

#### Wellfleet Selectboard

The Wellfleet Board of Selectmen will hold a public meeting on Tuesday, July 10, 2018, at 7:00 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

<u>Note</u>: 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. Grant 01-01 Ext. Transfer from Ralph Bassett, Laura Lambert and Kevin Cormier to Ralph Bassett, George Pierce III and Rodney Avery
- B. Grant 01-05 Transfer from Justin Lynch to Justin Lynch and Eben Kenny

#### III. Licenses - NONE

#### IV. Appointments/Reappointments

- A. Community Preservation Committee, Janis Plaue (three-year term)
- B. Cable Advisory Committee, Deborah Magee (one-year term)

#### V. Use of Town Property

A. Sugar Surf Cape Cod, Katherine Weeks. White Crest Beach July-October

#### VI. Business

- A. Approval of End of Year (EOY) Budget Transfers [Town Accountant]
- B. Decision to revoke shellfish permit for Mike Kubiak as per Shellfishing Policy and Regulations Section 11.7 Revocation of Shellfishing Permits [Shellfish Warden]
- C. Decide fate or plan for making decision on old Shellfish Shack building [TA]
- D. Discussion of Town Hall Trees Care Plan [G. Parker, C. Cole, R. Costa]
- E. Consider Eversource insecticide spraying ban [Houk]
- F. Select date for Special Town Meeting [TA]
- G. Selectboard FY 2019 Goals [Chair]

#### VII. Town Administrator's Report

#### VIII. Topics for Future Discussion

- IX. Correspondence and Vacancy Report
- X. Minutes BOS 6/14/18 (MassDOT), BOS 06/20/18 (Vision for Wellfleet), BOS 6.26.18
- XI. Adjournment



AGENDA ACTION REQUEST July 10, 2018



# PUBLIC HEARING – A. Shellfish Grant 01-01 Ext. Transfer

REQUESTED BY:	Shellfish Constable									
DESIRED ACTION:	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									
PROPOSED	I move to approve the shellfish grant 01-01 Ext. transfer from									
MOTION:	Ralph Bassett, Laura Lambert and Kevin Cormier to Ralph									
	Bassett, George Pierce III and Rodney Avery.									
ACTION TAKEN:	Moved By: Seconded By:									
	Condition(s):									
VOTED:	Yea Nay Abstain									







300 Main Street, Wellfleet, Massachusetts 02667

June 28, 2018

Board of Selectmen To: Recommendations Re:

From: Nancy Civetta, Shellfish Constable

Application received June 17, 2018 by Ralph Bassett to transfer shellfish grant license #01-01 Extension from Ralph Bassett, Kevin Cormier and Laura Lambert to Ralph Bassett, George Pierce III, and Rodney Avery.

I researched Kevin Cormier and Laura Lambert with the Tax Collector and Clerk's offices. Neither is a domiciled resident of Wellfleet. Thus, in accordance with Wellfleet Shellfishing Policy and Regulations Section 7.8.1: "At such time as a licensee ceases to be a domiciled resident of the Town, that individual shall be removed from the license."

Therefore, I recommend that the grant #01-01 Extension be changed from Ralph Bassett, Kevin Cormier and Laura Lambert to Ralph Bassett, George Pierce III, and Rodney Avery.

Respectfully submitted,

Shellfish Constable



# APPLICATION FOR TRANSFER OF SHELLFISH GRANT LICENSE

Date: 6/17/18

To: Board of Selectmen 300 Main Street Wellfleet, MA 02667

I/We hereby request transfer	of Shellfish Grant License #_	01-01 Ext
D. all hace	> / / / / / / / / / / / / / / / / / / /	PERT ALLTON CORNIER
From KALITH DITSSE	II, LAURA CAME	BERT +MKEUNCORNIER
TO KALPH BASS	ETT+ GEORGE	PIERCE III + RODNEY ANERY
Said grant license is located a	at &LT. ISLA	U ), in Wellfleet, MA
and consisting of		as shown on a plan prepared
by SLADE ASSOCI	ATES and dated	8/4/2004
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CO8 922 VI	29 774-216-2171	508-237-3483
Telephone	Telephone	Telephone
	GPIETCE 867@ & mail	- com V DASS697 a CONVARIANCE
Email	Email	Email

To: Wellfleet Board of Selectmen

From: Rodney Avery

Date: June 28, 2018

l, Rodney Avery, agree to comply with the Town of Wellfleet's Shellfishing Policy and Regulations and assume full responsibility for understanding and adhering to all federal and state regulations as they apply to shellfish propagation, harvest and sales.

Sincerely,

**Rodney Avery** 

Wellfleet Board of Selectmen To:

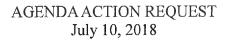
From: George Pierce

Date: June 28, 2018

I, George Pierce, agree to comply with the Town of Wellfleet's Shellfishing Policy and Regulations and assume full responsibility for understanding and adhering to all federal and state regulations as they apply to shellfish propagation, harvest and sales.

Dent Min-George Pierce







# PUBLIC HEARING – B. Shellfish Grant 01-05 Transfer

REQUESTED BY:	Shellfish Constable
DESIRED ACTION:	Approve the shellfish grant 01-05 transfer from Justin Lynch to Justin Lynch and Eben Kenny
PROPOSED	I move to approve the shellfish grant 01-05 transfer from Justin
MOTION:	Lynch to Justin Lynch and Eben Kenny.
ACTION TAKEN:	Moved By: Seconded By: Condition(s):
VOTED:	Yea Abstain







300 Main Street, Wellfleet, Massachusetts 02667

June 29, 2018

To:

Board of Selectmen

Re:

Recommendations

From: Nancy Civetta, Shellfish Constable

Application received June 28, 2018 by Justin Lynch to transfer shellfish grant license #01-05 from Justin Lynch to Justin Lynch and Eben Kenny.

I recommend that the grant #01-05 be changed from Justin Lynch to Justin Lynch and Eben Kenny.

Respectfully submitted,

Nancy Civetta

Shellfish Constable

#### APPLICATION FOR TRANSFER OF SHELLFISH GRANT LICENSE

To: Board of Selectmen 300 Main Street Wellfleet, MA 02667	
I/We hereby request transfer of Shellfish Grant License # 01-05  From JOSTIN Lynch  To JOSTIN Lynch and Eben Kenny  Said grant license is located at Indian Neck, in Wellfle	
and consisting of THROW acres, as shown on a plan by Slade Associates and dated 9/29/2000	
Justin Lynch Signature Signature Signature	Ken
Name Name Name	enny_
Po Box 103  Mailing Address  Mailing Address  Mailing Address  Mailing Address	
5. Wellfleet, M. allo 3 Wellfleet, 1 774-712-3766 508-257-	
Telephone Telephone Telephone	1012
Email Email Email	<u>80@GVail</u> (On

To: Wellfleet Board of Selectmen

From: Eben Kenny

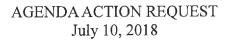
Date: June 28, 2018

I, Eben Kenny, agree to comply with the Town of Wellfleet's Shellfishing Policy and Regulations and assume full responsibility for understanding and adhering to all federal and state regulations as they apply to shellfish propagation, harvest and sales.

Sincerely.

Eben Kenny



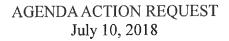




# **RE-APPOINTMENTS – A. Community Preservation Committee**

REQUESTED BY:	Principle Clerk
DESIRED ACTION:	Reappointment of Janis Plaue to Community Preservation Committee
PROPOSED	I move to reappoint Janis Plaue to the Community Preservation
MOTION:	Committee for a three-year term expiring June 30, 2021
ACTION TAKEN:	Moved By: Seconded By:
	Condition(s):
VOTED:	Yea Nay Abstain







# **RE-APPOINTMENTS – B. Cable Advisory Committee**

REQUESTED BY:	Principle Clerk										
DESIRED ACTION:	Reappointment of Deborah Magee to Cable Advisory Committee										
PROPOSED	I move to reappoint Deborah Magee to the Cable Advisory										
MOTION:	Committee for a one-year term expiring June 30, 2019										
ACTION TAKEN:	Moved By: Seconded By: Condition(s):										
VOTED:	Yea Nay Abstain										



AGENDA ACTION REQUEST July 10, 2018



# **USE OF TOWN PROPERTY – A.**

REQUESTED BY:	Katherine Weeks – Sugar Surf Cape Cod							
DESIRED ACTION:	Use of White Crest Beach for surf instruction July through October 2018							
PROPOSED MOTION:	I move to approve the use of town property by Katherine Weeks of Sugar Surf Cape Cod at White Crest Beach from July to October, subject to the conditions, if any, as listed on the Application at a fee of \$385.							
ACTION TAKEN:	Moved By: Seconded By: Condition(s):							
VOTED:	Yea Nay Abstain							

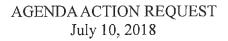
# APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

#### TOWN OF WELLFLEET 300 MAIN STREET WELLFLEET, MA 02667

Applicant Katherine Weeks Affiliation or Group Sugar Surt Cape Cod
Telephone Number 508-240-4166 Mailing Address PO BOX ISS3
Email address Week's Katy & Emmou   Com Welket MA Rolet Town Property to be used (include specific area) Wethter Reaches White Crest
Town Property to be used (include specific area) White Carlo
Date(s) and hours of use: June - Oct low tides
Describe activity including purpose, number of persons involved, equipment to be used, parking arrangements, food/beverage service, etc. Also please indicate if fees will be charged by applicant.
Meet customers at Parking area, get wetsuits on. Use of beach For surf instruction
Use of black for suit instruction
1-2 hours each Class, number of people vanes
#85 private, \$150 couple, \$65 per person 3 or more people
Describe any Town services requested (police details, DPW assistance, etc.)
NOTE TO APPLICANTS: All applications must be accompanied by a non refundable \$50.00 processing fee. Applications must be received at least 30 days prior to the first event date to insure that all reviews can be completed prior to the event. This application is only for permission to use Town property. Any additional licenses, such as food service permit, etc., may be required and it is the applicant's responsibility to secure the same.
Action by the Board of Selectmen:
Approved as submitted
Approved with the following condition(s):
Disapproved for following reason(s):
Date: Processing Fee: \$50.00 pmd Fee: (385)

Health/Conservation Agent:	Inspector of Buildings:
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Comments/Conditions:	Comments/Conditions:
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Police Department:	Fire Department:
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Recreation:	Town Administrator:
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# BUSINESS – A. Year-end FY 2018 Budget Transfers

REQUESTED BY:	Town Accountant Connie Boulos									
DESIRED ACTION:	Approve the end of year Budget Transfers									
PROPOSED	I move to approve the FY 2018 year-end Budget Transfers as									
MOTION:	presented by the Town Accountant.									
ACTION TAKEN:	Moved By: Seconded By:									
	Condition(s):									
VOTED:	Yea Nay Abstain									

- 1. Moderator The moderator had attended an annual seminar that caused the deficit. His budget will be increased in the upcoming years to avoid this issue.
- 2. Tax Title A Tax Title Expense had come in after the Annual Town Meeting in which, at the ATM, we had moved money from the Tax Title line to cover another expense.
- 3. Town Clerk The Town Clerk's payroll line has been used to pay both the Town Clerk salary and the Assistant Town Manager salary.
- 4. Shellfish Due to vacation buyouts, the salary line is overdrawn.
- 5. Recreation The Skate Park had an emergency expenditure of \$9,600 and has created a deficit in this budget.
- 6. Community Services This line is slightly overdrawn and can be corrected in upcoming budgets.
- 7. WC Insurance Expenses for this line were higher than budgeted due to rising insurance rates.
- 8. Unemployment An unemployment expense had come in after the Annual Town Meeting in which, at the ATM, we had moved money from the Unemployment Compensation line to cover another expense.
- 9. Group Ins In prior years, the town costs of health insurance were one month behind. CCMHG recently stated they want payment by the 1<sup>st</sup> of every month for that month's premium. We are overdrawn because the July 1<sup>st</sup> premium, which we withheld from employee paychecks in June, were paid with the last warrant in June. However, we are now current and up to date.
- 10. Town Medicare In prior years, the town costs of health insurance were one month behind. CCMHG recently stated they want payment by the 1<sup>st</sup> of every month for that month's premium. We are overdrawn because the July 1<sup>st</sup> premium, which we withheld from employee paychecks in June, were paid with the last warrant in June. However, we are now current and up to date.
- 11. Town Share Health The Town is required to pay 50% of the deductible for their employees if they use this plan. The line was not budgeted for this.
- 12. Property Insurance Expenses for this line were higher than budgeted due to rising insurance rates.
- 13. Debt Service This line was not budgeted correctly but has been fixed for upcoming years.
- 14. Short Term Loan This amount was not budgeted. However, this is our second to last BAN payment, and we will not have this issue in the future.

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AGENDA ACTION REQUEST July 10, 2018



# **BUSINESS – B. Shellfish Permit Revocation**

REQUESTED BY:	Nancy Civetta									
DESIRED ACTION:	Revocation of shellfish permit for Mike Kubiak									
PROPOSED  MOTION:	I move to accept the Shellfish Constable's recommendation to revoke the 2018 shellfish permit for Mike Kubiak as per Shellfishing Policy and Regulations Section 11.7 Revocation of									
ACTION TAKEN:	Moved By: Seconded By: Condition(s):									
VOTED:	Yea Abstain									







#### 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.

#### 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
Phone (508) 349-0325 Fax (508) 349-0305

- 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,

Shellfish Constable Town of Wellfleet

Officers on Duty, chris/nancy

Date

# Wellfleet Shellfish Department Daily Patrol Report



Weather: sunny windy 6/19/2018 Tide time/height: 11:06 - 8 R Type# C/R Other activities read incident report 2 blood checked 0.5 checked 0.5 checked 1 checked guess guess O amount 0 ice time | Q amount exposure time start time area 엄 bc pc 누 ž Mike Kubiak am/pm Name shawn arsenault sean vecchione Kenny Joesph eben kenny dave sietler justin lynch

R Type-#										Gregory, wh
C/R							tting his			or Michael
Other activities							Nancy additions 6/21: When I drove past Shawn Arsenault who was at the Glaze house landing, where he was putting his		seking bitch!"	Also, found two cages filled with oysters at the sand bar in front of the jetty. One had no tag; the other had a tage for Michael Gregory, who
O amount					0	<b>4</b> ngines	ne Glaze house la		king bitch! You fu	tty. One had no ta
Q amount					0	0 barge work/engines	who was at the		day! You fuc	ront of the jet
ice time			and the second s				incident ba	<u> </u>	vrong yester	sand bar in f
start time						Mike Kubiak incident	ove past Shaw	shouting at m	were fucking v	oysters at the
exposure time						truck drive shaft went on beach.	s 6/21: When I dr	oysters into his cooler, he started shouting at me.	"You were wrong yesterday! You were fucking wrong yesterday! You fucking bitch! You fucking bitch!"	cages filled with
area						truck drive shar	Nancy addition	oysters into his	"You were wro	Also, found two
Name						es.				
	 	L				Notes				

Reporting Officer(s) Signatures:

(Joseph )







#### 300 Main Street, Wellfleet, Massachusetts 02667

#### INCIDENT REPORT

Officer Information

Enforcing Officer: Nancy Civetta

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

Ticket Numbers: 4465

Offender Information

Name of Offender: Mike Kubiak

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

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 eatch... 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









#### 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. Het 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.







#### 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.









#### 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



#### 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: EFO MATTHEW SIMMONS

Approving Officer: Lieutenant KEVIN CLAYION

Signature:

Signature:

PHONE # Involved [ SEX RACE AGE SSN \*\*\*\*\* 经银行业务的的现代的 KUBIAK, MICHAEL 110 AVERY AVE WELLFLEET MA 02667 Military Active Duty: N

BODY: NOT AVAIL.

COMPLEXION: NOT AVAIL.

DOB: \*\*\*\*\*\*\*\*

PLACE OF BIRTH: \*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

ETHNICITY: NOT HISPANIC

jji \_ events4s) j

LOCATION TYPE: Parking Lot/Garage

WELLFLEET HARBOR PIER

Zone: REGION M-6

WELLFLEET MA 02667

INSPECTION OF PROPERTY

DOB: NOT AVAIL.

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	2	CIVETTI, NANCY 255 COMMERCIAL WELLFLEET MA 0	ST	WITNESS	F	W	**	NOT	AVAIL	****	

PERSON (S) PERSON TYPE SEX RACE MAGE SSN PHONE

#### Massachusetts Environmental Police NARRATIVE FOR EPO MATTHEW SIMMONS

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 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) 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 paints 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 I 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 accidently.

# Massachusetts Environmental Police NARRATIVE FOR EPO MATTHEW SIMMONS

Page: 2

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 Naney 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 Naney presumed but he was targeting striped bass and was un-successful. I told Michael if he has complaints about Naney'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;







#### 300 Main Street, Wellfleet, Massachusetts 02667

#### INCIDENT REPORT

Officer Information

Enforcing Officers: Nancy Civetta, John Mankevetch, Chris Manulla

Date of Report: 6/25/18--7/3/18

Ticket Numbers: n/a

Offender Information

Name of Offender: Mr. Kubiak

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

#### 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."







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 ovsters 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.









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.



#### TOWN OF WELLFLEET MARINA

### 300 MAIN STREET WELLFLEET, MASSACHUSETTS 02667

508-349-0320
Email: michael.flanagan@wellfleet-ma.gov

william.sullivan@wellfleet-ma.gov

Web page: 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 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 laving to raise my voice uncomfortably load and Cursing at Dill. However, the manner in which Will performed his buties was totally unprofessional.

My advice to will is/wass as follows:

I con to accusations and interrogations while standing over my boat. Will should introduce himself as a Town of Wellshe employee, or be wearing the easily identifiable Town Seal on his owner most garmet. As I mistook him as a deranged tourist for several minutes of the argument.

Mal Hutal

Sixerely M. Kubia K 110 Avery Ave Wellsleet MAP

R.S. You John Patrickl Keep up the good work.



# THE SAME LIKE THE PART AND A L

363 Mai: Street • West Derins MA 02670-4523 508 336 0363 • Fax (505) 398-5525



MARK DELLMER

EMILY PESSOTTI

JOHN DONLAN
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

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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 Harbormanter 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

DEFINITE

# CAPE COD TIMES

# 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.

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## 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 <u>4.4 Daily Limit and 6.3 Daily Area Catch Limits – 1 bushel = 32</u> 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,

Shellfish Constable

Town of Wellfleet

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.

11 0 1

Shellfish Constable, Town of Wellfleet

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.

Shellfish Cohstable, Town of Wellfleet

Phone (508) 349-0325

Fax (508) 349-0305

a Commercial Shellfish Permit in signing below. 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

Wailing Address | C | Long | F | Cell

Date of Birth | Email

Eye Color | C | Cell | Color | Color | Cell | Cell

Any intentional false answers to any of the above questions will be just cause for the revocation or non-issuance of

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

### TOWN OF WELLFLEET 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 Welffleet 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 Welffleet. 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 Welffleet. Written proof that Welffleet is the domicile as well as the tegal 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 fillings, census data or passport.

Applying Applying Ammonwealth of Massachusetts Resident = Y  U.S. Citizen = Y  Applying Ammonwealth of Massachusetts Resident = Y  U.S. Citizen = Y	Please make chang phone here if neces Mailing Address  City/Town.  Email	State Zm	57 70/17 19/18 1/18/18/99
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RENEWAL NOTIFICATION SHELLFISH & SEAWOR			
Your 2017 Shellfish & Seaworms Permit expires on December 31, 2017.	I you would tice to reme	w this Shellfish & Seaworms Pr	armit,
please review the information in section 1 and make corrections as needed. Return	n with the appropriate for	e in the enclosed envelope	
Section 1: Shellfish & Seaworms - Permit Information			
BOALNAME P BOALNAME COUNTY LENGTH 26 MAD	DMF PERMIT	in well Azet	MA

1646330/W2 8011 BE Buoy Color(s): Endorsement's): SHELFISH

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

Your current Trib-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:

#### Section 3: Payment Information

- 1. The ree 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

SIGNATURE

Date: /

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 one agree to comply with all applicable statutes contained in MGL to 130, and the regulations contained in 322 CMR.

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 sele- from the list below (Rod & Reel and Sta- be endorsed for shellfish or scallop shu	udent Lobster permit typ oking).	al permit type pes cannot	PERMIT ENDORSEMENTS: if you wish to participate in a Select each species you war marking the corresponding b	ny of the regulated at authorization to o ox.	I fisheries listed below. commercially harvest by
BOAT 99+ FT	RESIDENT RES	IDENT \$520	Endorsements no	MASS RESIDENT	dent lobster permits NON- RESIDENT
BOAT 60-99FT	S195 [	\$390	TAUTOG	F \$30	\$60
BOAT 0-59 FT	\$130	\$260	New applicants must submit	an affidavit which	is available online at:
INDIVIDUAL	\$65	\$130	http://www.mass.gov/marlnet	N S30	\$60
ROD & REEL	\$35	\$100		X 830	☐ \$60
SHELLFISH & ROD & REEL	Person 🗆	\$130	DOGFISH  New applicants must submit		
SHELLFISH & SEAWORMS	□\$40 □	\$80	http://www.mass.gov/marine	lishenes	
OFFSHORE LOBSTER (non-trap) *	\$310	\$570	NORTHERN SHRIMP	\$30	\$60
STUDENT LOBSTER **	\$80	\$145	SCUP	[ <b>]</b> \$30	\$60
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* You must submit a copy of your feder	al nermit		SEA URCHIN		\$60
***			New applicants must submit	an athervit, which	is available online at.
" Student lobster permit applicants time student status & parental cons	must submit verificati	on of full- ermit	http://www.mass.gov/marine	snanes \$30	□ \$60
holders must affix trap tags to their DMF.	gear; trap tags will be	supplied by	Application deadline Febru New applicants must submit http://www.mass.gov/marine	ary 28 <sup>th</sup> an atfidavit which	
Student Lobster Buoy Colors:	ggs-salanghigus-passana asympagananah silaharah kalandarah di Alla		CONTAMINATED SURF CL		□ \$60
TRIP-LEVEL REPORTING DESIGNAT	ION:		DREDGE: This endorsement contaminated areas only and	t is for the harvest	of surf clams from f BAIT only.
To obtain a MA commercial permit, you reporting methods. Failure to select a	must select one of the	e following	SHELLFISH ENDORSEMEN	л 🛛 <b>s</b> o	
of your application. For more Informaterial on Trip-Level Reporting.	ation, please refer to the	enclosed	New applicants must submit http://www.mass.gov/marine	fisheries. Must ha	is available online at: ve a town permit
Federal Reporting Veggel (FRV)	· choose this option If vo	ou already	SEA SCALLOP SHUCKING	S0 S0	
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.		SEA SCALLOP DIVER Residency restrictions	F) \$0		
The state of the s		BAY SCALLOP SHUCKING	□ so		
ether by mail, fax or e-mail attach	ment.	ser reports,	If you select Bay Scallop shu Certified Sanitary Inspection	icking, you must si	ubmit a copy of your Mass DPH.
Electronic (ETL): choose this optimise web-based program. Please rem	ion if you want to report	via a secure	SURFACE GILLNET	\$30	\$60
address on the front of this for		, Gilliani	To harvest menhaden, sea h with a gillnet, requires a Surf commercial permit. The may See 322 CMR 4.14 for closu	ace Gillnet endors dmum net length i	ement on your
LIMITED ENTRY: New permits and entransfer. For more information on the Commercial Permits: (1) Coastal Lo	transfer of limited entry	permits contact	for the categories listed below. DMF at (617) 626-1520.	However, they m	ay be available by
Endorsements: Sink Gillnets Flsh Pot-Scup Fluke Groundfish Endors	Bluefish Gil Fish Pot-Ci Surf Clam I sement* Black Sea &	onch Dredge	Mobile Gear Coastal Access Fish Pot-Sea Bass Ocean Quahog Dredge Menhaden	Bay (	in Tuna Purse Seine Quahog-Dredge eshoe Crab
*Groundfish Endorsement (GE) -This andor a federal Multispecies or monklish permit. In hake, yellowtail flounder, winter flounder, win	addition to monklish, the t dowpane flounder, Americ	en federally mans an plaice, ocean j	aged groundlish species covered by i	me GE are cco, nauc	idek, phileek, redisii, write

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.



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.

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).

### **ADDITIONALINFORMATION**

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.

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

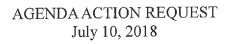
You may also contact: Division of Marine Fisheries, 706 South Rodney French Boulevard, New Bedford, MA 02744 Tel. (508) 990-2860.

# 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)	16:91
Address 110 Hvery Av	(
162	Date 12-9-17
Signature	



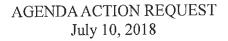




# BUSINESS – C. Shellfish Shack

REQUESTED BY:	TA
DESIRED ACTION:	Decide the fate of Shellfish Shack Building or develop a plan for making a decision.
PROPOSED	TBD
MOTION:	
ACTION TAKEN:	Moved By: Seconded By:
	Condition(s):
VOTED:	Yea Abstain







# BUSINESS – D. Town Hall Trees Care Plan

REQUESTED BY:	Ginny Parker, Chuck Cole, Robert Costa		
DESIRED ACTION:	Authorization of Care Plan for two evergreen trees in front of the Wellfleet Town Hall with funds privately raised.		
PROPOSED	I moved to authorize Ginny Parker, Chuck Cole and Robert		
MOTION:	Costa to implement a care plan for the two evergreen trees in front of the Wellfleet Town Hall through privately raised funds.		
ACTION TAKEN:	Moved By: Condition(s):	~	
VOTED:	Yea Nay	Abstain	

Daniel Hoort, Town Administrator Town of Wellfleet 300 Main St. Wellfleet, MA 02667

Dear Mr. Hoort,

The purpose of this letter is to request an audience with the Wellfleet Selectboard at their July 10, 2018 meeting to ask their permission to enact a **Care Plan for the Elder Spruces**, as recommended by certified arborists at Save-A-Tree in Mashpee, MA.

On May 22, 2018, a group of Wellfleet citizens met with Jeremy Ross, a Certified Arborist to gain an independent health report status on the two Elder Spruces on the Town Hall Lawn. Save-A-Tree was subsequently hired and paid with private funds to conduct a soil and a pathogen analysis in order to develop and recommend a health care plan. Based on their findings, we are requesting permission from the town to enact a privately funded treatment plan for the Elder Spruces.

The proposed **Care Plan for the Elder Spruces** will be paid for by private citizens and be of no cost to the Town of Wellfleet. The approximate annual cost is \$800.00, which includes annual soil testing and fertilization. The results of a soil test done by them on 5/22/18 is attached, as well as a pathogens report and the overall recommended **Care Plan for the Elder Spruces**. The Certified Arborists at Save-A-Tree are aware Wellfleet is a Green Community and any treatments and recommendations for the trees have taken that into account.

The immediate action steps recommended by Save-A-Tree are as follows:

- 1. Remove all English Ivy and vines this is imperative for tree health.
- 2. Treat with the recommended Spring Treatment (see attached).
- 3. Establish a water source if needed so the trees are watered from the ground down to avoid extra water contacting the needles. There is a water spout in front of Town Hall that can be used.
- 4. Trim dead limbs from the trees for maximum health based on the timing advised by the arborists. Work to be done by Certified Arborists.

We appreciate your time and consideration in this matter. While we realize the overall disposition of the Elder Spruces is still undecided, we feel it is our duty to try to bring them to optimal health and took it upon ourselves to take these actions in order to determine the feasibility of doing so. If the **Care Plan for the Elder Spruces** is accepted, we are confident we can continue to care for them with Certified Arborists doing the work and with no financial burden to the Town of Wellfleet, except for the use of the water spout at the Town Hall.

Respectfully submitted,
Ginny Parker
Chuck Cole
Robert Costa



SavATree &

100 Echo Road, Mashpee MA 02649 P: 508-539-8723 F: (508) 539-0371

E: CapeCod@savatree.com

Estimate # 220947 Prepared By Jeremy Ross ISA Certified Arborist jross@savatree.com

Estimate for

Virginia Parker

For Service At:

300 Main Street, Wellfleet MA 02667

**Account Key: 2187553** 

### Recommendations

### **Plant Health Care**

### ArborKelp Treatment - Mid Season

\$333.00

Plants benefit from a mid-season deep root injection to deal with stress from hot temperatures, construction and insect damage. ArborKelp is a unique biostimulant consisting of sea kelp and other biologically active components.

Service Details: Treat soil around 2 feature spruce trees in front of town hall Norway spruce

### Bark Disease Treatment - Late Season

\$202.00

This treatment is designed to control various tree diseases. An application of a systemic material is made to the trunk of the tree. This material is absorbed through the bark into the tree's vascular system.

Service Details: 2 feature spruce trees in front of town hall Spruce

### **Lawn Care**

### **Lime Application Spring**

<u>s:</u>

Liming raises the pH of the soil thereby unlocking nutrients from soil particles, making them more readily available to the grass plant and increasing the effectiveness of fertilizers. Lime can be applied in the spring and/or fall.

Service Details: Treat area beneath 2 feature spruce trees and area around trees up to 15"from dripline

Lawn A	nalysis			
Lawn Density		Uncontrollable Grasses	Insect Analysis	Soil Conditions
[ ] Thic k, well establishe d	[ ] Crabgrass	[ ] Bentgrass [ ] Paspalum	[ ] Chinc hBugs	[ ] Clay [ ] Subsoil
[ ] Thin, not well establishe d	[ ] Foxtail	[ ] Nimblewill [ ] Stiltgrass	[ ] Sod webworm	
[ ] Spar se Seeding Needed	[ ] Goosegrass	[ ] Orchardgrass		[ ] Ledge Te st Date
[ ] Newl y Seeded	[ None Present	[ ] Poa annua	[☑] None Present	[ ] Rocky
[ ] Sod		[ ] Tall Fescue		[ ] Sand
Types of Grass	Controllable Weeds	Hard To Control Weeds	Disease Analysis	Soil Compaction
	[ ] Buckhorn [ ] Henbit	[ ] Ground lvy [ ] Purslane	[ ] Dollar Spot	[ ] Minimal
		[ ] Knotweed [ ] Spurge	[ ] Leaf Spot	[ ] Moderate
[ ] Fine Fescue	[ ] Clover	[ ] Nutsedge [ ] Veronica	[ ] Red Thread	[ ] Severe
[ ] Ryeg rass	[ ] Dandelion			[ ] Core Aeration Needed
[ ] Zoys	[ ] Hawkweed	[ ] Onions	[✓] None Present	
Invisible Fence	Thatch Depth	Mowing Height	Irrigation Systems	Light Intensity
[ ]Yes	inches	[ ] Mow at a height of inches	[ ]Yes	[ ] Sun %
	[ ] Core Aeration Needed	[ ] Lower [ ] Raise [ ] Proper		[ ] Shade%
		-		[ ] Partial Shade %
Comment				

nis proposal has been provided to you on a confidential basis. We kindly request that neither this proposal nor any of its concles tax, if applicable, will be added to the amounts of this estimate per your local and state tax jurisdiction.

ote: Included in this program are 3 services for a total of \$601.00.

er-Green Clause: To help maintain a vibrant and healthy landscape, your program is considered CONTINUOUS. This means that your program will n, of course, CANCEL AT ANY TIME by contacting us.

### **OUR UNCONDITIONAL GUARANTEE**

Should our service fall short of your expectations, please contact us immediately and we will do everything we can to make it right! Rev. 6-1-2018 aso-pdf

### **Fully Licensed & Insured**

**Tree Care Industry Accredited** 



**Testimonials** 

www.savatree.com



### **DIAGNOSTIC REPORT**

Sample#	201800250
Field ID	2018-0252
Host	Spruce (ornamental)
Received Date	5/24/2018
County	Barnstable
State	MA

Submitter:

Jeremy Ross SavATree 100 Echo Road

Mashpee MA 02649

Phone

Fax

Email

508-539-8723 508-539-0371

jross@savatree.com

### Diagnosis and Recommendations

Host/Habitat	Spruce (ornamental) (Picea sp./spp.); Cultivar: Wellfleet Town Hall East Side Tree
List of Diagnosis/ID(s)	
Pestalotiopsis canker/ dieba	ck (Pestalotiopsis sp./spp.)

### Final Report

Diagnosis: Needle and stem blight caused by *Pestalotiopsis*. \*\*Both samples (East side and West side) were harboring this pathogen\*\*

Disease Description: Pestalotiops is is a common pathogen on coniferous trees and shrubs on the landscape, causing shoot and branch dieback on numerous species and varieties of Juniperus, Thuja and Chamaecyparis. While not a common pathogen of spruce, it's not surprising to find the pathogen causing a shoot and needle blight on this host. The fungus invades the plant at the tips of new shoots, or can utilize pruning wounds as a source of entry. Once established, it causes browning and dieback that can eventually kill entire branches. It is frequently a stress-related pathogen, and common predisposing stresses include drought, insect feeding, mechanical damage and establishment stress. Pestalotiopsis is a known endophyte, meaning that it can live dormant within the plant without causing disease, an adaptation that allows the fungus to readily overwinter in asymptomatic plant tissues. The fungus produces small pads of fungal tissue underneath the epidermis, and when moisture is abundant the pads ruptures through, producing a long black mass of spores. During wet weather, spores are blown and splashed onto healthy, nearby plant parts, initiating new infection centers.

Management: Prune and discard blighted stems and remove fallen needles around the tree. Avoid pruning the tree during wet weather, as this is the time period when the fungus is most actively producing and disseminating spores. Also, avoid overhead watering, which allows moisture to linger on plant surfaces and creates conditions necessary for spore production and germination. Fungicides labeled for use against *Pestalotiopsis* include: carbendazim+debacarb (microinjections), copper hydroxide, copper salts of fatty and rosin acids, mancozeb and thiophanate-methyl. Fungicides should be used as a preventative measure to limit infections on the current year's growth. Pruning to improve aeration can reduce leaf wetness, limiting the time period the fungus needs to germinate on new tissues.

UMass Extension Plant Diagnostic Clinic

#3 French Hall 230 Stockbridge Road Amherst MA 01003

Telephone: (413)545-2826 Fax: (413)545-4385

Diagnosed By:

NicholasBrazee (nbrazee@umass.edu)

Completed Date: 6/4/2018



### 2790 Whitten Road, Memphis, TN 38133 Main 901.213.2400 ° Fax 901.213.2440

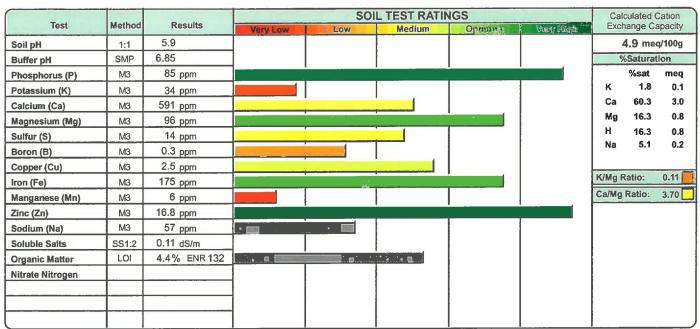
www.waypointanalytical.com

"Every acre...Every year®"

SOIL ANALYSIS

18-144-0605 Grower: Report No: Client: SavATree (Mashpee) Wellfleet Town Half Cust No: 02229 Date Printed: 05/25/2018 Mr. Jonathan Borysiewicz 05/24/2018 Date Received: 100 Echo Road PO: Mashpee MA 02649 Page: 1 of 1

Lab Number: 14956 Field Id: Sample Id: 311-415

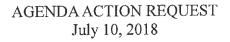


### **SOIL FERTILITY GUIDELINES**

Crop : Christmas Trees-Norway Spruce				Yield Goal :		Optimum		Rec Units:		LB/ACRE		
(lbs)	LIME	(tons)	N	P <sub>2</sub> O <sub>5</sub>	K ₂O	Mg	S	В	Cu	Mn	Zn	Fe
0		0	100	0	200	0	10	1.0	0	7	0	
Crop:									Rec U	nits:		
		· · · · · · · · · · · · · · · · · · ·										

Comments :



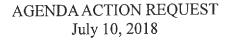




# BUSINESS – E. Consider Eversource Insecticide Spraying Ban

REQUESTED BY:	Selectman Houk
DESIRED ACTION:	Discussion of a ban of spraying insecticides by Eversource.
PROPOSED MOTION:	TBD
ACTION TAKEN:	Moved By: Seconded By: Condition(s):
VOTED:	Yea Abstain







# BUSINESS – F. Special Town Meeting Date

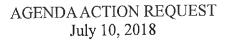
REQUESTED BY:	TA
DESIRED ACTION:	Decision on date for Special Town Meeting
PROPOSED	I move to call a Wellfleet special town meeting on Month/Day,
MOTION:	2018.
ACTION TAKEN:	Moved By: Seconded By:
	Condition(s):
VOTED:	Yea Nay Abstain

# **Possible Meeting Dates:**

<b>Town Meeting Date</b>	09/24/18	10/10/18	10/22/18
	Monday	Wednesday	Monday
Warrant Mailed	09/06/18	09/21/18	10/03/18
	Thursday	Friday	Wednesday

Town Administrator recommendation is September 24<sup>th</sup> which would avoid state primary elections and Oysterfest.







# BUSINESS – G. Select Board's FY 2019 Goals

REQUESTED BY:	TA
DESIRED ACTION:	Review of goals offered for FY 2019.
PROPOSED	T B D
MOTION:	
ACTION TAKEN:	Moved By: Seconded By:
	Condition(s):
VOTED:	Yea Nay Abstain

**TA Comment** 

Suggest that Select Board members review the goals at this meeting and if ready, approve them at their next meeting on July 24<sup>th</sup>.

### **Summary of FY 2019 Selectboard Goals**

### **Property and Buildings**

- Develop a maintenance dredging plan (KB) (JR) (HMW)
- Decide on Shellfish Shack (KB) (JR) (HMW)
- 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)

### 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)

### **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)

KB – Goals suggested by Select person Kathleen Bacon

JC – Goals suggested by Select person Justina Carlson

JR – Goals suggested by Select person Janet Reinhart

HMW – Goals suggested by Select person Helen Miranda-Wilson

# BOARD OF SELECTMANS GOALS. 2018- 2019

- DEVELOP A MAINTENANCE DIFOGE PLAN.
- 2. REMOVE + DEMOLISH SHELLFISH SHACK
- 3. DEVELOP AND WORK TOWARDS A
  BEACH PARKING REPLACEMENT PLAN,
- 4. DEVELOP A TRANSMISSION CELL TOWER
  ON THE TOWN PROPERTY AT THE NORTHEAST
  COLNER OF LAND AT THE TRANSPER
  STATION.
- 5. DEVELOP, THRU A HOUSING TEASAbility Study MIYED INCOME HOUSING AT 95 LANGUENCE RD.
- 6. WOLK 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 PLCYCLING FOR THE PUTURE.

Respectfully Submitted. June. 14th. 2018
hathleen E. Bacon

### **Board of Selectmen Goals 2017-2018**



### Maintain Healthy Sustainable Harbor

- 1. Dredge the harbor (HMW)
- 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

Develop plan for sidewalks, pedestrian ways, access, signage

### Create **economic development** initiatives

- 1. Develop plan for downtown area to enhance and support multiple uses
- 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

- 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 <u>maximize non-tax revenues</u> including:

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

### Develop plan for all town buildings and property including:

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

5. Current shellfish office (HMW)

### Continue to <u>pursue 'green' opportunities</u> 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)

<u>Direct Planning Board</u> to review undersized lots and possibly designate them as buildable for affordable housing (KB)

### **Dan Hoort**

From: Sent:		Janet Reinhart < lifeexercises@comcast.net> Thursday, July 5, 2018 12:37 PM
To:		Dan Hoort
Subject:		Re: Selectmen's Goals
Janet Re	einhart's Goals	
Shellfish	Shack Decision	
Parking-	Town and Beach	
Property	Purchase Possibilit	ies
Marin	а	
News	Dealer	
Ongoing	:	
Housin	g	
Marina	Dredging	
Or	n July 5, 2018 at 10:41 A	MM Dan Hoort <dan.hoort@wellfleet-ma.gov> wrote:</dan.hoort@wellfleet-ma.gov>
At ple	this point I have goals t ease get them to Radu a	from Kathleen and Justina. If you would like to put forth goals for FY 2019 and I by July 18 <sup>th</sup> so we can address them during the July 24 <sup>th</sup> meeting.
Th	anks	

### **Dan Hoort**

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.



AGENDA ACTION REQUEST July 10, 2018





# TOWN ADMINISTRATOR'S REPORT



# TOWN OF WELLFLEET

300 MAIN STREET WELLFLEET MASSACHUSETTS 02667 Tel (508) 349-0300 Fax (508) 349-0305 www.wellfleetma.org

To: Board of Selectmen

From: Dan Hoort, Town Administrator Subject: Town Administrator's Report

Date: July 6, 2018

This report is for the period June 24, 2018 through July 6, 2018.

- 1. General
  - Working with Eversource and National Park Service for installation of electric vehicle charging stations.
- 2. Fiscal Matters
  - None
- 3. Meetings
  - June 26 Wellfleet Harbor Actor's Theater
  - June 26 Lili Green
  - June 26 Karen of Kaplansky Insurance
  - June 26 Board of Selectmen meeting
  - June 26 Breakfast with Provincetown, Truro and Eastham Town Managers
  - June 27 Finance Committee meeting
  - June 28 Meeting with NRAB chair
  - July 2 & 3 Vacation days
  - July 5 Meeting with representatives of Tree Care plan
  - July 5 Meeting with residents with potential water contamination issues
- 4. Complaints.
  - None
- 5. Miscellaneous.
  - Open Meeting Law training being planned for September
- 6. Personnel Matters:
  - Reorganization of Town Hall staff negotiations with WEA



AGENDA ACTION REQUEST July 10, 2018



# TOPICS FOR FUTURE AGENDAS

Requested by:	Topic:	Requested to be on:



AGENDA ACTION REQUEST July 10, 2018



# CORRESPONDENCE AND VACANCY REPORT

Date:

July 5, 2018

To: From: Board of Selectmen Jeanne Maclauchlan

Re:

Vacancies on Town Boards

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

Vacant Positions 2 Positions

Length of Term Appointing Authority

Board of Selectmen 3 years

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

Requesting Appointment: No applications on file

**Conservation Commission (7 Members)** 

Vacant Positions

Appointing Authority

Length of Term

2 Positions

Board of Selectmen

3 years

3 years

Requesting Appointment: One application on file

Vacant Positions

Appointing Authority

Length of Term

2 Positions

Board of Selectmen

3 years

Requesting Appointment: One application 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: 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 PositionsAppointing AuthorityLength of Term1 BOS RepBoard of SelectmenBOS 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 10, 2018



# **MINUTES**

REQUESTED BY:	Executive Assistant
DESIRED ACTION:	Approval of meeting minutes of 6.14.2018, 6.20.2018 and 6.26.2018, respectively
PROPOSED  MOTION:	<ul> <li>I move to approve the minutes of June 14, 2018 as printed/amended.</li> <li>I moved to approve the minutes of June 20, 2018 as printed/amended.</li> <li>I moved to approve the minutes of June 26, 2018 as printed/amended.</li> </ul>
ACTION TAKEN:	Moved By: Seconded By: Condition(s):
VOTED:	Yea Nay Abstain

## Wellfleet Board of Selectmen Minutes of the Meeting of June 14, 2018 Wellfleet Senior Center, 7:00 p.m.

# Presentation of Route 6 and Main Street Redesign By the Massachusetts Department of Transportation

BOS Members Present: Janet Reinhart, Helen Miranda Wilson, Kathleen Bacon.

BOS Members Absent: Jerry Houk, Justina Carlson,

Staff: Dan Hoort - Town Administrator.

The meeting was called to order at 7:05 p.m. by Janet Reinhart.

The Massachusetts Department of Transportation presented the two options for the redesign of the Route 6 and Main Street intersection. One option is the installation of a round-about, the other option is for signal lights at the intersection.

A question and answer period followed the presentation with most audience members expressing their preference for signal lights at the intersection.

I move the Board of Selectmen support the alternative known as the traffic signal.

Motion: Bacon Second: Wilson 3-0-0. Motion carries.

### I. Adjournment

The public meeting was adjourned at 8:48 pm.

# DRAFT

### Wellfleet Select Board Meeting Tuesday, June 20, 2018, at 1:00 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.

Excused: Jerry Houk.

Chair Janet Reinhart called the meeting to order at 1:05 p.m.

# A. Discussion on what is working, what isn't, what is needed, focusing on Town's land Housing

Elaine McIlroy said it's important to look at Town-owned land on Town water and mentioned the properties at Lawrence Road and Coles Neck Rd, respectively. Mark Vincent spoke about the challenges at the property at Coles Neck Rd around the transfer station and what its limitations are with regard to well and methane monitoring. The Conservation Commission did not give its blessing on moving forward with that parcel to be turned into housing. Building Department doesn't think the parcel at Coles Neck Rd would not support a fire suppression system if it were to be turned into housing. Gary Sorkin said our housing needs call for 60 units over 10 years and that maybe we should look outside of Town-owned land.

### **DPW**

Mark Vincent said it's become costly for us to recycle, especially with the now limited recyclables China would accept from around the world and the new prices associated with allowing and receiving recyclable products. Wilson thinks we've become better at recycling, but Hoort said it would cost the Town a lot less if we didn't recycle at all. Vincent said not transferring over to single stream recycling has saved the Town money because of the separation factor.

Elaine McIlroy said it's important to look at the fiber optics solution and that many people in town do not have phone and internet access. Thomas added and said that many people in the national seashore do not have phone and internet access either.

### Marina/Shellfish area

Flanagan said the property at Mayo Beach could be a great addition to the list of Town-owned properties for development purposes, but also the property at the old WHAT.

Civetta mentioned the WSD has very limited storage space at various Town-owned locations and buildings.

Alex Hay suggested the parking lot at the Marina could be used for an underground wastewater management facility.

Bacon said we must do our due diligence with regard to septic and that it would speak volumes if we placed the plant at the marina.

Hay said that nowadays new and improved IA techniques could complement the hard piping and wiring activities.

Rosenberg said the renovation at Bakers Field has been completely and Recreation had been focused on that project. She also said that Rec has been working closely with the school to maximize the space utilized on the field and inside the school / office area.

### Water Quality & Master Plan

Alex Hay said there is not a pressing need now for a water management facility, but there might be in the future. Looking at the way we manager hydrogen, we'd be looking at smaller pieces of townowned land where we could place these management facilities. Hoort said that we might want to reserve space if we do need a wastewater plant in the future. Housing is a more immediate need and suggested the Housing Authority identified properties they would like to consider for housing. Gerry Parent spoke to the Zoning Bylaw pertaining to potential privately-owned sites to be explored for affordable housing and encouraged that the properties that are not on Town water and need water to be transferred over to the Town water system and become more proactive with He also suggested the Town initiated a regard to properties that are available for sale now. conversation with the National Seashore and see whether the Town could build housing on Townowned property on the Seashore. Bacon said there is very little town-owned land that would support housing and said that in the future the State might require of us to have a wastewater management system in place and said that it would be wise to reserve the land abutting the transfer station for a potential wastewater plant. Lydia Vivante mentioned the available property at Cove Rd that's for sale. Suzanne Grout Thomas said about 3.5 acres the COA property sits on could be allotted towards housing and she also suggested an assessment of the available property at Mayo beach. Wilson said the Housing Authority could contract out our own development Municipal group.

#### **Beaches-Future**

Suzanne Thomas mentioned the property at the water tower and the possibility of turning that into parking. Also, the old COA building area is currently up for discussion.

Bacon said we should be discussing the possibility of building more parking on Town-owned land at the National Seashore. Wilson said this could be a joint venture between the Town and the Park. Gerry Parent thinks the beach shuttle should serve all the beaches from Newcomb Lecount. Dick Elkin mentioned solar powered canopies at our beaches, especially at White Crest Beach.

Janet Reinhart stressed the importance of intergovernmental communication and following through with our thoughts and ideas from this meeting.

No motioned were made during this meeting.

Respectfully submitted,

Radu D. Luca, Executive Assistant to the Town Administrator

# **DRAFT**

### Wellfleet Select Board Meeting Tuesday, June 26, 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, Radu Luca – Executive Assistant to the Town Administrator, Ronald Fisette – Police Chief.

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.

Bacon said that Cape Cool gave out two \$1,000 scholarships to two Wellfleet graduates this June and that they are having a silent raffle on Wednesday at the Farmers' Market for those who wish to donate to the Scholarship Fund.

Chief Fisette said FEMA sent us a check of over \$9,000 in reimbursement for the blizzard from 2013 had been received and that the March 2018 storm is eligible for reimbursement as well. Fisette also mentioned that two department employees would be graduating from the Police Academy and announced that the July  $4^{th}$  parade would take place as usual, Wednesday morning. The Chief then introduced Jane Buckley from Grandmothers against Gun Violence, who addressed the board

Buckley said the group was formed in 2013 after the shooting at Sandy Hook Elementary School in Connecticut. She spoke about what they do at local and regional levels and their outreach. GAGV donated thirty gun safety locks to the Town of Wellfleet to be distributed to residents free of charge.

Lilli-Ann Green spoke about the two pieces of legislation (one enacting nuclear power plant protections and the other establishing a commission to assess the health impact of wind turbines to protect the health of the citizens of the Commonwealth) before Mass legislators that had been submitted by our State Rep. Sarah Peake and encouraged voters to write to their legislators to support them. Green also gave an update from the county Assembly of Delegates and the Seashore Advisory Commission.

Dick Elkin said that the Outer Cape Energize program is winding down, with only three meetings left (Truro, Provincetown and Wellfleet). The program, which is meant to help people put solar on their roofs, and help with other solar-related needs, will be ending on August 8 (OuterCapeEnergize.org)

#### II. Licenses

### A. Common Victualler

1) Kung Fu Dumplings

Stephen Rome was present to represent Kung Fu Dumplings. Rome said he possessed all paperwork necessary for him to obtain his licenses but had not submitted his tax registration certificate with his application to the Licensing (Select-) Board.

I move to approve the common victualler business license for Kung Fu Dumplings, contingent on the receipt of tax registration certificates.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

#### B. Food Truck

1) Kung Fu Dumplings

Rome said he hired one local person to work the cash register. Reinhart asked whether Rome would move the truck daily [to access a commissary kitchen]. Bacon said Rome had received a variance from the BOH and so is not required to move his truck. Wilson asked whether the AG has given its approval of our new Zoning Food Truck Bylaws and the TA said the AG hadn't yet done so.

I move to approve the food truck business license for Kung Fu Dumplings.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

C. Beer and Wine - Mass Audubon (One-Day Beer and Wine License)

I move to approve a one-day beer and wine license for Mass Audubon Wellfleet Bay on July  $19^{\rm th}$ , 2018 for a fee of \$100.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

### III. Appointments/Reappointments

A. **Board of Water Commissioners -** Tom Flynn - 3 years

Jim Wood, chair of the Water Commissioners, was present to support Tom Flynn's application to the BWC. Wilson said she had served with Flynn in the past on the Water Issues Advisory Committee, that he's great to work with, and that he's not on the Town Water System so he won't have any conflict of interest. He is filling out Justina Carlson's three-year term.

I move to appoint Tom Flynn to the Board of Water Commissioners to serve for a one-year term ending June  $30^{th}$ , 2019.

Motion: Wilson Second: Bacon 5-0-0. Motion carries.

B. Conservation Commission - Michael Fisher - 3 years

Michael Fisher was present to support his application to the Conservation Commission. Wilson asked whether Fisher would resign the Conservation Trust and / or recuse himself from matters that would generate a conflict of interest. Fisher said yes.

I move to appoint Michael Fisher to the Conservation Commission to serve for a three-year term starting July  $1^{st}$ , 2018 ending June  $30^{th}$ , 2021.

Motion: Bacon Second: Carlson 5-0-0. Motion carries.

C. **Wellfleet Police Department -** Special Police Officers at NPS (July 1, 2018 – June 30, 2019) – Leslie Reynolds, Christopher Hartsgrove, Christopher Anderson, W. Russell Hughes, Eric Trudeau, Meghan Farrell, Seth DiGiacomo, Kristy Pressey

Chief Fisette said these are standard appointments, done every year for the NPS. Houk asked how many traffic officers on bikes there were this summer and if they're allowed to direct traffic. Fisette there are two such community officers and they are allowed to direct traffic.

I move to appoint special police officers Leslie Reynolds, Christopher Hartsgrove, Christopher Anderson, W. Russell Hughes, Eric Trudeau, Meghan Farrell, Seth DiGiacomo, Kristy Pressey at the National Park Service from July 1st, 2018 through June 30th, 2019.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

**IV.** Use of Town Property

A. AIM Thrift Shop Art Sale (9th annual) - Saturday, July 28th

Lydia Vivante was present, to speak on their behalf.

I move to approve the use of Town Property to AIM Thrift Shop's  $9^{th}$  Annual Art Sale on July  $28^{th}$ , 2018 (with a rain date of August  $18^{th}$ , 2018) subject to the conditions, if any, as listed on the application.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

B. Wellfleet Chamber of Commerce – Annual Fourth of July Parade (July  $4^{th}$ , 8 am – 11 am)

Houk asked if the other BOS members would be in the parade. Bacon said she would ride in the parade. Wilson said that last year the Board didn't ride together in a group, in the parade. That the Board had discussed it and decided that each member could participte as they wished. Bacon and Houk then chose to be in it. she was in the parade as representatives of the town. Reinhart said she was never invited to be in the parade.

I move to approve the use of town property for the Annual  $4^{th}$  of July Parade on Wednesday, July  $4^{th}$  from 8 am to 11 am, subject to the conditions, if any, as listed on the application.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

#### V. Business

A. Approval of Community Preservation Agreements [Mary Rogers]

Mary Rogers, the Community Preservation coordinator, explained the CPA process and discussed each of the three agreements, one with Preservation Hall and two with Habitat for Humanity. Rogers prepares the agreements in coordination with Town Counsel and the attorneys from the third parties involved. Wilson said that this explanation was a good example of different groups in town communicating with each other.

I move to approve the agreement with Wellfleet Preservation Hall, Inc. pertaining to the Wellfleet Preservation Hall Town Park as presented.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

I move to approve the agreement with Habitat for Humanity of Cape Cod, Inc. pertaining to building three affordable homes at 2254, 2260 and 2270 Old King's Highway, respectively, as presented.

Motion: Wilson Second: Bacon 5-0-0. Motion carries.

I move to approve the agreement with Habitat for Humanity of Cape Cod, Inc. pertaining to building three affordable homes at 2080 State Highway (Route 6), as presented.

Motion: Wilson Second: Bacon 5-0-0. Motion carries.

B. Energy Committee update, request for a fall special town meeting and contract for solar array at capped landfill [Energy Committee]

Dick Elkin and Lilli-Ann Green from the Energy Committee and Joel Lindsay from Ameresco (the contracted firm) were present to the speak on this agenda item and request a fall special town meeting to approve funding for a contract solar array at the capped landfill. The reason to do this as soon as possible is that the longer we wait to apply to this program, the less money we will Ameresco did all the necessary environmental assessments and a 30% -complete design which was forwarded to the Selectboard. The EC held a public meeting on the matter, met with all Town departments associated with the project and presented the project at the Wellfleet Community Forum. The next step is to connect with Eversource. There are three legal documents needed in this process: the power purchase agreement in which the BOS can authorize for up to 30 years; an agreement to lease the land for 20 years, which needs Town Meeting approval by a two thirds vote; and a payment in lieu of tax agreement (PILOT – Ameresco proposes a fixed payment per year for 20 years, rather than a payment that would vary based on the declining value of the array). Elkin explained all the steps and financial data associated with this project. Among other thing, Nancy Vaill will research this and the

Planning Bard will have to approve a Site Plan Agreement. There is a financial incentive for applying for and being accepted into a "Block" (a Solar Tariff Generation Unit) by the Massachusetts Renewable Target (SMART) program as early as possible. The financial benefit for being included in each subsequent block is 4% less than the one before. Wilson asked whether DEP has signed off on the "post closure" agreement. The answer was yes. Bacon asked about the cost of a special town meeting. Hoort said the cost is approximately \$5,500. We will could have it as soon as possible, in September. Houk asked whether having a meeting in September was paramount. Was it essential for being incfor being awarded to block#1. Elkin said we'd know more in August and that it's a matter of how soon we can schedule a town meeting. Lilli Ann Greene spoke of Ameresco's good references from other towns and that they don't sell their leases to other enrtities.. Wilson believes that if we added an unrelated, controversial article about limiting the number of marijuana dispensaries to a STM warrant, we could probably get a quorum in September. Hoort said we could try to have it be as early in September as possible. Houk brought up how busy September is. Was it absolutely necessary to get the into first block? The answer was that it would increase the likelihood of making the first block, and at least, would insure getting into the queue.for inclusion in the second block and that again, it would be more cost effective. There was a suggestion from the audience for an early October Town Meeting.

I move to approve the Energy Committee's request for a Fall Special Town Meeting.

Motion: Bacon Second: Wilson 4-0-1. Motion carries. Houk abstained.

I move to approve the Solar Site Control Agreement as presented.

Motion: Wilson Second: Bacon 5-0-0. Motion carries.

C. Discussion of parking lot at Bank and Commercial Streets [TA]

The TA prepared a memo for this agenda item, which was included in the packet. John Riehl of the Natural Resources Advisory Board was also present to speak on this agenda item. The memo from the NRAB was included in the packet for tonight's meeting. Bacon said this lot could accommodate fourteen vehicles and serve three new businesses on Commercial Street. Bacon also said that the Town and the Masonic Lodge should work together to address future flooding- and erosion-related issues. Carlson mentioned there was also correspondence from the Chamber of Commerce addressing the issue of parking, especially in the height of the season. Bacon suggested to the TA that we engaged the DPW to put some gravel down and make it more functional, which might have to go before the ConsCom. Wilson and the BOS suggested to the TA that we communicated our plans with the Lodge.

D. Request Letter of Support or Non-opposition for Medical Marijuana Dispensary and Community Host Agreement for a Registered Marijuana Dispensary for Nature's Alternative, Inc. [TA]

Ben Zehnder and David Miller were present to speak in support of Nature Alternative's request for a letter of non-opposition (support) for a registered marijuana dispensary. Wilson said at this point the Town couldn't say no, but the ZBA could. Also, Wilson said that it should be noted that the property may be flooded in the future, given climate change and sea level rise. Bacon asked whether currently, the South Wellfleet General Store, is under lease. The answer is NA is paying for the option to lease. Bacon also asked whether the owner of the building would receive any percentage of the sales. The answer was no. NA explained that this was necessary, so that the owners would hold the property off the market while their application to the Town was pending. Bacon said she would like to consult the Town Meeting voters to see how many dispensaries they would like to see in town and where to have them. Wilson said that if we were to enter into a second host agreement we should lock in the 3%. She confirmed with the TA that this had not been done with AMP. She said she would be in support of a letter of non-opposition and that competition is good for business. Carlson asked whether Nature's Alternative had a business plan for that location and how many employees would be hired. NA intends to hire between ten and twelve employees and the intention is to be a year-round business. Zehnder said this was a new business and a new business model and that it's difficult to project what would happen, but there is an incentive to stay open and sell. Houk said the town voted overwhelmingly to allow both medical and recreational marijuana, but questions the location and the logistical parking and traffic issues associated with the location. Bacon would like to postpone this until the Special Town Meeting in the fall, to let the voters have some say. Reinhart said South Wellfleet is dead in the winter and that this kind of business might bring in other businesses and revive that section of the town. Reinhart also said that the town voted to allow both medical and recreational medical marijuana dispensaries everywhere in town. The license procedures are lengthy and complicated but we can at least allow NA to initiate the process with the State. Houk said we should respect the Town Meeting vote and move forward with this. Lilli-Ann Green, from the audience, spoke about the traffic dangers in regard with that intersection and corner. Carol Weiner, from the audience, asked about the status of the two host agreements that came before the Selectboard.

I move to issue a letter of non-opposition (support) for a Registered Marijuana
Dispensary at 1446 State Highway State Route 6, the South Wellfleet General Store
property and to authorize the Selectboard Chair to sign said agreement.
Motion: Houk Second: Wilson 3-0-2. Motion carries. Bacon
and Carlson abstained.

I move to approve a Host Community Agreement for a Registered Marijuana Dispensary and an adult use Retail Marijuana Establishment at 1446 State Highway State Route 6, the South Wellfleet General Store property subject to final approval by the town's general counsel and to authorize the Selectboard Chair to sign said agreement.

Motion: Wilson Second: Houk 3-0-2. Motion carries. Bacon

and Carlson abstained.

E. Discussion of Herring River Restoration Liability and Approval of Herring River Restoration Project MOU between Wellfleet & Truro [TA]

Martha Craig, representing the Friends of the Herring River came to the table. Wilson believes that there are still some errors in the MOU and that we should not enter in this agreement with Truro as written. The town of Truro owns land that may be affected in Phase One of the project. Truro is a property owner, not an abutter, as they are identified in the MOU. Reinhart believes this MOU should come from the Herring River Restoration Executive Council. Martha Craig, project manager of the Friends of the Herring River, addressed the BOS with her thoughts on this project. Craig said the BOS should look again at some of the language in the MOU, together with town counsel, and make sure they're comfortable with it, especially since this in an MOU between the two towns and the Park is not involved. Bacon believes the Park should be a party in the MOU, but Craig said that, because of the special role the Park plays, it would be better for the Park not to be included as an entity in this MOU. Wilson said that if Truro wanted to change its status in the MOU, this is probably a matter that should go before the Executive Council. She said we should be sure that the Selectboards of both towns were on the same page, had been given the same relevant information the two Selectboards had. Bacon would like to postpone this agenda item. Wilson would like to see more an acknowledgment in the proposed MOU that the Truro understood that if it wished to change its status (to no longer be an applicant/proponent) in the implementation of Phase 1, that it would still be asked to provide letters of consent as a property owner to be submitted with certain permit applications, because of work that might be done on about 300' of low-lying road and two culverts owned by the Town.

Some discussion of the possible liability to both towns and Town counsel's communication regarding this was discussed. Moe Barocus, a member of the Sakeholders Group brought up

I move to postpone the approval of the Herring River Restoration Project Memorandum of Understanding between the Towns of Wellfleet and Truro as presented for the Herring River Restoration Project, until further consolation with KP Law.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

Wilson confirmed with Craig that this would all be communicated to the Park.

F. Consultant Review [TA]

The TA presented an update on the Consultant (Brian Carlson, the previous Assistant Town Administrator) used by the Town for various procurement, writing some contracts, grant-writing and other projects. related to grant application processes. Houk said he requested this agenda item and wanted to know what we're getting for the money we're spending, \$500. a month. Hoort responded and said Carlson was hired for his knowledge of the town, knowledge of projects he used to work on for the Town and his certification

as a procurement officer. Hoort said that, although he was now the only procurement officer on staff, that the new ATA would also be trained in procurement which involves taking three different classes in Boston. Houk felt that it was best that people in Wellfleet be able to do such work – nothing against Brian. Reinhart said it made sense for Carlson Hoort clarified for Bacon that the ongoing staff re-organization that ½ of a position would be added. That a part-time Water Clerk would be hired.

In response to a query about Joe Powers doing as much as he does, reassurance about Powers' appetite and qualifications for such work was provided.

### VI. Town Administrator's Report

Hoort said that he would be having breakfast tomorrow morning with the TA's from Provincetown, Truro and Eastham to see how we can all work together better and possibly have an intermunicipal agreement between all four towns. Truro and Provincetown already have such an arrangement.

Bacon addressed the noise complaint at the Well restaurant and said that the owners of the Well were now aware that although they were given an entertainment license that ran until 1 AM, that they still had to abide by the Town's General Bylaw about noise. The owners offered the person who made the noise complaint a gift certificate and their apologies.

### VII. Topics for Future Discussion

Wilson would like to discuss better communication with KP Law, with regard for their joint representation of Truro and Wellfleet during the Herring River Restoration Project process.

Wilson would like to revisit the parking fee increase. Other Board members have also been hearing about this issue.

Reinhart mentioned the letter from the Chamber of Commerce encouraging the Town to put together a Parking Task Force and to revisit the parking fees increase.

Bacon stressed the importance of a Parking Task Force.

Houk suggested we look at the location where the news dealer for a possible Town Hall annex.

Hoort asked if the Selectboard members who hadn't sent him their goals could please do so as soon as possible.

Wilson would like to address the appointment of a new Wastewater Management Authority (WMA) to move the Section 208 Plan forward. The Selectboard is currently the WMA.

Reinhart would like to see the shellfish shack on a future agenda.

### VIII. Correspondence and Vacancy Report

IX. Minutes

I move to approve the minutes of 6.12.2018 as amended.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

#### X. Adjournment

I move to adjourn.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

The meeting was adjourned at 10:10 pm.

Respectfully submitted,

Radu D. Luca,

Executive Assistant to the Town Administrator

#### **Public Records Materials of 6/26/18**

- 1. Application for Food Truck business license Kung Fu Dumplings (June 1, 2018)
- 2. One Day Beer and Wine License Application Mass Audubon Wellfleet Bay (June 18, 2018)
- 3. Application to join a Town board Tom Flynn to Water Commission (May 21, 2018)
- 4. Application to join a Town board Michael Fisher to Conservation Commission (June 11, 2018)
- 5. Memo Police Chief Special Police Officers appointment / reappointment at NPS (June 1, 2018)
- 6. Application for the use of Town property AIM Thrift Shop (June 19, 2018)
- 7. Application for the use of Town property Chamber of Commerce (June 4, 2018)
- 8. Agreements Community Preservation (multiple)
- 9. Agreement Solar Site Control Agreement
- 10. Memo Town Administrator Parking lot at Banks and Commercial Streets (June 21, 2018)
- 11. Agreement Community Host for Nature's Alternative, Inc. (June 11, 2018)
- 12. Memo Herring River Restoration Project (May 22, 2018)
- 13. MOU Herring River Restoration Project
- 14. Report Town Administrator (June 23, 2018)
- 15. Memo Principal Clerk Correspondence and Vacancy (June 22, 2018)
- 16. Minutes -Draft (June 12, 2018)