the Town Administrator

## **Public Records Materials of 7/10/18**

1. Memo – shellfish license transfer #01-01 (June 28)
2. Memo – shellfish license transfer #01-05 (June 29)
3. Application – Use of Town Property – Sugar Surf Cape Cod (June 21)
4. Memo – EOY Budget Transfers (June 28)
5. Memo – commercial shellfishing permit revocation (July 5)
6. Memo – Correspondence and Vacancy Report (July 5)
7. Minutes – Draft BOS June 20 and June 26



## BOARD OF SELECTMEN

AGENDA ACTION REQUEST  
July 24, 2018

# IX

### ADJOURNMENT

<b>REQUESTED BY:</b>	<b>BOS</b>
<b>DESIRED ACTION:</b>	<b>Adjournment</b>
<b>PROPOSED MOTION:</b>	<b>I move to adjourn.</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):  
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____