



## Wellfleet Selectboard

### **Note: Start Time of 7pm**

The Wellfleet Selectboard will hold a public meeting on **Tuesday, August 8, 2023, at 7:00 p.m.** The Chapter 2 of the Acts of 2023, this meeting will be conducted in person and as a courtesy via remote means, per 940 MCR 29.10 and the Town's Remote Participation Policy. While an option for remote attendance and/or participation is provided as a courtesy to the public, the meeting/hearing may not be suspended or terminated if technological problems interrupt the virtual broadcast unless otherwise required by law.

### **Joining the Meeting:**

In-person at the Wellfleet ACC, 715 Old King's Highway, Wellfleet, MA, 02667

### **Join the meeting hosted in Zoom by using the following link:**

<https://us02web.zoom.us/j/85689604806?pwd=blplVFFBZzViQ0xNWkZKMm9iMVdrdz09>

By Phone: **phone to +1 929 205 6099** and enter **Meeting ID: 856 8960 4806** | **Passcode: 611877** Landline callers can participate by dialing \*9 to raise their hand.

### **To Participate during public comment:**

- Zoom: Raise hand to be called on to speak.
- Phone: dial \*9 to raise your hand.

It is at the Chair's discretion to call on members of the public. All speakers must be recognized to speak. If attending a meeting in person, please find the closest available microphone and confine any personal conversations to outside the meeting room. Anyone may record the session but must notify the Chair and may not interfere with the meeting to record it.

Additionally, the meeting will be broadcast live, in real time, via live broadcast on Comcast cable (Wellfleet Government TV Channel 18), also available via livestream or Video on Demand (VOD) recordings at [wellfleet-ma.gov](http://wellfleet-ma.gov)

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### **I. *Announcements and Public Comments***

**Note: Public comments are limited to no more than two minutes per speaker.**

The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.

### **II. *Consent Agenda***

A. Amendment to Community Preservation Committee Grant Agreement ~ Jennifer Elsensohn

### **III. *Public Hearings***

A. **CONTINUED** from 06/20/2023 - Verizon New England to place approximately eight-hundred feet (800') of new conduit adjacent to 1065 Chequessett Neck Rd. Wellfleet MA

- IV. ***Use of Town Property***
  - A. Wellfleet Skate Park ~ Jillian Minahan ~ Skate Jam; August 24, 2023; 6-9pm.
  - B. Uncle Tim's Bridge & Cannon Hill Park~ James Wright, Minivan Productions~ August 15, 2023, 6am-10am & 3pm-8pm.
- V. ***Business***
  - A. Approval of Agreements with Friends of Herring River to Support Herring River Restoration Project Implementation~ Carole Ridley
  - B. Approval of concept/layout of the proposed wastewater treatment facility system and leaching fields, 95 Lawrence Road Project ~ David Formato, Onsite Engineering
  - C. Town Meeting Warrant ~ Review and voting on remaining articles.
  - D. Draft Response from town counsel regarding Open Meeting Law Complaint filed, June 28, 2023, Judith Ahern.
- VI. ***Selectboard Reports***
- VII. ***Town Administrator's Report***
- VIII. ***Topics for Future Discussion***
- IX. ***Vacancy Reports***
- X. ***Minutes***
  - A. July 11, 2023
  - B. July 13, 2023
  - C. July 18, 2023
  - D. July 25, 2023
- XI. ***Adjournment***



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

I

### ANNOUNCEMENTS, OPEN SESSION, AND PUBLIC COMMENTS

<b>REQUESTED BY:</b>	Wellfleet Selectboard
<b>DESIRED ACTION:</b>	Announcements to the board and public
<b>PROPOSED MOTION:</b>  <b>SUMMARY:</b>	<b><u>NOTE:</u></b> <i>Public comments are limited to no more than two minutes per speaker.</i> The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____  Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



# SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023



## CONSENT AGENDA

<b>REQUESTED BY:</b>	<b>Various Parties</b>
<b>DESIRED ACTION:</b>	<b>To approve the following without objection</b>
<b>SUMMARY:</b>	<p><b>I move to approve the following items with no objection:</b></p> <ul style="list-style-type: none"><li><b>Amendment to Community Preservation Committee Grant Agreement ~</b> The amendment is from Habitat. They wanted (because it's an agency-wide standard, now) to change the percentages regarding affordable housing. Discussion at the ZBA meeting:</li></ul> <p>Habitat for Humanity attorney Warren Brodie outlined the history of the comprehensive permit and stated that Habitat would like to modify the condition that relates to AMI requirements for the proposed homes. State regulations require that changes to a comprehensive permit after issuance must be reviewed by the Board of Appeals to determine whether the change is substantial or insubstantial. Attorney Brodie's opinion was that the requested change was insubstantial. Board members agreed with Attorney Brodie.</p>

The amendment is from Habitat. They wanted (because it's an agency-wide standard, now) to change the percentages regarding affordable housing. Here is what was discussed at the ZBA meeting:

**19-04 Habitat for Humanity of Cape Cod**, Old Kings Highway, Map 16, Parcel 110: Request to modify the condition to build all homes for first time sale at or below 65%, TO first sale of two homes (one 2-bedroom ranch and one 3-bedroom ranch) at or below 60% AMI and two homes (one 2-bedroom ranch and one 3-bedroom ranch) at or below 80% AMI. All subsequent sales will be deed restricted (in perpetuity) to 80% AMI. Approval was received from the Housing Authority for this adjustment.

Habitat for Humanity attorney Warren Brodie outlined the history of the comprehensive permit and stated that Habitat would like to modify the condition that relates to AMI requirements for the proposed homes. State regulations require that changes to a comprehensive permit after issuance must be reviewed by the Board of Appeals to determine whether the change is substantial or insubstantial. Attorney Brodie's opinion was that the requested change was insubstantial. Board members agreed with Attorney Brodie.

TOWN OF WELLFLEET

AMENDMENT TO COMMUNITY PRESERVATION COMMITTEE GRANT AGREEMENT

***This Amendment to Grant Agreement*** (this “Amendment”) is entered into on this \_\_\_\_ day of August, 2023 by and between the Town of Wellfleet, a Massachusetts municipal corporation, having a usual place of business at 300 Main Street, Wellfleet, MA 02667 (the “Town”), acting by and through the Community Preservation Committee (the “CPC”), and Habitat for Humanity of Cape Cod, Inc. (the “Recipient”), with an address of 411 Route 6A, Yarmouthport, MA 02675.

Witnesseth

***Whereas***, the CPC invited the submission of proposals for grants of funds for purposes consistent with the Community Preservation Act, G.L. c. 43B; and

***Whereas***, the Recipient submitted an application for funding, dated November 14, 2014, for the purposes set forth more particularly in the Project Description section of the Project Funding Application (the “Project”), and the CPC reviewed and approved the Project and recommended that the funding for the Project be approved at Town Meeting; and

***Whereas***, the Town Meeting thereafter appropriated the sum of \$225,000 (the “Funds”) pursuant to Warrant Article No. 19 on April 27, 2015 and authorized the CPC and Town Administrator to enter into a grant agreement with the Recipient for the purposes set forth in the Project; and

***Whereas***, the Recipient and the Town entered into a Grant Agreement dated June 29, 2018 (the “Grant Agreement”), whereby the Recipient agreed that it would use the Funds to construct three (3) affordable housing residences (the “Residences”) on the property located at 2254, 2260 & 2270 Old King’s Highway, and convey the same to households earning no more than 65% of the area median income, at a price affordable to households earning no more than forty-five percent (45%) of the area median income adjusted for household size.

***Whereas***, the Recipient has requested that the Town amend the Grant Agreement to permit the Recipient to convey some residences to households earning at or below 80% of the area median income.

***Whereas***, the Project was permitted on July 28, 2019, for the construction of four (4) affordable homes, and

***Whereas***, the Town is amenable to amending the Grant Agreement to make these changes.

***Now, Therefore***, the Town and the Recipient amend the Grant Agreement as follows:

1. Section 2c, line 2. Delete the sentence:

“ The Grantee shall construct three (3) affordable housing residences on the Property and convey the same to households earning no more than sixty-five percent (65%) of the area median income for the Town, as determined by HUD (the Area Median Income’), at a price affordable to households earning no more

than forty-five percent (45%) of the Area Median Income, adjusted for household size.”

Replace the deleted sentence with:

“The Grantee shall construct four (4) affordable housing residences on the Property and convey the same to households earning no more than eighty percent (80%) of the area median income for the Town, as determined by HUD (the “Area Median Income”), at a price affordable to a household earning no more than seventy percent (70%) of the Area Median Income, adjusted for household size.”

2. Other than as amended hereby, the Grant Agreement remains unchanged and in full force and effect.

[end of document text - signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Grant Agreement on the day and year first written above.

TOWN OF WELLFLEET,  
By Its Selectboard

GRANTEE  
Habitat of Humanity of Cape Cod

\_\_\_\_\_  
Barbara Carboni, Chair

By: Wendy Cullinan  
Wendy Cullinan, its President

\_\_\_\_\_  
John A. Wolf, Vice-Chair

By: John Schoenherr  
John Schoenherr, its Treasurer

\_\_\_\_\_  
Ryan Curley, Member

\_\_\_\_\_  
Michael DeVasto, Member

\_\_\_\_\_  
Kathleen Bacon, Member





# SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023



## PUBLIC HEARINGS

~ A ~

<b>REQUESTED BY:</b>	<b>Pike Telecom ~ Marc Monestime, Sean Couepel, and Daryl Crossman; Wes Stinson</b>
<b>DESIRED ACTION:</b>	<b>Continued ~ (06/20/2023) To approve the placement of conduit at 1065 Chequesset Neck Road, Wellfleet</b>
<b>PROPOSED MOTION:</b>  <b>SUMMARY:</b>	<b>I move to approve the placement of approximately 800 feet of new conduit adjacent to 1065 Chequesset Neck Road, Wellfleet MA.</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By:  _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



Outside Plant Engineering  
44 Old Townhouse Road  
South Yarmouth, MA 02664

July 18, 2023

Town of Wellfleet  
Town Hall Office  
300 Main Street  
Wellfleet, MA 02667

Honorable Select Board,

Attached is a petition# MA2022-48, for Verizon New England Inc., to place approximately eight-hundred feet (800') of new cable in conduit adjacent to #1065 Chequessett Neck Rd, in Wellfleet, MA.

Would you kindly consider this petition and return the executed copies.

Sincerely,

A handwritten signature in black ink that reads "Daryl Crossman".

Verizon New England Inc.  
Attn: Daryl Crossman  
44 Old Townhouse RD  
South Yarmouth, MA 02664

Phone: 508-398-5754  
daryl.crossman@verizon.com

**PETITION FOR CONDUIT LOCATION**

July 18th, 2023

To the Town Select Board  
of **Wellfleet**, Massachusetts

VERIZON NEW ENGLAND INC. requests permission to lay and maintain underground conduits, with the wires and cables to be placed therein, under the surface of the following public way or ways:

**Chequessett Neck Rd:**

**Place approximately eight-hundred feet (800') of cable beginning at an existing pole 15/41 at 1065 Chequessett Neck Rd, which is situated on the easterly side of Chequessett Neck Road, thence extending in a northerly direction across Chequessett Neck Rd, to existing pole 15/44 at the corner of Chequessett Neck Rd and Duck Harbor Rd.**

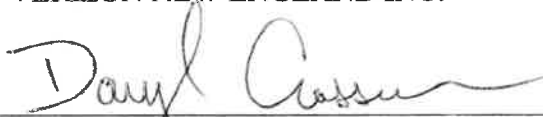
**This petition is necessary in order to place new cable and provide service to this area.**

Also for permission to lay and maintain underground conduits, manholes, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as it may desire for distributing purposes.

Plan marked-VZ N.E. Inc. No. **MA2022-48** dated **July 18th, 2023** showing location of conduit to be constructed is filed herewith.

VERIZON NEW ENGLAND INC.

By



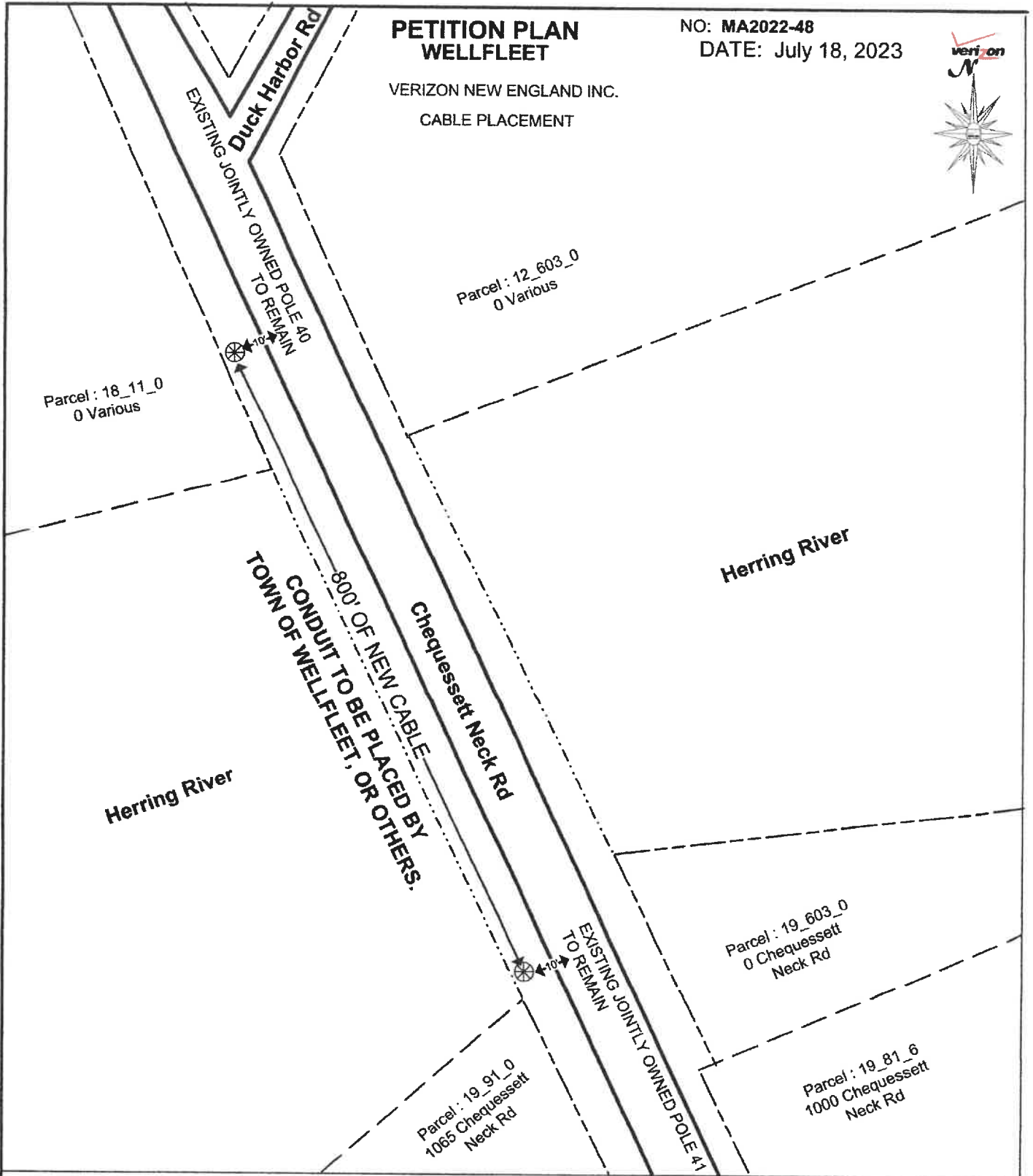
Manager Right of Way

Dated this 18 day of July, 2023.


# PETITION PLAN WELLFLEET




VERIZON NEW ENGLAND INC.  
CABLE PLACEMENT

NO: MA2022-48  
DATE: July 18, 2023



## LEGEND

 EXISTING JOINTLY OWNED POLE TO REMAIN

-  EDGE OF BRIDGE
-  EDGE OF PAVEMENT
-  EDGE OF PROPERTY

ABUTTERS LIST

PARCEL ID: 19\_91\_0  
1065 CHEQUESSETT NECK RD

EURICH DONALD A & LAZARUS JILL  
7 WALNUT ST  
NEWTONVILLE, MA 02460

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PARCEL ID: 19\_81\_6  
1000 CHEQUESSETT NECK RD

WELLFLEET CONSERVATION TRUST  
BOX 84  
WELLFLEET, MA 02667

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PARCEL ID: 19\_603\_0  
0 CHEQUESSETT NECK RD

CAPE COD NATIONAL SEASHORE  
99 MARCONI SITE RD  
WELLFLEET, MA 02667

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PARCEL ID: 12\_603\_0  
0 VARIOUS

CCNS  
0 VARIOUS  
WELLFLEET, MA 00000

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PARCEL ID: 18\_11\_0  
0 VARIOUS

CCNS  
0 VARIOUS  
WELLFLEET, MA 00000

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**ORDER FOR CONDUIT LOCATION**

By the Town Council of the Town of Wellfleet, Massachusetts.

Notice having been given and a public hearing held, as provided by law,  
It is HEREBY ORDERED:

That permission be and hereby is granted VERIZON NEW ENGLAND INC. to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of the following public way or ways as requested in petition of said Company dated the 18<sup>th</sup> day of July 2023.

**Chequessett Neck Rd:**

**Place approximately eight-hundred feet (800') of cable beginning at an existing pole 15/41 at 1065 Chequessett Neck Rd, which is situated on the easterly side of Chequessett Neck Road, thence extending in a northerly direction across Chequessett Neck Rd, to existing pole 15/44 at the corner of Chequessett Neck Rd and Duck Harbor Rd.**

**This petition is necessary in order place new cable and provide service to this area**

Substantially as shown on plan marked- VZ N.E. Inc. No. 4A0X2HX dated July 18th, 2023 - filed with said petition. Also, that permission be and hereby is granted said VERIZON NEW ENGLAND INC. to lay and maintain underground conduits, manholes, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as it may desire for distributing purposes.

The foregoing permission is subject to the following conditions:

1. The conduits and manholes shall be of such material and construction and all work done in such manner as to be satisfactory to such municipal officers as it may appoint to the supervision of the work, and a plan showing the location of conduits constructed shall be filed with the Town when the work is completed.
2. In every underground main line conduit constructed by said Company hereunder one duct not less than three inches in diameter shall be reserved and maintained for the limited purpose of attaching one-way low voltage fire and police signaling wires owned by the municipality or governmental entity for public safety purposes only.
3. Said Company shall indemnify and save the Town harmless against all damages, costs and expense whatsoever to which the Town may be subjected in consequence of the acts or neglect of said Company, its agents or servants, or in any manner arising from the rights and privileges granted it by the Town.
4. In addition said Company shall, before a public way is disturbed for the laying of its wire or conduits, execute its bond in a penal sum of Ten Thousand Dollars (\$10,000) (reference being had to the bond already on file with said Town) conditioned for the faithful performance of it duties under this permit.
5. Said Company shall comply with the requirements of existing by-laws and such as may hereafter be adopted governing the construction and maintenance of conduits and wires, so far as the same are not inconsistent with the laws of the Commonwealth.

I hereby certify that the foregoing order was adopted at a meeting of the Town Council of the Town of WELLFLEET, Massachusetts, held on the \_\_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Select Board Clerk

## ORDER FOR CONDUIT LOCATION

We hereby certify that on \_\_\_\_\_ 2023, at \_\_\_\_\_ o'clock \_\_\_\_ M. at \_\_\_\_\_ a public hearing was held on the petition of the VERIZON NEW ENGLAND INC. for permission to lay and maintain underground conduits, manholes and connection, with the wires and cables to be placed therein, described in the order herewith recorded, and that we mail at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to construct the lines of said Company under said order. And that thereupon said order was duly adopted.

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Town Council of the Town of WELLFLEET, Massachusetts

### CERTIFICATE

I hereby certify that the foregoing is a true copy of location order, and certificate of hearing with notice adopted by the Town Council of the Town of WELLFLEET, Massachusetts, on the \_\_\_\_\_ day of \_\_\_\_\_ 2023, and recorded with the records of location orders of said Town, Book \_\_\_\_\_ Page \_\_\_\_\_. This certified copy is made under the provisions of Chapter 166 General Laws and any additions thereto or amendments thereof.

Attest:

\_\_\_\_\_  
Town Clerk

PLEASE RETURN TO: Verizon New England Inc.,  
Attn: Daryl Crossman – ENG – ROW  
44 Old Townhouse Rd, South Yarmouth, MA 02664

## ORDER FOR CONDUIT LOCATION

By the Town Council of the Town of Wellfleet, Massachusetts.

Notice having been given and a public hearing held, as provided by law,  
It is HEREBY ORDERED:

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### **This petition is necessary in order place new cable and provide service to this area**

Substantially as shown on plan marked- VZ N.E. Inc. No. 4A0X2HX dated July 18th, 2023 - filed with said petition. Also, that permission be and hereby is granted said VERIZON NEW ENGLAND INC. to lay and maintain underground conduits, manholes, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as it may desire for distributing purposes.

The foregoing permission is subject to the following conditions:

1. The conduits and manholes shall be of such material and construction and all work done in such manner as to be satisfactory to such municipal officers as it may appoint to the supervision of the work, and a plan showing the location of conduits constructed shall be filed with the Town when the work is completed.
2. In every underground main line conduit constructed by said Company hereunder one duct not less than three inches in diameter shall be reserved and maintained for the limited purpose of attaching one-way low voltage fire and police signaling wires owned by the municipality or governmental entity for public safety purposes only.
3. Said Company shall indemnify and save the Town harmless against all damages, costs and expense whatsoever to which the Town may be subjected in consequence of the acts or neglect of said Company, its agents or servants, or in any manner arising from the rights and privileges granted it by the Town.
4. In addition said Company shall, before a public way is disturbed for the laying of its wire or conduits, execute its bond in a penal sum of Ten Thousand Dollars (\$10,000) (reference being had to the bond already on file with said Town) conditioned for the faithful performance of it duties under this permit.
5. Said Company shall comply with the requirements of existing by-laws and such as may hereafter be adopted governing the construction and maintenance of conduits and wires, so far as the same are not inconsistent with the laws of the Commonwealth.

I hereby certify that the foregoing order was adopted at a meeting of the Town Council of the Town of WELLFLEET, Massachusetts, held on the \_\_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Select Board Clerk



**ORDER FOR CONDUIT LOCATION**

We hereby certify that on \_\_\_\_\_ 2023, at \_\_\_\_\_ o'clock \_\_\_\_\_ M. at \_\_\_\_\_ a public hearing was held on the petition of the VERIZON NEW ENGLAND INC. for permission to lay and maintain underground conduits, manholes and connection, with the wires and cables to be placed therein, described in the order herewith recorded, and that we mail at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to construct the lines of said Company under said order. And that thereupon said order was duly adopted.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Town Council of the Town of WELLFLEET, Massachusetts

**CERTIFICATE**

I hereby certify that the foregoing is a true copy of location order, and certificate of hearing with notice adopted by the Town Council of the Town of WELLFLEET, Massachusetts, on the \_\_\_\_\_ day of \_\_\_\_\_ 2023, and recorded with the records of location orders of said Town, Book \_\_\_\_\_ Page \_\_\_\_\_. This certified copy is made under the provisions of Chapter 166 General Laws and any additions thereto or amendments thereof.

Attest:

\_\_\_\_\_  
Town Clerk



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

IV

### USE OF TOWN PROPERTY

~ A ~

<b>REQUESTED BY:</b>	Jilliam Minahan
<b>DESIRED ACTION:</b>	To approve the use of the skate park at Baker's Field for a "Skate Jam"
<b>PROPOSED MOTION:</b>	I move to approve Jilliam Minahan the use of the skate park at Baker's Field on Thursday, August 24, 2023, for a community skate jam and to waive the fees.
<b>SUMMARY:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

**TOWN OF WELFLEET  
APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY**

Applicant Jillian Minahan Affiliation or Group Minahan Management  
Telephone Number (508) 736- 1442 Mailing Address 5 Deep Pond Circle, Orleans, MA 02653  
Email address minahanmgmt@gmail.com  
Town Property to be used (include specific area) Wellfleet Skate Park (70 Kendrick Ave, Wellfleet, MA 02667)

August 24, 2023

Date(s) and hours of use: \_\_\_\_\_ 1)  
Approximately 6-9pm

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.

Skate Jam connecting the music community with the skate community. Four artist will preform (Karson.. felt lining, Carl!, Kid Renaissance) a 30-45 minute set. The equipment brought and used will include a PA System, Mixer, Microphones (we will only need an outlet for the PAs/Mixer). We estimate an audience of 30-40 people total stretched over the three hours. There will be no food/beverage provided.

Rippedit Vintage from Orleans would sell a rack of her Y2K/90s clothing.  
Describe any Town services requested (police details, DPW assistance, etc.)

No other services needed, other than an outlet.

NOTE TO APPLICANTS: All applications must be accompanied by a non refundable \$20.00 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: \_\_\_\_\_  
Fee: \_\_\_\_\_

**APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS**

<b>Health/Cons. Agent Signature:</b> N/A Comments/Conditions:  Permits/Inspections needed:	<b>Inspector of Buildings Signature:</b> N/A Comments/Conditions:  Permits/Inspections needed:
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<b>Police Dept. Signature:</b> OK - Kevin LaRocca Comments/Conditions:	<b>Fire Dept. Signature:</b>  Comments/Conditions:
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<b>DPW Signature:</b> N/A Comments/Conditions:	<b>Beach Dept. Signature:</b>  Comments/Conditions:
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<b>Shellfish Constable Signature:</b> N/A Comments/Conditions:	<b>Harbormaster Signature:</b> N/A Comments/Conditions:
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<b>Recreation Dept. Signature:</b> OK - Becky Rosenberg Comments/Conditions:	<b>Town Administrator:</b>  Comments/Conditions:
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## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

IV

### USE OF TOWN PROPERTY

~ B ~

<b>REQUESTED BY:</b>	<b>James Wright, Minivan Productions</b>
<b>DESIRED ACTION:</b>	<b>To approve the use of Uncle Tim's Bridge and Cannon Hill Park for the filming of a documentary on Tuesday August 15, 2023, from 6am-10am &amp; 3pm-8pm.</b>
<b>PROPOSED MOTION:</b>	<b>I move to approve James Wright of Minivan Productions the use of Uncle Tim's Bridge and Cannon Hill Park for the filming of a documentary on Tuesday August 15, 2023, 6am-10am &amp; 3pm-8pm, for a fee of \$</b>
<b>SUMMARY:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition (s):
<b>VOTED:</b>	

APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

TOWN OF WELLFLEET
300 MAIN STREET
WELLFLEET, MA 02667

Applicant James Wright Affiliation or Group Minivan Productions

Telephone Number (858) 754-7370 Mailing Address 4360 Felton St. Unit 2

Email address james@minivanproductions.com San Diego, CA 92104

Town Property to be used (include specific area) Tim's Bridge and Cannon Hill Park

Date(s) and hours of use: Tuesday, August 15th, 2023, from 6am-10am & 3pm-8pm (Off site from 10am-3pm)

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.

We are filming a 4-part documentary series with the goal of de-stigmatizing mental health treatment. We've been travelling around the country this summer to interview several mental health experts and capture unique stories of individual testimonials who have worked through treatment. We will be filming in a couple of places in Massachusetts (Walden Pond and Highland Lighthouse) and would love to add Wellfleet to that list as a transitional scene where the Host, Alex Rodriguez, will have a chance to ground people in the content before moving forward to the next testimony. The footage that we capture in Wellfleet will be used for about 10 minutes of the total 2-hour series.

During filming, we will have 7 crew members and 1 host speaking direct-to-camera. We are a nimble crew and won't require a lot of equipment. We will use 2 cameras, 2 tripods, gimbal, bounce boards & reflectors. We will have 2 cars total for the crew and host and will use public parking that is available nearby. We do not require any street closures, additional services, or special effects for this project.

Describe any Town services requested (police details, DPW assistance, etc.)

N/A

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 ensure 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

Fee:

**APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS**

<b>Health/Conservation Agent:</b>  Comments/Conditions:  Permits/Inspections needed:	<b>Inspector of Buildings:</b>  Comments/Conditions:  Permits/Inspections needed:
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<b>Police Department:</b> <i>OK - per Kevin Falocco</i> Comments/Conditions: <i>no people on road or police detect 15 needed</i>	<b>Fire Department:</b>  Comments/Conditions:
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<b>DPW:</b>  Comments/Conditions	<b>Community Services Director:</b>  Comments/Conditions:
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<b>Harbormaster:</b>  Comments/Conditions	<b>Shellfish:</b>  Comments/Conditions
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<b>Recreation:</b>  Comments/Conditions	<b>Town Administrator:</b>  Comments/Conditions
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## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

V

### BUSINESS

~ A ~

<b>REQUESTED BY:</b>	<b>Carole Ridley ~ Herring River Restoration Project</b>
<b>DESIRED ACTION:</b>	<b>Approval of Agreement with Friends of Herring River to Support Herring River Restoration Project Implementation</b>
<b>PROPOSED MOTION:</b>  <b>SUMMARY:</b>	<b>I move to Authorize the Town of Wellfleet Selectboard to approve and execute an agreement with Friends of Herring River to allow use of up to \$375,000 in Technical Assistance funds granted to the Town by US Department of Agriculture Natural Resource Conservation Service (NRCS) for the purpose of completing construction plans and bid documents for the Chequessett Neck Bridge, low-lying road elevation and culvert replacements, and work to protect structures on three private properties</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____  Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



## Memorandum

**To:** Wellfleet Selectboard

**From:** Christa Drew, Executive Director, Friends of Herring River  
Carole Ridley, Project Coordinator

**Date:** August 3, 2023

**Re:** Herring River Restoration Project: Sub-award of NRCS Technical Assistance Funds and  
Sub-award of NOAA Funds

For more than a decade, non-profit Friends of Herring River (Friends) has administered grant funding and contracts for engineering design, technical studies, permitting and other technical services needed to advance the Herring River Restoration Project (HRRP). As the project moves into the construction stage, Friends is preparing to complete final design contracts that have been extended, and to provide other critical permit compliance and implementation support needed for the project to succeed. This portion of the Friends work involves managing contracts with design engineering firms WSP and Fuss & O'Neill, both qualified, high-quality and long-standing contractors contributing to the HRRP.

Accordingly, the Selectboard is asked to approve one sub-award agreement with Friends of Herring River for critical non-construction tasks in support of the Herring River Restoration Project. The proposed agreement has been reviewed by Town Counsel and Town Administrator. The relevant subcontractors, Fuss & O'Neill and WSP, have agreed to requested language and insurance provisions.

### **Sub-award #1: NRCS Technical Assistance Funds for Final Design**

As discussed with the Selectboard on May 16, up to \$375,000 in Technical Assistance funds granted to the Town by the US Department of Agriculture Natural Resource Conservation Service (USDA NRCS) is needed to complete final design for the Chequessett Neck Bridge and final design and bid documents for the low-lying road elevations/culvert replacements project elements. These funds will be used to pay invoices which outline work satisfactorily completed by Fuss & O'Neill, Inc and WSP USA. The USDA NRCS approved the use of a portion of the \$3,200,000 in Technical Assistance funds granted to the Town of Wellfleet for final design services to finalize construction plans and bid documents.

### **Suggested Motion**

Authorize the Town of Wellfleet Selectboard to approve and execute an agreement with Friends of Herring River to allow use of up to \$375,000 in Technical Assistance funds granted to the Town by US Department of Agriculture Natural Resource Conservation Service (NRCS) for the purpose of completing construction plans and bid documents for the Chequessett Neck Bridge, low-lying road elevation and culvert replacements, and work to protect structures on three private properties.

**GRANT AGREEMENT  
BETWEEN TOWN OF WELFLEET AND FRIENDS OF HERRING RIVER  
(NRCS FUNDING)**

THIS GRANT AGREEMENT (this “Agreement”) is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **Town of Wellfleet** (the “Town”), a municipal corporation duly organized under the laws of The Commonwealth of Massachusetts, and acting by and through its Selectboard, having a usual place of business at 300 Main Street, Wellfleet, MA 02667 and **Friends of Herring River, Wellfleet/Truro, Inc.** (the “Grantee” or “FHR”), a Massachusetts nonprofit organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, having a usual place of business at 1580 Route 6, South Wellfleet, MA 02663, collectively the “Parties.”

WHEREAS, the Town, in collaboration with the Cape Cod National Seashore, is undertaking restoration of approximately 890 acres of salt marsh in the Herring River Watershed which shall include removal of multiple tidal restrictions and replacement with water control structures, including construction of a bridge with sluice gates, elevation of low-lying road segments and replacement of associated culverts, various mitigation measures on low-lying private properties to prevent flood impacts to structures, and vegetation and marsh management on the floodplain (the “Project”), and FHR has worked to facilitate the Town and the Cape Cod National Seashore’s work on the Project;

WHEREAS, a financial and technical assistance grant of up to \$27,200,000 from the Natural Resources Conservation Service, United States Department of Agriculture (No. NRCS-ADS-093) have been awarded to the Town as recipient agency to pay eligible Project costs, and a copy of such grant is attached hereto as Exhibit A and incorporated herein (the “NRCS Grant”);

WHEREAS, the NRCS Grant includes technical assistance funding in the amount of \$3,200,000 for non-construction eligible Project costs, which assistance includes \$2,600,000 for the Chequessett Neck Bridge and \$200,000 for low-lying road elevation, culvert replacements and one water control structure (the “Eligible Project Elements”), and the NRCS Grant may be used for final design and engineering services for the Eligible Project Elements;

WHEREAS, in order to assist the Town and to help advance the Project, FHR has entered into contracts with consultants Fuss & O’Neill, Inc. to develop design plans for the Chequessett Neck Bridge and with WSP USA Solutions, Inc. (formerly Louis Berger U.S., Inc.) (together, Fuss & O’Neill and WSP USA Solutions are referred to as “the Consultants”) to develop design plans for low-lying road elevation, culvert replacements and one water control structure;

WHEREAS, in the past, engineering design services under contracts between FHR and the Consultants (the “Prior Contracts”) have been funded by grants from Massachusetts Division of Ecological Restoration (MA DER) and US Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), which funding has supported development of plans needed to secure permits and funding for the Herring River Restoration Project, Phase 1;

WHEREAS, additional funding is needed to complete final design plans and bid documents for construction of the Eligible Project Elements; and

WHEREAS, the Town desires to sub-grant to Grantee a portion of the available technical assistance funds from the NRCS Grant to fund the Consultants' completion of final design plans and bid documents for the Eligible Project Elements in accordance with terms of this Agreement (as described herein and in Section 3(a) and Exhibits B and C below, the "Work"), and Grantee desires to facilitate the Project and receive the Grant Amount (defined below) to fund the Consultants' completion of the Work in accordance with the terms of this Agreement.

NOW THEREFORE, the Town and Grantee wish to set forth in this Grant Agreement the terms and conditions of the Grant, and hereby agree as follows:

### **Agreement**

1. Recitals. The recitals above are true and accurate and are incorporated herein by reference.
2. Funding. The Town shall sub-grant a portion of the NRCS Grant to Grantee in an amount not to exceed three hundred and seventy-five thousand dollars (\$375,000.00) (the "Funds" or the "Grant Amount") on the condition that Grantee shall use the Funds only for eligible expenses associated with the purposes of undertaking the work in accordance with the terms of this Agreement.
3. Conditions. The award and release of the Grant Funds to Grantee is conditioned upon the following:
  - a) The Work shall be comprised of, and completed by the Consultants in accordance with, the detailed scopes of work incorporated in this agreement as Exhibit B (for Fuss & O'Neill, Inc.) and Exhibit C (for WSP USA).
  - b) Any remaining Funds shall be returned to the Town if the Work has not been completed as provided for in Section 3(a). The Town may grant extensions of the completion deadline for good cause in writing.
  - c) Grantee agrees that, prior to the receipt of any Funds, Grantee shall provide the Town an opportunity to review and approve the plans, products and contract documents relevant to the Work (the "Contract Documents"), such approval not to be unreasonably withheld or delayed.
  - d) Town Contact. Grantee shall seek the approval of, and work closely with, the Town Administrator or their designee, in the implementation of the Work.
  - e) Grantee Contact. Grantee's authorized representative is Christa Drew, Executive Director, who can be reached at 508-214-0656 and [christa@herringriver.org](mailto:christa@herringriver.org).
4. Budget/Other Sources of Funding. Grantee must submit the scopes of work and budgets for the Work that account for: (a) the expenditure of all Funds awarded under this

Agreement, and (b) all other sources of funding, if necessary, to complete the Work as described herein. If the Town determines that funds have been spent in a manner inconsistent with the budgets and scopes of work, reimbursement may not be authorized or, if the Grant Amount has already been granted, Grantee shall repay such Grant Amount to the Town. The Parties acknowledge that if sources of funding other than the Grant Amount have contributed to payment for the Work, this Agreement shall not apply to those other sources of funding.

5. The Work. The Work shall be performed in a good and workmanlike manner, by contractors who are licensed in their respective disciplines and shall conform to all applicable laws, bylaws, rules and regulations. The Grantee shall ensure that the Consultants be responsible for obtaining from federal, state and local agencies all relevant permits, licenses, and approvals prior to commencing the Work, and comply with the terms of the Contract Documents. No local permit or license or fee is waived by the award of the Funds. The Town shall have the right to review plans and specifications showing the Work to be done for compliance with the Exhibit B and Exhibit C.

6. Payment. The Town shall reimburse Grantee an amount not to exceed 100% of the Grant Amount (or three hundred and seventy-five thousand dollars (\$375,000.00)) for the cost of performing the Work, which disbursements shall be apportioned based on the Work done and made no more than once a month and paid only upon the presentment of invoices from Grantee listing in detail the Work performed by the Consultants and the cost thereof. The Town shall have the right to ask for supplementary information. Prior to any payment, the Town shall have the right to inspect the Work and/or ensure that Grantee is in compliance with this Agreement. No payment shall be made until the Town reasonably determines that the Work has been done in a good and workmanlike manner and substantially in compliance with legal and regulatory requirements applicable to the Work. Grantee shall use all such sums only for the purpose of performing the Work, as described herein. The entire cost of performing the Work in excess of the Grant Amount shall be paid by Grantee. Notwithstanding anything herein to the contrary, if the actual total cost of performing the Work is less than the Grant Amount (the difference between the two amounts referred to hereinafter as the "Excess"), the Town shall have no obligation to pay the Excess.

7. Progress Reports. Grantee shall provide the Town with progress reports (in a form to be agreed upon by the Parties) at three (3)-month intervals beginning sixty (60) days from the date of the signing of this Agreement for as long as the Funds remain unexpended, and with final notification within thirty (30) days after the Work has been completed. The Town reserves the right to require supplementary information from Grantee. Grantee shall submit a final report to the Town, including digital photographs and other documents, if applicable, within thirty (30) days from the Work completion date.

8. Record-Keeping. Grantee agrees to keep, for a period of six (6) years after the Work is completed, such records with respect to the utilization of the Funds as are kept in the normal course of business and such additional records as may be required by the Town. The Town shall have full and free access to such records and may examine and copy such records during normal business hours, with at least two days' notice to Grantee.

9. Termination. In the event Grantee fails to fulfill any of its obligations under this Agreement, as reasonably determined by the Town, and such failure is attributable to the Grantee and not the Consultants, and such failure is not cured within thirty (30) days after the Town has given written notice to Grantee specifying such failure, the Town shall have the right, in its sole discretion, to terminate this Agreement upon written notice to Grantee. Upon receipt of said termination notice, Grantee shall cease to incur additional expenses in connection with this Agreement. Upon termination, the Town shall be free to pursue any rights or remedies provided within this Agreement, including without limitation, recapture of Funds as set forth in Section 10 below. Upon the expiration or earlier termination of this Agreement, all rights and obligations of the parties hereunder shall expire and be of no further force and effect, except that the provisions of Sections 8, 9, 10, 11, 12 and 18 shall survive said expiration or earlier termination. If either party takes legal action under this Agreement, each shall be responsible for its own costs.

10. Return of Funds. In the event Grantee fails to fulfill any of its obligations under this Agreement and the Agreement is terminated pursuant to Section 9, any funds paid to Grantee under this Agreement and not yet expended shall be returned forthwith to the Town without further expenditure thereof. If Grantee fails to fulfill its obligations under the terms of this Agreement as a result of negligent or intentional acts or omissions of Grantee, Grantee shall be liable to repay to the Town the amount of the Grant Amount provided under this Agreement related to such negligent or intentional acts, and the Town may take such steps as are necessary, including legal action, to recover such funds.

11. Liability of the Town. The Town's sole obligation hereunder shall be to make the payment specified in Section 6 of this Agreement, provided that Grantee complies with the terms hereof, including the conditions set forth in Section 3, and the Town shall be under no further obligation or liability. Nothing in this Agreement shall be construed to render the Town liable for any other obligation under this Agreement or to render any elected or appointed official or employee of the Town, or their successors in office, personally liable for any obligation under this Agreement.

12. Indemnification. Grantee shall indemnify, defend, and hold the Town and its departments, officers, employees, representatives and agents harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including reasonable attorneys' fees, arising as a result of Grantee's actions or omissions concerning the administration of this Grant Agreement. For clarity, Grantee's indemnification shall not apply to actions or omissions by the Consultants. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

13. Independent Status. Grantee acknowledges and agrees that it is acting in a capacity independent of the Town, and shall not be considered an instrumentality, employee, or agent of the Town for any purpose.

14. Successors and Assigns. This Agreement is binding upon the parties hereto and their successors and permitted assigns. Grantee shall not assign, subcontract or otherwise transfer this Agreement or its rights hereunder, in whole or in part, without the prior written consent of the Town, which may be withheld in its sole and absolute discretion.

15. Compliance with Laws. Grantee shall comply, with all federal, state and local laws, rules, regulations and orders applicable to the Work performed pursuant to this Agreement. Grantee's contractors (including the Consultants) shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of Grantee to comply with the previous sentence.

16. Notice. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

17. Severability. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

18. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of The Commonwealth of Massachusetts and Grantee submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

Exhibits:

Exhibit A: NRCS Grant

Exhibit B: Fuss & O'Neill scope and budget

Exhibit C: WSP scope and budget

IN WITNESS THEREOF, the Parties hereto have executed this Grant Agreement effective on the day written above:

GRANTEE:

FRIENDS OF HERRING RIVER, WELLFLEET/TRURO, INC.

\_\_\_\_\_  
Name:

Title:

TOWN:

TOWN OF WELLFLEET,

By its Selectboard

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



U.S. Department of Agriculture  
Natural Resources Conservation Service


### NOTICE OF GRANT AND AGREEMENT AWARD

1. Award Identifying Number NR221320XXXXC004	2. Amendment Number 0001	3. Award /Project Period 08/19/2022 - 12/31/2024	4. Type of award instrument: Cooperative Agreement
5. Agency (Name and Address)  Natural Resources Conservation Service 451 West Street Amhers, MA 01002-2953		6. Recipient Organization (Name and Address)  TOWN OF WELLFLEET TOWN HALL FRESENIUS MEDICAL CARE 300 MAIN ST WELLFLEET MA 02667  UEI Number/ DUNS Number: LN46CBCFEJY7 / 076598101 EIN:	
7. NRCS Program Contact  Name: Deron Davis Phone: (413) 253-4352 Email: deron.davis@ma.usda.gov	8. NRCS Administrative Contact  Name: Dorothea Martinez Phone: (803) 253-3899 Email: dorothea.martinez@usda.gov	9. Recipient Program Contact  Name: Jay Norton Phone: (508) 349-0315 Email: jay.norton@wellfleet-ma.gov	10. Recipient Administrative Contact  Name: Richard Waldo Phone: (508) 349-0300 Email: richard.waldo@wellfleet-ma.gov
11. CFDA 10.904	12. Authority 16 U.S.C. 1001-1009	13. Type of Action Amendment/Revision	14. Program Director  Name: Richard Waldo Phone: (508) 349-0300 Email: richard.waldo@wellfleet-ma.gov
15. Project Title/ Description: For the Design and Installation of measures to provide assistance to the Town of Wellfleet to restore tidal hydrology, habitat for aquatic organisms, and salt marsh vegetation for			
16. Entity Type: C = City or township Government			
17. Select Funding Type			
Select funding type:	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> Non-Federal	
Original funds total	27200000.00	\$8,000,000.00	
Additional funds total	\$0.00	\$0	
Grand total	27,200,000.000	\$8,000,000.00	
18. Approved Budget			



Personnel	\$0.00	Fringe Benefits	\$0.00
Travel	\$0.00	Equipment	\$0.00
Supplies	\$0.00	Contractual	\$0.00
Construction	24,000,000.000	Other	\$3,200,000.00
Total Direct Cost	27,200,000.000	Total Indirect Cost	\$0.00
		Total Non-Federal Funds	\$8,000,000.00
		Total Federal Funds Awarded	27,200,000.000
		Total Approved Budget	35,200,000.000

This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any, found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.

Name and Title of Authorized Government Representative <b>DANIEL WRIGHT</b> State Conservationist	Signature	Date
Name and Title of Authorized Recipient Representative <b>RICHARD WALDO</b> Town Administrator	Signature 	Date 5/23/2023

#### NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

#### PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a).

### Statement of Work

Please note that any narrative below should be considered in addition to the original Statement of Work, as well as any prior amendments.

#### Purpose

The purpose of this amendment is to clarify language in the budget narrative that design costs were part of the original budget of the agreement.

Except as provided herein, all other terms and conditions of the original agreement and any previous amendments remain unchanged and in full force and effect.

#### Objectives

There are no changes to this section from the original statement of work.

#### Budget Narrative

The agreement will be modified as follows to include reference to design costs that are eligible for reimbursement.

Paragraph 4 under the Budget and Narrative Section of the agreement shall be revised as follows:

Technical Assistance (TA) Funds provided by NRCS:

\$3,200,000 in Project Administration, Design, Project Management, and Construction Oversight Costs

The following paragraph under the Budget and Narrative Section of the agreement shall be revised as follows:

4. NRCS will provide TA up to the amount of \$3,200,000, not exceeding actual costs, as reimbursement to the Sponsor for eligible administrative, design, project management, and construction oversight costs directly charged to the project. These project administrative costs include but are not limited to soliciting, evaluating, awarding, and administering contracts for construction. Project Management and Construction Oversight includes construction inspection, verification of invoices and installed quantities, recordkeeping, termination, and closeout documentation.

#### Responsibility of the Parties

There are no changes to this section from the original statement of work.

#### Expected Accomplishments and Deliverables

There are no changes to this section from the original statement of work.

#### Resources Required

There are no changes to this section from the original statement of work.

#### Milestone

There are no changes to this section from the original statement of work.

## **GENERAL TERMS AND CONDITIONS**

Please reference the below link(s) for the General Terms and Conditions pertaining to this award:  
<https://MNW.fpacbc.usda.gov/about/grants-and-agreements/award-terms-and-conditions/index.html>



FUSS & O'NEILL

May 5, 2023

Ms. Christa Drew  
Friends of Herring River  
P.O. Box 565  
South Wellfleet, MA 02663

VIA EMAIL: [christa@herringriver.org](mailto:christa@herringriver.org)

RE: Contract Amendment for Professional Engineering Services  
Final Design, Permitting and Bidding Support  
Chequessett Neck Road Bridge and Water Access Improvements  
Fuss & O'Neill Reference No. 20120636.A22

Dear Ms. Drew:

This contract amendment is being provided to continue assisting Friends of Herring River (FHR), the Herring River Technical Team (HRTT), and the Town of Wellfleet (the Town) in providing continuing permitting/compliance assistance and continuing bridge design and MassDOT/utility owner coordination assistance for the Chequessett Neck Road (CNR) bridge and water access facility improvements. Web conferences and meetings will continue to be conducted with FHR/HRTT and/or the Town to review and discuss ongoing coordination and deliverables under Task 5 – Remote Conferences and In-Person Meetings.

## Scope of Services

### Task 1 – Final CNR Design and Bid Documents

**Subtask 1.6.1 – Continued MassDOT Coordination:** Continue coordination with MassDOT to address/resolve MassDOT review comments on the 100% permanent bridge submittal, the temporary bridge substructure submittal and the Contractor's temporary bridge superstructure submittal, including the processing of associated contractor submittals, requisitions and requests for information. Coordinate/Address review comments by NRCS's review of the temporary bridge substructure drawings and calculations submittal to MassDOT. Upon resolution of comments, final documents will be prepared for distribution to MassDOT, NRCS, the Town/Contractor and FHR/HRTT.

**Subtask 1.6.2 – Continued Utility Owner Coordination:** Continue coordination with utility owners (Eversource, Verizon) to confirm/document utility pole layouts per Verizon's transmitted schematic and determine/coordinate activities for Wellfleet Select Board rights hearing for resetting of utility poles and utilities within the Chequessett Neck Road right-of-way.

**Subtask 1.7 – Temporary Bridge Substructure Design:** Continue design analyses and coordination with MIG to prepare drawings, specifications and calculations for construction of the

317 Iron Horse Way  
Suite 204  
Providence, RI  
02908  
t 401.861.3070  
800.286.2469  
f 860.533.5143

[www.fando.com](http://www.fando.com)

California  
Connecticut  
Maine  
Massachusetts  
New Hampshire  
New York  
Rhode Island  
Vermont

Ms. Christa Drew  
May 5, 2023  
Page 2

proposed temporary bypass bridge's substructure components. Prepare a brief narrative documenting design analyses with formatted calculations as attachments as a supplemental submittal to the Massachusetts Department of Transportation (MassDOT).

#### **Task 1 Deliverables**

- Documents/drawings developed through coordination with MassDOT and utility owners will be provided as Adobe PDF files

#### **Task 2.2 – On-Call Permitting Assistance**

Provide ongoing assistance through document/drawing revisions, and/or narrative descriptions/revisions for respective permitting submittals in support of the CNR bridge and associated improvements.

#### **Task 2.2 Deliverables**

- Documents/drawings will be provided as Adobe PDF files

#### **Task 2.3 – Remote Conferences and In-Person Meetings**

Provide ongoing assistance through attendance at conferences and in-person meetings as requested by the FHR. Site review meetings will be conducted to observe conditions at the site with the Town's agent. Documents relevant to ongoing construction will be developed and distributed to the Town/Contractor and FHR/HRTT.

#### **Task 2.3 Deliverables**

- Documents/drawings will be provided as Adobe PDF files

## **Schedule**

We are prepared to initiate the scope of services upon receiving a written authorization to proceed. It is estimated that work under this amendment will be completed in June 2023, assuming no extensive delays from MassDOT's or utility owners' reviews of respective submittals and that Fuss & O'Neill's contract with the Town is executed in June.

Ms. Christa Drew  
 May 5, 2023  
 Page 3

## Fees

The following table outlines current and revised contract budgets for the tasks described above, which will be provided on a time and materials basis. Other task budgets under our current contract remain unchanged. We will submit invoices monthly with payment due within 90 days from the invoice date. If fees for these services are anticipated to exceed the budget amount, we will negotiate a supplemental agreement with FHR prior to proceeding with the work.

Task	Current Contract Budget	Amendment Budget	Proposed Contract Budget
1.6.1 Continued MassDOT Coordination	\$71,961.33	\$94,000.00	\$165,961.33
1.6.2 Continued Utility Owner Coordination	\$18,825.00	\$2,500.00	\$21,325.00
1.7 Temporary Bridge Substructure Design	\$57,800.00	\$34,638.37	\$92,438.37
2.2 On-Call Permitting Assistance	\$27,666.19	\$5,400.00	\$33,066.19
2.3 Remote Conferences and In-Person Meetings	\$38,825.00	\$52,500.00	\$91,325.00
<b>TOTAL BUDGET</b>	<b>\$215,077.52</b>	<b>\$189,038.37</b>	<b>\$404,115.89</b>

## General Terms and Conditions

This amendment will serve as the sole active contract remaining open between Fuss & O'Neill and FHR for the work described herein. These services will be provided in accordance with the general terms and conditions and supplemental conditions of our agreement dated October 14, 2020 and the rate schedule in effect at the time services are provided (rates for services in 2023 are attached).

Thank you for this opportunity to continue providing assistance with this project. If you have any questions or would like to discuss anything further, please contact me at (401) 533-5979 or [nwiberg@fando.com](mailto:nwiberg@fando.com).

Sincerely,

Nils S. Wiberg, PE, CFM  
 Associate | Chief Water Resources Engineer

Brian E. Kortz, CPG, LSP, CNU-A  
 Vice President | Office Manager

Attachment: Authorization to Proceed  
 2023 Rate Schedule

## Authorization to Proceed

Mr. Nils Wiberg  
Associate | Chief Water Resources Engineer  
Fuss & O'Neill, Inc.  
317 Iron Horse Way, Suite 204  
Providence, RI 02908

RE: Authorization to Proceed  
Contract Amendment for Professional Engineering Services  
Final Design, Permitting and Bidding Support  
Chequessett Neck Road Bridge and Water Access Improvements  
Fuss & O'Neill Reference No. 20120636.A22

Budget: \$189,038.37

Dear Mr. Wiberg:

On behalf of the Friends of Herring River, I hereby authorize Fuss & O'Neill, Inc. to proceed with the above-referenced project in accordance with the General Terms and Conditions of our October 14, 2020 contract, and with the F&O contract and proposal dated May 5, 2023. I understand that billing will be monthly, payable within ninety (90) days after approval from HRTT with interest accruing at the rate of 1.5% per month thereafter. I further understand that FHR will be responsible for the reasonable cost of collection.

The parties agree that the provisions contained in Article 6.17 in the Amendment to the Agreement between FHR and Fuss & O'Neill dated June 12, 2013, shall remain in full force and effect.

---

Christa Drew  
Printed Name

---

May 5, 2023  
Date

Christa M  
Signature

Executive Director  
Title

**Herring River Restoration Project**  
**FINAL DESIGN PLANS AND BID SPECIFICATIONS PACKAGE**  
**CONTRACT AMENDMENT (DRAFT)**

This Amendment, executed on August X, 2023, is made to the *Final Design and Bid Specifications Package Contract* ("Agreement") is made between Friends of Herring River, Wellfleet/Truro, Inc., PO Box 565, South Wellfleet, Massachusetts 02663 ("FHR") and WSP USA, 166 Valley Street, Building 5, Providence RI, 02909 ("WSP"). The purpose of this Amendment is to expand the scope of work ("SOW") and adjust the budget as specified below.

The *Terms and Conditions* and *Assumptions* set forth in the original Agreement, as executed March 18, 2022, remain in effect, with these four (4) changes:

1. Town of Wellfleet included as an insured party on Subcontractor's commercial general liability insurance policy for work scopes within the contract held by Friends of Herring River.
2. Town of Wellfleet named as an indemnified party within the contract held by Friends of Herring River. (see *Indemnification* below)
3. In the *Payment* provisions FHR will pay WSP for total costs not to exceed \$132,421.
4. In *Payment* provisions, the payment will be made within ninety (90) days after FHR receives a detailed WSP invoice.

**SCOPE OF WORK**

The original SOW for *Final Design and Bid Specifications Package Contract* included nine (9) tasks, of which the first five (5) have been completed at the time of this amendment. These completed tasks include: a Kick-off Meeting (Task 1) and preparation of construction-level design plans for each of four (4) Herring River Restoration Project ("Project") elements engineered and designed by WSP (Tasks 2-5):

- Elevation of Low-Lying Roads and Associated Culvert Replacements, including Pole Dike Creek Water Control Structure
- High Toss Road (Causeway Removal and Travelway Elevation)
- Way 672 (Elevation of Roadway and Private Property Impact Prevention)
- Low-Lying Property Impact Prevention, Miller Frederiksen Property

The SOW for this Agreement includes several tasks to consolidate existing information and develop a construction bid package for "Low-Lying Roadways and Associated Elements Construction" based on a Project Manual template that was provided by FHR.

This agreement ensures WSP's work continuation and completion of four (4) remaining tasks in the original Agreement plus two (2) additional tasks.

**Original tasks, to be completed:**

- Task 6 - Develop Consolidated Traffic Management Plan
- Task 7 - Consolidate Details, Specifications, Bid Documents and Cost Estimate
- Task 8 - Meetings and Project Communications



**New tasks incorporated into the SOW via this Amendment:**

**TASK 11 - PERMITTING SUPPORT**

Environmental permits obtained for Phase 1 of the Project require submittal of work plans to document the approach for compliance with permit conditions, and updates as needed to resource impact information. Work under this task may include, but is not limited to, development of a draft Stormwater Pollution Prevention Plan, revising Chapter 91 Waterways license plans, preparation of graphics for permit compliance submittals, and calculation of revised resource area impacts. Work is also likely to include on-call permit support with Department Environmental Protection for anticipated water quality certification amendments, and MA Division of Marine Fisheries and NOAA related to fish passage questions.

**Task 11 Deliverables:** Draft and final versions of plans and other graphics will be provided in PDF format. Draft narratives will be provided in PDF and Word format, with final narratives in PDF format. For on-call permit support deliverables will include meetings, plan changes, and resource impact calls.

**TASK 12 – MISCELLANEOUS FINAL DESIGN**

Construction-level plans developed under Tasks 2-5 were delivered in June 2022, but some aspects of design are being refined. Work under this task may include, but is not limited to, incorporation of additional scour countermeasures at selected culverts, roadway design adjustments to improve drainage, and development or updates as needed to property impact amounts and graphic depictions.

**Task 12 Deliverables:** Draft and final versions of plans and other graphics will be provided in PDF format. Draft narratives will be provided in PDF and Word format, with final narratives in PDF format. Deliverables may also include consultative meetings.

**INDEMNIFICATION**

The CONSULTANT shall indemnify and hold FHR and the Town of Wellfleet, MA, and their respective officers, employees, agents and representatives, harmless from and against liability for damages, including reasonable attorney's fees, to the extent such damages are caused by the negligent acts, errors, or omissions of, or breach of the terms of this Agreement, by CONSULTANT or others for whom CONSULTANT is legally liable. The provisions of this section shall survive the expiration or termination of this Agreement. Neither party shall have liability for loss of product, loss of profit, loss of use, or any other indirect, incidental, or consequential damages incurred by the other party, whether brought as an action for breach of contract, breach of warranty, tort, or strict liability, and irrespective of whether caused or allegedly caused by either party's negligence.

**SCHEDULE**

A schedule for deliverables under Tasks 6 and 7 will be provided. The timing for deliverables under Tasks 11 and 12 will be discussed as new work is assigned, including guidance as needed about prioritization; WSP will track the agreed-upon timeframes and provided updated schedules at progress meetings.

**BUDGET**

See attached budget table. The total budget for this Contract Amendment, to ensure satisfactory completion of original Tasks 6,7,8,10 plus new Tasks 11 and 12 is a Not-To-Exceed amount of \$132,421.

**INVOICING**

Invoices will be submitted on a monthly basis via e-mail to FHR Executive Director Christa Drew at christa@herringriver.org. Payments will be made within ninety (90) days after the invoice is received. The hourly rates referenced in the original Agreement remain in effect.

**IN WITNESS WHEREOF**, FHR and WSP have executed the Amended Agreement by the signatures of their duly authorized representatives as of the date set forth above in the Preamble.

**WSP USA, Inc.**

**Friends of Herring River,  
Wellfleet/Truro, Inc.**

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

*Thomas W. Payne*

*Christa Drew*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Printed Name*

*Senior Vice-President*

*Executive Director*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

V

### BUSINESS

~ B ~

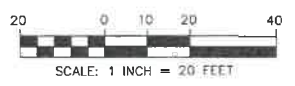
<b>REQUESTED BY:</b>	<b>Davis Formato, Onsite Engineering</b>
<b>DESIRED ACTION:</b>	<b>To review and approve the concept/layout of the proposed wastewater treatment facility and leaching field for 95 Lawrence Road project.</b>
<b>PROPOSED MOTION:</b>  <b>SUMMARY:</b>	<b>I move to approve the schematic 95 Lawrence Road Development Treatment Facility Site Plan and Effluent Disposal System Site Plan as shown on drawings C-1 and C-2 prepared by Onsite Engineering, Inc, dated May 31, 2023, and authorize Onsite Engineering to proceed into the design and permitting of those layouts for the purpose of securing a Groundwater Discharge Permit from MassDEP.</b>
<b>Project</b>	Moved By: _____ Seconded By: _____  Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

**95 LAWRENCE ROAD  
 DEVELOPMENT  
 WELLFLEET, MASSACHUSETTS**

TREATMENT FACILITY SITE PLAN



TREATMENT FACILITY SITE PLAN  
 SCALE: 1" = 20'



**MASSWORKS  
 SUBMISSION**

**NOT FOR  
 CONSTRUCTION**

REV	DATE	DESCRIPTION

PROJECT NO.: 01584  
 DATE: MAY 31, 2023  
 SCALE: 1"=20'  
 SHEET: 1 of 2  
 DRAWN BY: RLW    DESIGNED BY: DCF  
 CHECKED BY: RLW    APPROVED BY: DCF

THIS PLAN IS THE PROPERTY OF ONSITE ENGINEERING, INC. AND ITS CLIENT. COPYING OR MODIFYING WITHOUT WRITTEN PERMISSION IS PROHIBITED.

LORIE D.B. ASSESSOR

**95 LAWRENCE ROAD  
DEVELOPMENT  
WELLFLEET, MASSACHUSETTS**

**EFFLUENT DISPOSAL SYSTEM  
SITE PLAN**

**MASSWORKS  
SUBMISSION**

**NOT FOR  
CONSTRUCTION**

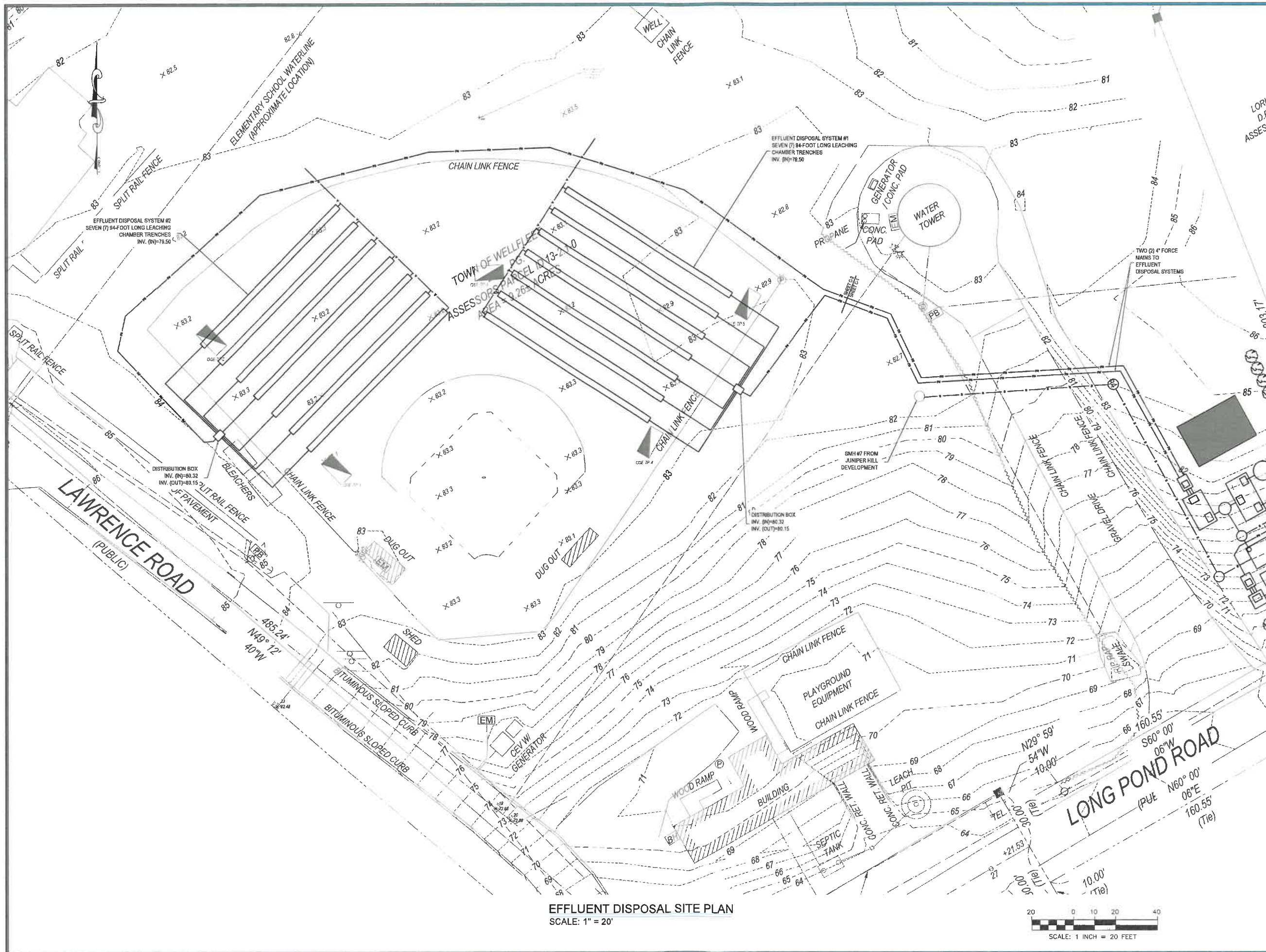
REV DATE DESCRIPTION

PROJECT NO.: 01584  
DATE: MAY 31, 2023  
SCALE: 1"=20'  
SHEET: 2 of 2

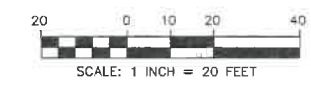
DRAWN BY: RLW DESIGNED BY: RLW  
CHECKED BY: DCF APPROVED BY: DCF

THIS PLAN IS THE PROPERTY OF ONSITE ENGINEERING, INC. AND ITS CLIENT. COPYING OR MODIFYING WITHOUT WRITTEN PERMISSION IS PROHIBITED.

**C-2**



**EFFLUENT DISPOSAL SITE PLAN**  
SCALE: 1" = 20'





## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

V

### BUSINESS

~ C ~

<b>REQUESTED BY:</b>	Rich Waldo ~ Town Administrator
<b>DESIRED ACTION:</b>	To review and vote on remaining articles for the Fall town meeting warrant.
<b>PROPOSED MOTION:</b>	I move to recommend article _____ in the fall town meeting warrant.
<b>Summary:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



**SPECIAL TOWN MEETING**  
**Monday September 18, 2023**  
**6:00 PM**

at

**Wellfleet Elementary School**  
**100 Lawrence Road, Wellfleet, MA**  
**&**

**SPECIAL TOWN ELECTION**  
**Wednesday September 27, 2023**

at

**12:00 Noon to 7:00 PM**  
**Wellfleet Senior Center**  
**715 Old King's Highway**

v.3 [\(Final\)](#)

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### **FINANCIAL & PROPOSITION 2½ TERMS**

Chapter 59, section 21C of the Massachusetts General Laws is commonly referred to as Proposition 2½ (Prop. 2½) or the Tax Limiting Law for Cities and Towns in Massachusetts.

**LEVY:** The property tax levy is the revenue a Town can raise through real and personal property taxes. The property tax levy is the largest source of revenue for the Town.

**LEVY CEILING:** This is the maximum the levy can be. The ceiling equals 2.5% of the Town's full and fair cash value. The levy ceiling is equivalent to a tax rate of \$25.00.

**LEVY LIMIT:** The maximum the levy can be in a given year. The limit is based on the previous year's levy limit plus certain allowable increases, such as debt exclusions.

**LEVY LIMIT INCREASE:** The levy limit automatically increases each year by 2.5% of the previous year's levy limit.

**NEW GROWTH:** New construction and new parcel subdivision may also increase the Town's levy limit.

**OVERRIDE:** A community can permanently increase its levy limit by successfully voting at a referendum to exceed the limits. A community may take this action as long as it is below the levy ceiling.

**DEBT EXCLUSION:** This type of override ballot question can be placed on a referendum by a two-thirds vote of the Selectboard. If a majority of the voters approve the ballot question, the Town's levy limit is increased only for the amount voted at the referendum for the life of that debt only. The levy limit increase may exceed the Town's levy ceiling.

**DEBT SERVICE:** The repayment cost, usually stated in annual terms and based on an amortization schedule, of the principal and interest owed on any particular bond issue.

**ENCUMBRANCE:** A reservation of funds to cover obligations chargeable to but not yet paid from a specific appropriation account.

**CAPITAL OUTLAY EXPENDITURES EXCLUSION:** This type of override ballot question can be placed on a referendum by a two-thirds vote of the Selectboard. If a majority of the voters approve the ballot question, the additional amount for the payment of the capital project cost is added to the levy limit or levy ceiling only for the year in which the project is being undertaken.

**CONTINGENT VOTES:** Chapter 59, section 21C (m) permits a Town Meeting to appropriate funds contingent upon passage of a referendum question (OVERRIDE/DEBT EXCLUSION). A contingent vote does not automatically result in an override referendum. An override referendum can only be called by the Selectboard. If a referendum is called by the Selectmen, it must take place within forty-five days of the Town Meeting vote.

## TOWN MEETING PROCEDURES

A quorum of 6% of the Town's registered voters must be present to conduct business (Charter: Sect. 2-1-3).

Voters are identified by voter cards issued when they check in with the registrars at the beginning of the meeting.

Only voters may participate in voice votes. In case of a counted vote, voters will be identified by their voter cards.

Non-voters who have been admitted to the meeting must sit in the section designated for them. Non-voters who may wish to speak must identify themselves and may address the meeting only by permission of the Moderator (Charter: Sect. 2-1-2).

No voter will be allowed to speak until recognized by the Moderator.

Voters and others recognized to address Town Meeting may only speak twice to any motion or amendment unless authorized by the Moderator (Charter: Sect. 2-7-8).

All motions or amendments must be in writing and be legible. Exceptions for very simple motions or amendments are at the discretion of the Moderator (General Bylaws: Sect. II-2).

The order of consideration of the Articles as printed in the Warrant may be changed only by a 2/3 majority vote (Charter: Sect. 2-7-4).

A motion for indefinite postponement, if passed, ends any action on the motion currently being debated. It may only be made after a voter has been recognized and may not come at the end of a speaker's remarks. It is fully debatable to the same extent as the main motion under consideration.

A motion to end debate (known as a "motion for the previous question") may only be made by a voter who has been recognized. Anonymous calls from voters to "call the question" are out of order and will be ignored by the Moderator. A motion to end debate requires a separate 2/3 majority vote, so it may be more efficient to hear from one or two more speakers and then proceed to a vote on the main motion itself.

A motion to reconsider must be made at the same session as the vote it seeks to reconsider. It can only be made after some intervening business and must be made within one hour of the vote to be reconsidered (Charter: Sect. 2-7-9). It is debatable to the same extent as the motion it seeks to reconsider and requires a majority vote. A motion to reconsider will only be allowed if there is new information that was not available at the time of the original debate. A motion to reconsider will be ruled out of order if, in the judgment of the Moderator, it is simply an attempt at "another bite at the apple."

Some other common motions which require more than a simple majority to pass:

<b>Zoning bylaws</b>	<b>2/3 majority (with some statutory exceptions)</b>
<b>Zoning bylaws subject to Housing Choice Act</b>	<b>majority</b>
<b>To authorize borrowing or incur debt</b>	<b>2/3 majority</b>
<b>To transfer or sell Town land</b>	<b>2/3 majority</b>
<b>To approve proposed Charter amendments</b>	<b>2/3 majority</b>
<b>To pay unpaid bills of a prior fiscal year</b>	<b>4/5 majority at an Annual Town Meeting</b>
	<b>9/10 majority at a Special Town meeting</b>

FINANCE COMMITTEE STATEMENT

XXXX

**SPECIAL TOWN MEETING WARRANT**

Monday, September 18, 2023

The Commonwealth of Massachusetts

To either of the Constables in the Town of Wellfleet in the County of Barnstable:

**GREETINGS:**

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Wellfleet qualified to vote in Town Affairs, to meet in the Wellfleet Elementary School, 100 Lawrence Road in Wellfleet on the 18<sup>th</sup> day of September 2023, at six o'clock in the evening, then and there to vote upon the following Articles:

**SECTION I: BUDGET ARTICLES**

**ARTICLE NO. 1 – PRIOR YEAR INVOICES:**

To see what sum the Town will vote to transfer from available funds for the purpose of paying prior year unpaid bills listed below:

	Vendor	Source	Line-item	Amount
a.	XXX	xxx	xxx	\$0.00
	<b>Grand-total</b>			<b>\$0.00</b>

or to do or act on anything thereon.

(Requested by the Selectboard)

**Nine-Tenths Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 4, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**Finance Committee: Recommendation deferred until Town Meeting**

**SUMMARY:** Invoices received after the close of the fiscal year for services rendered or goods received prior to July 1 are considered prior year bills. Per MGL Chapter 44 Section 64, prior year bills to be paid from the Town’s general operating fund may only be paid by a vote of Town Meeting.

**ARTICLE NO. 2 – FY 2024 BUDGETARY TRANSFERS:**

To see if the Town will vote to transfer from available funds and/or authorize the transfer from various line items within FY 2024 appropriations such sums of money necessary to supplement the operating budgets of the various Town Departments as follows:

	From (Decrease)	Line Item	To (Increase)	Line Item	Amount
a.	Beach Fund	FND	Beach Expenses	699	\$ 10,000
	<b>Grand-Total</b>				<b>\$ 10,000</b>

or to do or act on anything thereon.

(Requested by the Selectboard)

**Majority Vote Required**

**Recommendations:**

**Selectboard:**

Insert Yes- 4, No – 0, Abstain – 0.

Recommend Yes – 0, No – 0, Abstain – 0.

**Finance Committee: Recommendation deferred until Town Meeting**

**SUMMARY:** This article is seeking permission to transfer funding within the FY 2024 operating budget ending June 30, 2024. We have shortfalls in various departmental budgets that will be remedied by transferring monies from those areas within the budget that have surpluses.

**ARTICLE NO. 3 – 95 LAWRENCE ROAD – WASTEWATER TREATMENT FACILITY – PHASE I:**

To see if the Town will vote to modify the vote taken under Article 21 of the June 2021 Annual Town Meeting for the 95 Lawrence Road Cluster Wastewater Treatment Facility, which authorized borrowing the sum of \$1,931,886 for this purpose, by amending the source of borrowing from General Laws Chapter 44, Section 8, or any other enabling legislation, including the Massachusetts Water Pollution Abatement Trust, to the Massachusetts Clean Water Trust, or otherwise, under and pursuant to General Laws Chapter 111, §121B½, and further, to see if the Town will vote to appropriate a sum of money, not to exceed \$2,668,114 for the purpose of, designing, permitting, and constructing wastewater facilities in conjunction with an affordable housing project at 95 Lawrence Road, including connecting nearby Town buildings in Phase I, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation the Town Treasurer, with the approval of the Selectboard be and hereby is authorized to borrow said amount under and pursuant to Chapter 44 of the General Laws, or pursuant to any other enabling authority including the Massachusetts Clean Water Trust or otherwise, under and pursuant to General Laws Chapter 111, §121B½ or pursuant to any other enabling authority including the Massachusetts Water Pollution Abatement Trust, and to issue bonds or notes of the Town therefore; provided, however that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts necessary to pay debt service on any bonds or notes issued pursuant to this vote from the limits of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½) or take any other action in relation thereto.

~~To see if the Town will vote to appropriate a sum of money, not to exceed \$3,500,000 for the purpose of, designing, permitting, and constructing wastewater facilities in conjunction with an affordable housing project at 95 Lawrence Road, including connecting nearby Town buildings in Phase I, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation the Town Treasurer, with the approval of the Selectboard be and hereby is authorized to borrow said amount under and pursuant to Chapter 44, Section 8 of the General Laws, or pursuant to any other enabling authority including the Massachusetts Clean Water Trust and the Cape and Island Water Protection Fund, and to issue bonds or notes of the Town therefore; provided, however that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts necessary to pay debt service on any bonds or notes issued pursuant to this vote from the limits of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½) or take any other action in relation thereto.~~

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 4, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**Finance Committee: Recommendation deferred until Town Meeting**

**SUMMARY:** The Town is contractually obligated as part of the 95 Lawrence Rd Housing Project’s Request For Proposals to provide for advanced wastewater treatment facilities located at this site. The plan is to install a cluster system servicing both the housing project and the Wellfleet Elementary School, the Police Station, and Fire Station in Phase I. Connecting these town-owned buildings will result in a net improvement of water quality in the neighborhood even after accounting for the housing project. Phase II is planned to connect a number of the surrounding properties to this system which will cost significantly less money than individual septic system upgrades, a centralized sewer system, or any other means evaluated.

The Town has submitted a grant application to the MassWorks Infrastructure Program to fully fund the construction of the wastewater treatment facility and connection of nearby municipal buildings. It is expected that the Town will receive notice of an award around October/November 2023. If the Town is awarded grant funds then it will not be necessary to borrow funding through the Clean Water Trust (CWT) program. If we only receive a portion of the funding from MassWorks then the remaining balance will be borrowed from the CWT program.

Per the Land Development Agreement, the developer of housing at 95 Lawrence Road is required to enter into a reasonable cost-sharing agreement to support a percentage of the cost of designing and constructing such wastewater infrastructure. Should the Town obtain a grant to fund construction of the centralized treatment facility the developer will not be required to pay a portion of the project. If the Town needs to borrow to fund the construction then a portion of the construction cost will be the responsibility of the developer. However, the Town may waive that contribution if it is determined that an overall benefit to the projects success will result.

~~There is already borrowing authorization of \$1.932 million dollars from Annual Town Meeting in June of 2021.~~ This borrowing request will amend and supplement ~~supersede~~ ~~at~~ the previous borrowing authorization allowing the Town to seek competitive borrowing from the State Revolving Fund which will ~~and~~ open the door for grant subsidies from the Cape and Island Water Protection Fund (CIWPF). The CIWPF allows for grant subsidies up to 25% of the project cost.

**ARTICLE NO. 4 – ENHANCED INNOVATIVE & ALTERNATIVE SEPTIC PROGRAM:**

~~To see if the Town will vote to modify the vote taken under Article 4 of the April 2023 Annual Town Meeting relative to Item 7B, \$200,000 for Enhanced Innovative & Alternative Septic Systems by rescinding the borrowing authorization for said purpose and said amount, and further to see if the Town will vote to appropriate a sum of money, not to exceed \$200,000 to assist in the installation of high performance, so called “enhanced” Innovative & Alternative (I&A) Septic Systems within Wellfleet Watersheds defined per the Massachusetts Estuary Project report (2017), and for the payment of all other costs incidental and related thereto, and that to meet this appropriation the Town Treasurer, with the approval of the Selectboard be and hereby is authorized to borrow said amount through the Massachusetts Clean Water Trust, or otherwise, under and pursuant to M.G.L. c. 111, §121B½ or pursuant to any other enabling authority including the Massachusetts Water Pollution Abatement Trust, and to issue bonds or~~



~~notes of the Town therefore, or take any other action in relation thereto. . To see if the Town will vote to modify the vote taken under Article 4 of the April 2023 Annual Town Meeting relative to Item 7B, which authorized borrowing the sum of \$200, 000 for Enhanced Innovative & Alternative Septic Systems by amending the source of borrowing from General Laws Chapter 44, Section 7, or any other enabling legislation, to the Massachusetts Clean Water Trust, or otherwise, under and pursuant to General Laws Chapter 111, §121B½ or pursuant to any other enabling authority including the Massachusetts Water Pollution Abatement Trust, or take any other action in relation thereto.~~

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 4, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**Finance Committee: Recommendation deferred until Town Meeting**

**SUMMARY:** This would allow the Board Health to provide assistance to homeowners who need to replace their septic systems. This assistance corresponds with the incremental cost of enhancement to upgrade to an “enhanced” IA system. Upgrading these systems to high performance I&A systems can reduce nitrogen similar to the levels obtained with a wastewater treatment plant, thereby improving the groundwater quality and reducing the nutrient loading of Wellfleet Harbor at a significantly reduced cost compared with sewer connection. The funding sought is a \$12,500 grant to property owners to pay for the additional costs to upgrade to one of these “enhanced” IA systems when their pre-existing system is required to be upgraded. This grant would keep the cost of the septic the same as what is already required under title 5 and will encourage the use of an enhanced IA system. Upgrading septic systems will be a critical element in addressing the Town’s wastewater needs.

There is already a total borrowing authorization of \$250,000 from Annual Town Meeting in June of 2021 for I/A septic enhancements ~~that meets the requirements of the Clean Water Trust Program. This article will amend borrowing authorization approved at April of 2023 Annual Town Meeting to include borrowing authorization will supplement the previous borrowing authorization adding language sufficient for the Clean Water Trust Program that will allow borrowing through the State Revolving Funds the Town to seek competitive borrowing from the State Revolving Fund~~ and open the door for grant subsidies from the Cape and Island Water Protection Fund (CIWPF). The CIWPF allows for grant subsidies up to 50% for projects costing less than \$1 million dollars.

**ARTICLE NO. 5 – TOWN PLANNER – NEW STAFF:**

To see if the Town will vote to raise and appropriate and/or transfer from any available source of funds the sum of \$145,000.00, or any other sum for the purpose of funding a Town Planner position; provided, however, that no sums shall be expended hereunder unless and until the Town has voted to assess an additional \$145,000.00 in real estate and personal property taxes pursuant to the provisions of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½), or do or act on anything thereon.

(Requested by the Selectboard)

**Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 5, No – 0, Abstain – 0.**

**Recommend: Yes – 5, No – 0, Abstain – 0.**

**Finance Committee: Recommendation deferred until Town Meeting**

**SUMMARY:** This article would fund the cost of hiring a Town Planner, including salary and benefits. The lack of a dedicated Town Planner is severely impacting the town’s ability to address land use and long-range planning. Planning is one of the tasks assigned to the Assistant Town Administrator. The Assistant Town Administrator position is overburdened regardless of who the Assistant Town Administrator and that results in initiatives and committees not receiving the support they need. A Town Planner is essential for Wellfleet to form a functional administration. The lack of dedicated Town Planner results in the burnout of staff. Wellfleet needs to address its underinvestment in the professional positions that are essential to governing. A dedicated Planner would support the Building Commissioner and the ZBA in zoning enforcement, assist in developing bylaws, the development of housing initiatives and programs.

**ARTICLE NO. 6 – MAURICE’S CAMPGROUND – HOUSING PLANNING FUNDS:**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of ~~\$200~~150,000.00, or any other sum, for the purpose of hiring a consultant to assist the Maurice Planning Committee in planning the housing development of the Campground, including preparing a scope of work, bid documentation, preliminary hydrogeological assessments, and an estimated project cost associated with the development of Maurice’s Campground/80 State Highway, or to do or act on anything thereon.

(Requested by the Selectboard)

**Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**Finance Committee: Recommendation deferred until Town Meeting**

**SUMMARY:**

This article would transfer from available funds the sum of \$~~150~~200,000 from existing unused appropriations transferred Free Cash to fund the planning necessary to meet the goals and objectives of developing the housing needed to meet the pressing needs of Wellfleet. The Town has applied to the County for assistance through ARPA funds, but there remains uncertainty about when and if the application will be approved. By law, a municipality can only enter into a contract with a prior appropriation of funds sufficient to fund the entire contract cost. The amounts requested and approved in the Capital budget at the Annual Town Meeting were based on the premise of a successful and timely ARPA application. The Maurice’s Campground Planning Committee has drafted and approved an RFP for planning services that was issued in the Spring; however, the ARPA has not been approved to date, and the Town cannot issue a contract, and RFP was retracted. This transfer is essential in for the Planning necessary to meet the community needs occurs in a timely fashion. If funding is approved through the County, these funds would revert to Free Cash and would be available at the 2024 Annual Town Meeting.

## SECTION II: BYLAWS, INITIATIVE PETITIONS

### **ARTICLE NO. 7 – ZONING BYLAW AMENDMENT – INCLUSIONARY ZONING:**

To see if the Town will vote to amend Chapter 235, Article II DEFINITIONS by inserting the following new definitions in alphabetical order and to amend Chapter 235, Article VI by adding a new Section 6.28 Inclusionary Zoning Bylaw as follows:

#### §235 - 2.1 Definitions

Affordability Gap – the difference between the appraised value of a market-rate dwelling units within the proposed development and the appraised value of an affordable housing unit in Wellfleet comparable to the market-rate unit in terms of type, size, and number of bedrooms and calculated at the time of sale or issuance of a certificate of occupancy, whichever occurs sooner, for any market-rate unit in the proposed development. The applicant shall submit an appraisal of the development in question that was prepared by a licensed appraiser approved by the Town using professionally accepted methods, as well as other data relevant to the determination of equivalent value, and the Town may obtain an expert peer review of the appraisal at the applicant's expense.

Affordable Housing Unit - a dwelling unit that is affordable to and occupied by a Low- or Moderate- Income Household and meets the requirements for inclusion on the Subsidized Housing Inventory maintained by the Department of Housing and Community Development.

Affordable Housing Restriction – A deed restriction entered into and enforceable under G.L. c. 184, §§31-33 in a form acceptable to the Town that restricts occupancy of an affordable housing unit to a low- or moderate-income-eligible purchaser or renter and which provides for the administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law.

#### **§235 – 6.28 INCLUSIONARY ZONING BYLAW**

##### **§235 – 6.28.1 Purpose and Intent**

The purpose of this bylaw is to encourage the development of housing that is affordable to persons of various ages and income levels in accordance with Massachusetts General Law, Chapter 40A, Section 9, which allows municipalities to adopt “incentive” bylaws for the creation of affordable year-round housing, and for the purposes of:

- A. Helping people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price; and,

- B. Encouraging the creation of a range of housing opportunities for households of all incomes, ages, and sizes in order to support a strong, stable, and diverse year-round community and a viable and healthy local workforce and to prevent the displacement of Wellfleet residents;
- C. Mitigating the negative impact of residential development on the availability and cost of housing;
- D. Protecting the long-term affordability of such housing through appropriate, enforceable restrictions that run with the land; and
- E. Creating dwelling units eligible for inclusion on the Town's Chapter 40B Subsidized Housing Inventory as maintained by the Department of Housing and Community Development (DHCD).

**§235 6.28.2 Applicability**

In the CD, R1, R2, C, and C2 zoning districts, the inclusionary zoning provisions of this section shall apply to any residential project that results in a net increase of three or more dwelling units as part of a single application, whether by new construction, a change in use, or by the alteration or rehabilitation of existing structures, provided, however, this bylaw shall not apply to nursing homes

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Commented [CMM1]: It occurred to me after I made this suggestion that there could be a mixed use project, so I have reverted back to prior language.

**§235 6.28.3 Mandatory Provision of Affordable Housing for Development of New Residential Units**

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In order to contribute to the local stock of Affordable Housing, any residential project that results in a net increase of three or more dwelling units as part of a single application as described in Section 6.28.2 shall provide a percentage of the dwelling units as deed restricted Affordable Housing units. This Affordable Housing requirement shall be one-sixth (1/6) of the number of new dwelling units to be developed rounded up to the nearest whole number and shall be made a condition of a Special Permit, or the applicant shall meet the requirement in accordance with the following:

- A. Development of 3 to 6 new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and a Payment in Lieu of providing the required number of affordable units to be made to the Wellfleet Affordable Housing Trust Fund to fulfill the Affordable Housing requirement.
  - (1) Payment shall be made in accordance with the following formula:
    - For 3-4 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(1/9)x(affordability gap)
    - For 4-6 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(1/6)x(affordability gap)
  - (2) The applicant shall pay for all appraisals, and the Town shall approve the applicant's chosen appraiser
  - (3) The Payment in Lieu shall be due:
    - a. upon the issuance of a certificate of occupancy of any market-rate unit in the development; or,
    - b. The total Payment in Lieu shall be divided by the total number of market rate units in the development, and the resulting quotient shall be payable upon the closing of each market rate unit
- B. Development of 7 or more new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and at least one-sixth (16.67%) of the new

units created shall be established as Affordable Housing units, which shall be rounded up to the nearest whole number and shall be made a condition of a Special Permit, in any one or combination of methods provided for below:

- (1) The Affordable Housing units shall be constructed or rehabilitated on the site subject to the Special Permit, in accordance with §235 6.28.4; or
- (2) The Affordable Housing units shall be constructed or rehabilitated on a site other than the one subject to the Special Permit, in accordance with §235 6.28.4, provided justification is provided that on-site development of said units is not feasible and off-site development of said units is beneficial to the Town, and applicable Building or Zoning Permits are granted contemporaneously for both developments; or
- (3) A Payment in Lieu of providing Affordable Housing units shall be made to the Wellfleet Affordable Housing Trust Fund. Payment shall be made in accordance with the following formula:
  - a) For 7 or more new dwelling units, the Payment in Lieu = (total # of new dwelling units)x(1/4)x(affordability gap)
  - b) The applicant shall pay for all appraisals, and the Town shall approve the applicant's chosen appraiser
  - c) The Payment in Lieu shall be made upon the sale or certificate of occupancy of each market-rate unit, whichever occurs sooner or
- (4) A Land Donation in Lieu of providing Affordable Housing units shall be provided to the Wellfleet Affordable Housing Trust, provided that:
  - a) The receiving organization agrees in writing to accept the land;
  - b) The applicant demonstrates to the Zoning Board of Appeals' satisfaction that the land may support the future development of Affordable Housing;
  - c) The value of donated land shall be equivalent to or greater than the value of the required Payment in Lieu. The Zoning Board of Appeals may require, prior to accepting the donations of land to the Wellfleet Affordable Housing Trust as satisfaction of the requirements of this bylaw, that the applicant submit an appraisal of the land in question that was prepared by a licensed appraiser using professionally accepted methods, as well as other data relevant to the determination of equivalent value, and the Zoning Board of Appeals may obtain expert peer review of the appraisal at the applicant's expense; and
  - d) Closing on the land donation shall occur before the issuance of the first building permit.

**§235 6.28.4 Provisions Applicable to Affordable Housing Units Located On-Site and/or Off-Site**

- A. Affordable Housing units created in accordance with this bylaw shall have a deed restriction and Regulatory Agreement to regulate the future re-sale or rental of the unit and that requires the units to remain income restricted in perpetuity or the longest period allowed by law. Said deed restriction and Regulatory Agreement shall be consistent with the forms used in the Local Initiative Program and Regulatory Agreement approved by DHCD. The Regulatory Agreement shall

be prepared in a form acceptable to Town Counsel by the Applicant and submitted for review and approval. The Regulatory Agreement will be executed by the Applicant, the Town of Wellfleet and DHCD and shall be recorded with the Barnstable County Registry of Deeds or and

- B. The applicant shall be responsible for preparing and submitting any documentation that may be required to receive Local Action Unit approval from DHCD and to qualify the Affordable Housing Units for listing on the SHI. The applicant shall also be responsible for providing annual compliance monitoring and certification to the Town or its monitoring agent and to pay for the costs of the Town for providing such compliance monitoring.
- C. No Building Permit shall be issued for any units in the development until the Zoning Board of Appeals receives evidence that the Affordable Housing deed restriction has been approved by DHCD or by Town Counsel.
- D. No Certificate of Occupancy shall be issued for any units in the development until the Building Commissioner receives evidence that the Affordable Housing deed restriction has been executed and recorded at the Barnstable County Registry of Deeds or that the Payment in Lieu has been made in accordance with this bylaw or as modified by the Special Permit conditions.
- E. Affordable Housing units shall be integrated with the rest of the development or with the off-site location and shall be comparable to and indistinguishable from market rate units in exterior design, including appearance, construction and quality of materials, and in energy efficiency.
- F. The number of bedrooms in each Affordable Housing unit shall be made a part of the Special Permit and shall be based on local need as determined by the Zoning Board of Appeals in consultation with the Wellfleet Housing Authority.
- G. Owners and tenants of on-site Affordable Housing units and market rate units shall have the same rights and privileges to access and use any of the development's amenities and facilities.
- H. The development of Affordable Housing units shall take place at the same rate and timeframe as the development of market rate units.
  - 1) Building Permits for any phased development shall be issued at a ratio of no greater than five (5) market rate units to one (1) Affordable Housing unit. Building Permits for subsequent phases shall not be issued unless all the required Affordable Housing units in the preceding phase are constructed and the deed restrictions recorded. The last unit permitted, constructed and occupied shall be a market rate unit.
  - 2) The project may also be constructed in its entirety with all permits issued at once, provided that the occupancy permits are issued at a ratio of five (5) market rate units to one (1) Affordable Housing unit. The last certificate of occupancy to be issued shall be for a market rate unit and shall not be issued unless and until all Affordable Housing units are occupied.

I. All Affordable Housing Units created under this bylaw shall be occupied by income-eligible purchasers or tenants. No Affordable Housing Unit created under this bylaw shall be used as a Short-Term Rental, as such term is defined by General Laws Chapter 64G.

**§235-6.28.5 Maximum Incomes and Selling Price; Affordable Housing Inventory**

Maximum rents and/or sale price shall not exceed 30% of an occupant's or tenant's annual income for a household at or below 80% of Area Median Income adjusted by household size.

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**§235 6.28.6. Segmentation Prohibition**

Developments shall not be phased or segmented to avoid compliance with conditions or provisions of this bylaw. "Segmentation" shall be defined as dividing one parcel of land into two or more parcels of land in that cumulatively results in a net increase of three or more dwelling units above the number existing thirty-six (36) months earlier on any parcel or set of contiguous parcels held in common ownership or under common control on or after the effective date of this Section.

**§235 6.28.7 Conflict with Other Bylaws**

The provisions of this bylaw shall be considered supplemental to existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

**§235 6.28.8 Severability**

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of Wellfleet's Zoning Bylaws.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** This amendment would add a new section, Inclusionary Zoning, to the Zoning Bylaw. The new Inclusionary Zoning Bylaw requires an affordability component to all residential development/redevelopment resulting in the creation of 3 or more new dwelling units.

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**ARTICLE NO. 8 – ZONING BYLAW AMENDMENT – COTTAGE COLONIES:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article II DEFINITIONS by deleting text that is ~~struck through~~ and inserting text that is underlined as follows:

**§235 - 2.1 Definitions**

**Cottage Colony - A group of two or more detached dwellings located on the same lot not within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. Each unit shall contain not less than ~~550~~ 300 sq. ft. of floor area and not more than ~~768~~ 800 sq. ft.**

**Cottage Colony NSP - A group of two or more detached dwellings located on the same lot within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. and occupied on a seasonal basis only. Seasonal shall be defined as a period commencing April 1 of each calendar year and terminating November 30 of the same calendar year. Each unit shall contain not less than ~~550~~ 300 sq. ft. of floor area and not more than ~~768~~ 800 sq. ft**

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** The changes in floor area bring a number of the pre-existing cottage colonies into compliance with zoning. 250 sq ft of floor area is the minimum allowed for two people to reside in per state codes. Wellfleet has a number of cottages in colonies that are well below 550 sq. ft. An example is Brownies cabins out of a total of thirteen cottages, nine are below 550 sq. ft. This would also enable a property owner to build a cottage colony with modest structures that could serve as homes for those just starting on their own or are looking to downsize. The change from 768 sq ft to 800 sq ft is a reflection that there are cottage colonies where there are units that are slightly over 768 sq. ft. 800 sq ft also is a standardized size that is easy to measure. Cottage Colonies would remain permitted by special permit only in the districts they are currently allowed in.

**ARTICLE NO. 9 – ZONING BYLAW AMENDMENT – INTENSITY OF USE OF MULTI-FAMILY DWELLINGS:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws, Chapter 235, Article V – Uses, Section 235-5.4(F) by deleting the text that is ~~struck through~~ as follows, or to do or act on anything thereon:

**§235 - 5.4(F)**

~~Intensity of Use Application to Multiple Family Dwellings. The first unit of a multiple family dwelling or of an apartment building shall require a minimum land area equal to the lot requirements of the district in which located. Each additional unit will require 8,000 square feet of land area. Front, side and rear yard and maximum building coverage requirements of the district in which the structures are located shall apply. (Amended 4/30/85 ATM, Art. 64.)~~

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** Multifamily Dwellings are allowed by special permit in the Commercial District. The minimum lot size in the commercial district is 40,000 square feet. The requirement to have an additional 8,000 sq ft effectively prohibits multifamily housing on a significant proportion of lots in the Commercial District and limits the number of potential dwellings as well. This does not change the number of bedrooms



allowed on a parcel, just how they are configured. The intent here is to provide a greater opportunity for diversity in Wellfleet’s housing stock to better suit the needs of our population.

**ARTICLE NO. 10 – ZONING BYLAW AMENDMENT – DEFINITION OF TREES:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article II – Definition §235 2.1 by inserting the following new definitions in alphabetical order or to do or act on anything thereon-:

**Community Wildfire Protection Plan (“CWPP”):** A plan developed in the collaborative framework established by the Wildland Fire Leadership Council and agreed to by the local government, local fire department, federal land management agencies managing land in the vicinity of the planning area, and other stakeholders. A CWPP may address issues such as wildfire response, hazard mitigation, community preparedness, or structure protection - or all the above.

**Invasive Plants:** Plant species identified by the Massachusetts Invasive Plant Advisory Group as Invasive, Likely Invasive, or Potentially Invasive. [Link for reference](www.massrnc.org/mipag)

**Locally Notable Trees:** Native trees with a girth of 120 inches or greater measured at breast height (4.5') or below the lowest branching trunk, whichever is less. Or tree species listed as Endangered, Threatened, or of Special Concern by MassWildlife’s Natural Heritage & Endangered Species Program Massachusetts

**Timber:** Woody plants and trees with a girth of sixteen (16) inches measured at breast height (4.5’) or below the lowest branching trunk, whichever is less.

**Tree Thinning:** Tree removal in an immature forest stand that reduces tree density and between-tree competition performed by a certified arborist.

(Requested by the Selectboard)

2/3<sup>rd</sup> Majority Vote Required

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** This adds definitions to the Zoning Bylaws in regards to trees and timber. This contains no applications of the definitions in and of themselves, but the definitions can be utilized by other bylaws.

**ARTICLE NO. 11 – ZONING BYLAW AMENDMENT – CUTTING OF TIMBER:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article VI – General Regulations by amending §235 -6.9 by deleting text that is struck through and inserting text that is underlined as follows:

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**§235 6.9.1 CUTTING OF TIMBER WITHIN NSP**

Within the National Seashore Park District, there shall be no cutting of timber except as permitted for the following reasons:

- (a) By an owner for the purpose of reasonably controlling brush or trees;
- (b) Maintenance cutting in pastures;
- (c) Cutting for clearance or maintenance on right-of-way including those pertaining to public utilities or public highways, provided said clearance or maintenance complies with Chapter 200, the Town’s Scenic Road bylaw, as applicable. .
- (d) as specified in a Community Wildfire Protection Plan by the Wellfleet Fire Department or the National Park Service.
- (e) the removal of Invasive Plants .

**Commented [CMM2]:** I had suggested including "provided said clearance or maintenance complies with Chapter 200, the Town's Scenic Road bylaw, is applicable" but this has been removed from this draft. After the incident on LeCount Hollow Road, I still recommend inserting this language.

**Commented [RW3R2]:** Agree, add language

**Exemptions:**

This section shall not apply to federal, state or municipal projects.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

- Insert Yes – 0, No – 0, Abstain – 0.**
- Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** This updates the “Cutting of Timber”. The assumption is that the current bylaw dates to the 1960s, and there was not much of an awareness of the detrimental impacts of most invasive species, and fewer were considered invasive. A Community Wildfire Protection Plan [CWPP] is seeks to mitigate some of the risks of a wildfire to life and property and would be developed under the aegis of the Town and the Park. As of now, there is not a CWPP but the park does issue fire safety recommendations to property owners, so this provision is future looking.

**ARTICLE NO. 12 – ZONING BYLAW AMENDMENT – LOCALLY NOTABLE TREES:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article VI – General Provisions by inserting a new Section §235- 6.9.3 as follows:

**§235 6.9.3 Locally Notable Trees**

Recognizing the value large older trees provide to wildlife and the unique role they play in the ecosystem they should be preserved whenever possible. No removal of or trimming of Locally Notable Trees shall be permitted until all necessary permits and approvals have been obtained unless there is an immediate threat to public safety, structures, or utilities.

§235 6.9.3.1 Removal of Locally Notable Trees shall require a special permit from the Zoning Board of Appeals as the Special Permit Granting Authority, pursuant to §235-8.4B. Any application for the removal of a Locally Notable Trees shall be referred to the Conservation Commission for comment prior a hearing per Ch. 40A, Sec. 9 before the Special Permit Granting Authority. A priority shall be placed on retaining these trees during the course of any construction activities or site plan and or landscaping.

§235 6.9.3.2 Applications for the trimming of a Locally Notable Tree shall be made to the Tree Warden and must include a letter from a certified arborist that the trimming poses little risk to the health of the tree prior to any such work being performed and such applications are subject to the approval of the Tree Warden. Said trimming includes that of the Tree's root system. If the Tree Warden or Arborist determines that the trimming of a Locally Notable Tree poses a threat to its health, they shall refer the matter to the Special Permitting Authority, who will refer it to the Conservation Commission for comment prior to the hearing.

§235 6.9.3.3 EXEMPTIONS

This section shall not apply to the removal of Invasive Plants, diseased trees, or those posing an imminent threat to people, structures, roadways, or utilities .

This section shall not apply to federal, state, or municipal projects.

§235-6.9.3.4 8.4.4 Special Permits for Under §235-8.4.B.4 6.9.3

The Board of Appeals acting as the SPGA, may grant a special permit for the removal of a Locally Notable Tree if it reaches a finding that there is no viable alternative to said removal.

(Requested by the Selectboard)

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** It also requires a special permit for removal or for the trimming that may pose a risk to the health of very large trees. Very large trees provide extensive ecosystem benefits as well as often natural playgrounds. This also clarifies and strengthens the prohibition of the cutting of timber in the NSP.

**Commented [CMM4]:** To clarify, is this the only finding the ZBA needs to make to issue a SP or is the ZBA supposed to apply the criteria of 235-8.4 plus find that there is no viable alternative to removal? My recommendation is that this should be the sole finding for the ZBA to make but the process for applying and holding a hearing shall be as found in 235-8.4.B.4 only.

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**ARTICLE NO. 13 – ZONING BYLAW AMENDMENT – ZONING ENFORCEMENT PENALTY:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article VIII – Administration, Section 8.3 Penalty by deleting the ~~strickethrough~~ language and adding the underlined language as follows, or take any other action relative thereto.

[Amended 6-26-2021 ATM by Art. 45]8.3 PENALTY

~~8.3 Penalty Any person violating any of the provisions of these Bylaws may be fined not more than \$50.00 for each offense, except in the case of violations of Section 6.21 Accessory Dwelling Units, the fine shall be \$300.00 for each offense. Each day that such violation continues shall constitute a separate offense.~~

§ 235-8.3 Penalty.

- A. Any person, association, firm or corporation violating any of the provisions of this bylaw may be fined \$300 for each offense. Each day that such a violation continues shall constitute a separate offense. This bylaw may be enforced by noncriminal disposition pursuant to the provisions of General Laws Chapter 40, Section 21D.
  
- B. Accessory Dwelling Units: Any person, association, firm or corporation violating § 235-6.21 Accessory dwelling units (ADU), may be fined \$300.00 for each offense. Each Accessory Dwelling Unit in violation shall be a separate violation. Each day that such violation continues shall constitute a separate offense. This bylaw may be enforced by noncriminal disposition pursuant to the provisions of General Laws Chapter 40, Section 21D.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** The maximum allowed fine under MGL Ch 40a Section 7 for zoning infractions is \$300 dollars per violation. Most Massachusetts municipalities have adopted the maximum allowable fine. This does not mean that the fine is always \$300. With the exception of ADUs, the fine is at the discretion of the building commissioner. Enforcing zoning is expensive, and this provides both a means to recapture some of the costs based on the level of the infraction as well as providing the commissioner with additional leverage to address zoning infractions. ADUs are required to be occupied on a year-round basis, and clarifies that the fine is applied to each ADU out of compliance.

**ARTICLE NO. 14 – GENERAL BYLAW AMENDMENT – MINIATURE “NIPS”  
BOTTLE BAN:**

To see if the Town will vote to amend Chapter 187 (“Plastics and Other Environmental Hazards”) of the General Bylaw by inserting a new Article V – Prohibition on Sale of Alcoholic Beverages in Miniature or “Nip” Bottles as follows, ~~the following underlined language~~, or take any other action relative thereto.

Article V Prohibition on Sale of Alcoholic Beverages in Miniature or “Nip” Bottles

§ 187-21 Ban on sale.

A. Effective on September 1, 2024, it shall be unlawful to sell or offer for sale alcoholic beverages in containers less than or equal to 100 milliliters in the Town of Wellfleet. Enforcement of this bylaw will begin September 1, 2024

§ 187-22 Enforcement.

A. Enforcement of this bylaw shall be the responsibility of the Town Administrator or his/her designee, and/or any police officer of the Town. The Town Administrator shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate.

B. Any individual and/or establishment conducting sales in violation of this bylaw shall be subject to a non-criminal disposition fine as specified in G. L. Chapter 40 § 21D. The following penalties apply:

- First violation: Written warning
- Second violation: \$150 fine
- Third and subsequent violations: \$300 fine

C. Each day a violation continues constitutes a separate violation, incurring additional fines. Any such fines collected shall be payable to the Town of Wellfleet.

D. All businesses will be routinely inspected until the Town Administrator deems the inspection to no longer be required.

(Requested by the Selectboard)

**Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 5, No – 0, Abstain – 0.**

**Recommend: Yes – 5, No – 0, Abstain – 0.**

**SUMMARY:** Nips are miniature single-serve liquor bottles made of plastic or glass. The plastic nip bottles are not recyclable, due to their small size, nor are nips bottles covered by the state bottle redemption law. Nips litter is a pervasive problem, dotting roadsides and beaches. A Falmouth group surveyed litter on that town’s roadways in 2021 and found that nips made up 32% of roadside garbage. The reason nips end up on roadsides is a public health and safety concern. Nip bottles are a convenient way to consume alcohol while driving and dispose of the container out the window. In 2018, data showed Chelsea received 742 alcohol related emergency calls. Chelsea's ban passed that year and by August of 2019, that number had decreased to 128 calls of the same kind. Nips bans are now in effect in Chelsea, Falmouth, Mashpee, Newton, Wareham, and Nantucket. The two Martha’s Vineyard towns that sell nip bottles, Oak Bluffs and Edgartown, passed nip bottle bans earlier this year.

**ARTICLE NO. 15 – GENERAL BYLAW AMENDMENT – ANIMAL CONTROL REGULATIONS:**

To see if the Town will amend the Wellfleet Zoning By-Laws by amending Chapter 111 by deleting the ~~strickethrough~~ language, and adding the underlined language as follows, or take any other action relative thereto.

(Requested by the Selectboard)

**Article I  
Animal Control**

**[Adopted 6-26-2021 ATM by Art. 47 (Art. XV of the General Bylaws)]**

**§ 111-1 Purpose:**

~~The purpose of these bylaws is the control of animals to prevent injury to property, persons and animals.~~

**§ 111-2 Administration:**

~~The Selectboard shall appoint an Animal Control Officer who, in addition to any other authorized enforcement officers, shall be responsible for the enforcement of these bylaws.~~

**§ 111-3 Definitions:**

~~For the purposes of this bylaw, the following terms shall have the following definitions:~~

**ADEQUATE SHELTER**

~~Means a structure that is large enough for the animal to stand naturally, turn around and lie down inside of the structure without being exposed to the elements of weather. The roof and walls of the structure are waterproof and windproof. Bedding must be kept dry and changed regularly to preserve insulating qualities. Insulation and an inner wall must be included in shelter for dogs with short fur (example: Pointers, Staffordshire Terriers, Boxers, Labrador Retrievers) to provide adequate protection from cold. During cold weather a moveable flap must be placed over the entrance to a shelter to preserve the animal's body heat. Adequate shelter from sun may be provided by a tarp placed in a manner to provide deep shade and allow air to pass through for ventilation.~~

**BEACH**

~~The zone above the water line at a shore of a body of water, marked by an accumulation of sand, stone, or gravel that has been deposited by the tide or waves.~~

**DOMESTICATED ANIMAL**

~~Any of various animals that have been tamed and made fit for a human environment.~~

**KEEPER**

~~Any person, other than the owner, possessing, harboring, keeping, or having control or custody of a dog either permanently or on a temporary basis. If a person under the age of 18 owns or keeps a dog, that person's custodial parent(s) or legal guardian(s) shall be responsible for complying with the requirements of these bylaws.~~

**KENNEL, COMMERCIAL**

A kennel maintained as a business where four or more dogs three months of age or older are kept for the breeding, boarding, sale, in residence training, grooming or other business purposes, and including any shop where dogs are on sale or a kennel of 10 or more dogs regardless of the purpose for which the kennel is maintained.

**KENNEL, RESIDENTIAL**

Means a collection of four up to and including nine dogs, three months of age or older, owned or kept on a single premises, maintained for any non-commercial purpose except for the sale of one litter per year; provided, however, that a veterinary hospital shall not be considered a kennel unless it contains an area for the selling or boarding of dogs for other than medical purposes.

**DANGEROUS DOG**

Any dog that attacks, bites or injures any human or domesticated animal without provocation or which, because of its temperament, conditioning or training, has a propensity to attack, bite or injure humans or domesticated animals.

**LICENSING PERIOD**

The licensing period means the time between January 1st and the following December 31st of each year, both dates inclusive.

**§ 111-4 Dog licensing.**

**Dogs must be leashed.**

All dogs within the territorial limits of the Town of Wellfleet shall be restrained by a leash unless confined to the property of their owners. Any dog found running at large will be removed and impounded. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers), the Animal Control Officer, and any other officials whom the Selectboard may from time to time designate shall have the authority to enforce this section.

- A. Any person residing in the Town of Wellfleet, who at the beginning of the license period (January 1 to December 31), or who during the license period, becomes the owner or keeper of a dog six months old or over, shall cause the dog to be licensed within 30 days. The Town Clerk shall issue dog licenses and tags based on the completion and the approval of the dog license application form that is available on the Town's website. The completed form, along with the required additional documentation, can be brought to the Town Clerk's office or sent to the Town Clerk by mail.
  
- B. An applicant for a dog license will also bring to the Town Clerk's office or send to the Town Clerk by mail the following required additional documentation:
  - (1) Copy of current rabies certificate.
  - (2) Copy of spaying/neutering certificate (if not noted on rabies certificate).

(3) Self-addressed envelope with sufficient postage (license will be held in office if a completed return envelope is not enclosed).

(4) Check made payable to "Town of Wellfleet" for the total of the licensing fee.

C. On the license form, the Town Clerk shall record the name, address, mailing address, email address, phone number and the date of birth of the owner or keeper of the dog, and the name, age, breed, sex, and description of each dog. Each tag shall include the license number, the name of the Town and the year of issue.

D. The owner or keeper of the dog shall cause each dog to wear around its neck or body a collar or harness to which they shall securely attach the license tags. In the event that any license tag is lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the Town Clerk at the cost of \$1. Such moneys shall be transmitted to the Town of Wellfleet in the same manner as license fees.

E. The Town Clerk shall not issue a license for any dog unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that the dog is currently vaccinated against rabies, a veterinarian's certification that such dog is exempt from the vaccination requirement, or a notarized letter from a veterinarian that either of these certification was issued relative to such dog.

F. The fee for each dog license shall be \$10 unless a certificate from a veterinarian stating that the dog has been spayed or neutered, or a statement from a veterinarian indicating that because of age, infirmity or other physical condition spaying or neutering is deemed inadvisable, is presented to the Clerk, in which case the fee for each dog license shall be \$5. No fee shall be charged for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder, in accordance with G.L. c. 140, § 139(c).

G. The Clerk shall collect a late fee of \$5 for every dog license issued after the thirty day licensing period, as defined in § 111-3 of this article.

H.G. Any owner or keeper of a dog who moves into the Town of Wellfleet and has a valid dog license for his/her dog from another city or town in the Commonwealth shall, within 30 days, obtain a dog license from the Town of Wellfleet.

H.H. No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering, or removal from the Town of Wellfleet or any other disposal of said dog.

H.I. This section shall not apply to a person to whom a valid kennel license has been issued under § 111-10, or a dog housed in a research institution.

**Commented [RW5]:** Section 111-3 includes a definition of "licensing period," which refers to a calendar year. There is no definition for the "thirty day" period referenced in this section.

Is the late fee for licenses issued after the "thirty day" period, the licensing period, or both?



~~K.J.~~ Penalties shall be imposed as per § 111-11B(1).

**§ 111-5 Dog waste removal.**

~~A. All dog owners, keepers or persons having control of a dog are responsible for immediately removing and disposing of all solid wastes produced by said dog on any property (other than the property of the dog owner) in a sanitary manner and where it will not cause pollution, either directly or indirectly.~~

~~B. No written warning shall be given.~~

~~C. Penalties shall be imposed as per § 111-11B(2).~~

**§ 111-6 Barking and other noise caused by dogs.**

~~A. No person owning, keeping or otherwise responsible for a dog shall allow said animal to annoy another person's reasonable right to peace or privacy by making loud or other continuing noise, where such noise is plainly audible at a distance of 100 feet from the building, premises, vehicle, or other means of conveyance or housing of said dog, or where such noise is continuing for 15 minutes. The fact that such noise is plainly audible at said distance or continuing in excess of 15 minutes on a daily basis shall be prima facie evidence of a violation.~~

~~B. Penalties shall be imposed as per § 111-11B(3).~~

**§ 111-7 Animals in parked vehicles.**

~~A. No animal may be left unattended in a parked vehicle at any time of year.~~

~~AB. Any person owning, keeping, or otherwise responsible for a companion animal or pet or farm animal or livestock who confines said animal in a parked vehicle or trailer where the vehicle confinement has the possibility to endanger or does in fact endanger the health or safety of the animal shall be subject to a fine.~~

**§ 111-8 Licensing and regulation of dangerous dogs.**

~~A. Determination of a dog being dangerous. The Animal Control Officer shall investigate all complaints made to the Animal Control Officer, the Town of Wellfleet Police Department, the Selectboard, or the Town Administrator that any dog owned or kept within the Town of Wellfleet has attacked, bitten, or injured any person or domesticated animal, or which by its temperament, conditioning or training has a propensity to attack, bite or injure persons or domesticated animals.~~

~~B. Any person owning, keeping, or otherwise responsible for a companion animal or pet or farm animal or livestock who confines said animal in a parked vehicle or trailer where the vehicle confinement has the possibility to endanger or does in fact endanger the health or safety of the animal shall be subject to a fine.~~

~~BC. Upon determination by the Animal Control Officer that a dog is dangerous, the Animal Control Officer shall issue a written order to the owner or keeper of said dog concerning the restraint,~~

remedial actions allowed under G.L. c. 140, § 157, or disposal humane euthanasia of such dog as they may deem necessary. At a minimum, said order shall state that the dog has been determined to be dangerous and shall require the owner or keeper of such dog to comply with the requirements of this bylaw.

~~CD.~~ Without limiting the generality of the foregoing, the Animal Control Officer may order that said dog be humanely euthanized in accordance with the provisions of MGL c. 140, § 151A, or that said dog be confined in accordance with such limitations as the Animal Control Officer deems appropriate. If an order to euthanize is issued, a certificate must be provided to the Animal Control Officer confirming the action was carried out. ~~If the Animal Control Officer determines that the dog is to be permanently given or sold to new owner, removed, the new owner or keeper shall provide the Animal Control Officer with the name, address, and telephone number of the new owner or keeper of the dog.~~

~~DE.~~ The owner or keeper of any dog determined to be dangerous by the Animal Control Officer may request a hearing before the Selectboard. Said request shall be in writing and received by the Selectboard within five business days of the owner's or keeper's receipt of the Animal Control Officer's order. A copy of the hearing request shall also be delivered to the Animal Control Officer. The hearing request shall include an explanation of the measures that the owner or keeper intends to take to protect public safety pending disposition of the matter by the Selectboard. If the Selectboard determines that the measures described are inadequate, it may order that said dog be impounded, at the owner's or keeper's expense, until such time as the Selectboard rules otherwise.

~~F.~~ ~~After a hearing, at which those testifying shall be sworn under oath, the Selectboard may affirm the order, reverse or nullify the order, or issue any such order as it deems necessary to ensure compliance with the provisions of these bylaws and the protection of public safety. The determination of the Selectboard after a hearing shall be final.~~

~~G.~~ ~~Nothing in this bylaw is intended to limit or restrict the authority of the Selectboard to act in accordance with MGL c. 140, § 157.~~

#### § 111-9 Control of dangerous dogs.

~~A.~~ ~~The Animal Control Officer shall notify the Town Clerk of all dogs determined to be dangerous, pursuant to the terms of this bylaw.~~

~~B.~~ ~~The owner or keeper of any dog determined to be dangerous in accordance with this bylaw, which has not been ordered euthanized, shall re-license said dog as "dangerous" within 30 days of such determination. A unique licensing number shall be assigned to such a dog by the Town Clerk. That number shall be noted in the Town licensing files.~~

C. No dangerous dog shall be licensed by the Town of Wellfleet for any licensing period unless the owner or keeper of such vicious dog displays a sign not to exceed one square foot on his or her premises warning that there is a dangerous dog on the premises. The sign shall be visible and capable of being read from the public or private roadway.

D. All dangerous dogs shall be confined in an enclosure approved in writing by the Animal Control Officer. It shall be unlawful for any owner or keeper to maintain a dangerous dog upon any

premises which does not have a locked enclosure or for any owner or keeper to allow any such dog to be outside of the dwelling of the owner or outside of the enclosure, unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog, or to sell or give away the vicious dog or to comply with the orders or directions of the Animal Control Officer and/or the Selectboard with respect to the vicious dog, or to comply with the provisions of these bylaws. In such event, the dangerous dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog. Dangerous dogs shall not be permitted to run loose on any public or private way or any area within the Town of Wellfleet that is open to the general public, including but not limited to parks and beaches.

- E. ~~License revocation.~~ If the Animal Control Officer determines that a dangerous dog is being kept in the Town in violation of these bylaws or any order issued by the Animal Control Officer, or the Selectboard, or of any court, the Animal Control Officer shall so notify the Selectboard. After giving notice to the owner or keeper of the hearing, the Selectboard shall hold a public hearing on whether to ~~revoke the license of said dog or to take further action as outlined in G.L. c. 140, § 157,~~ including euthanizing the dog. If the Selectboard ~~revokes the license of~~ decides to take further action against said dog and does not order it to be euthanized, they shall notify the owner or keeper of the dog and the Town Clerk within 10 days that said dog will be impounded and euthanized if it is found within the Town after the succeeding seven days. The Animal Control Officer or any Town of Wellfleet police officer shall seize and impound any dangerous dog found outside of its enclosure in violation of this bylaw or any order issued by the Animal Control Officer, Selectboard or any court.

**§ 111-10 Kennel licenses, inspection and regulation.**

~~A. Requirement for kennel license. Any owner or keeper of four up to and including nine dogs, three months of age or older, being maintained at a premises, shall secure a Residential Kennel License. The Town Clerk shall not issue a Residential Kennel License unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that each dog three six months of age or older is currently vaccinated against rabies. Any owner or keeper of 10 or more dogs, three months of age or older, or of a premises maintained as a commercial kennel, shall obtain a Commercial Kennel License.~~

B. Application and issuance of kennel license and fees.

- (1) A Residential or Commercial Kennel License shall be issued annually by the Town Clerk upon written application by an owner or keeper of dogs and after inspection of the kennel and a determination, made by the Animal Control Officer, that the basic standards of cleanliness, proper care, confinement, and adequate shelter of said dogs exist on the premises. The name and address of the owner or keeper of each dog kept in any kennel, if other than the person maintaining the kennel, and a veterinarian's certificate verifying that each dog, ~~three~~ six months of age or older, is currently vaccinated against rabies and kennel cough, shall be kept on file on the premises and available for inspection by the Animal Control Officer or any authorized persons. Such license shall be in the form prescribed by the Town Clerk.

~~(2) The Residential Kennel License fee shall be \$50. The Commercial Kennel License fee shall be \$150. The Town Clerk shall, upon application, issue without charge a Commercial Kennel License~~

to any domestic charitable corporation, incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, and for the relief of suffering among animals. The holder of a license for a kennel shall cause each dog kept therein to wear, while it is at large, a collar or harness of leather or other suitable material, to which shall be securely attached a tag upon which shall appear the current dog license information of the town where the dog resides. A veterinary hospital shall not be considered a kennel unless it contains an area for the selling or boarding of dogs for other than medical purposes, in which case it shall apply for a Commercial Kennel License. The license period for a kennel license shall be from January 1 to December 31, inclusive. Kennel licenses are non-transferrable.

- C. ~~Inspection. The Animal Control Officer, Animal Health Inspector, or any agent authorized by the Town may at any reasonable time inspect any kennel or premises for which a Residential or Commercial Kennel License has been issued.~~
- D. ~~Loss of kennel license. If the Animal Control Officer, Animal Health Inspector, or other authorized agent, after inspection, determines that the kennel or premises that are the subject of a kennel license are not kept in a sanitary or humane condition, or if records are not kept as required by law, the inspecting officer shall notify the Selectboard of that determination and the facts upon which it is based. The Selectboard may, by order after a hearing, revoke or suspend such license. If a license has been revoked or suspended, the license may be reinstated after inspection and a reinstatement order by the Selectboard after a new hearing.~~
- E. ~~Procedure for complaint to the Selectboard. Upon written petition of any person or persons, filed with the Selectboard, setting forth that they are aggrieved or annoyed to an unreasonable extent by one or more dogs at a kennel because of excessive barking or dangerous disposition of said dogs, or other conditions connected with such kennel constituting a public nuisance, said Selectboard, within seven days after the filing of such a petition, shall give notice to the owner or keeper of the kennel, the petitioner(s), and any other person the Selectboard determine should be given notice, of a public hearing to be held within 14 days after the date of such notice. Said notice shall also be posted on a Town bulletin board. Within seven days after such public hearing, said Selectboard shall make an order either revoking or suspending such kennel license, or otherwise regulating said kennel or premises, or dismissing said petition.~~
- F. ~~Petition for relief to court. The holder of a kennel license or other person who is the subject of an order under Subsection E may petition the District Court for relief in accordance with MGL c. 140, § 137C.~~
- G. Penalties shall be imposed as per § 111-11B(4).

#### **§ 111-11 Fines and penalties.**

- A. ~~Criminal disposition. In addition to any other legal remedies that may be available, the Animal Control Officer, or other designated enforcing person, may enforce this bylaw by non-criminal disposition. If a non-criminal disposition process, as provided in MGL c. 40, § 21D and the Town's Non-Criminal Disposition Bylaw is elected, then any person who violates the provisions of Chapter 111, Article I, of the Town's General Bylaws shall be subject to the following enforcement fines and penalties:~~

~~(1) The enforcing officer may give a written warning for the first offense or shall impose the following fines:~~

~~(a) First offense \$50.~~

~~(b) Second offense \$100.~~

~~(c) Third offense \$300.~~

~~(d) Fourth and subsequent offenses \$500.~~

~~(2) Each day or portion thereof shall constitute a separate offense. If more than one, each provision violated shall constitute a separate offense.~~

B. These penalties shall apply to all violations of Wellfleet's General Bylaws, Chapter 111, Article I, except that:

(1) Any person who violates the provisions of § 111-4 shall be subject to a verbal or written warning for the first offense, a fine of \$50 for the second offense and a fine of \$100 for the third and any subsequent offenses.

~~(2) Section 111-4, Dogs must be leashed, and §~~

(2) Section 111-5, Dog waste removal. Owners or keepers of dogs found to be in violation shall be fined immediately as a first offense and subsequently as listed for the third, fourth and subsequent offenses, with no written warning;

(3) Section 111-6, Barking and other noise caused by dogs. Owners or keepers of dogs found in violation shall be fined \$50 for each offense;

(4) Section 111-10, Kennel licenses, inspection and regulation. Kennel owners shall be subject to a penalty in the amount of \$50 per day for each day of violation. Each day or portion thereof shall constitute a separate offense. If more than one, each provision violated shall constitute a separate offense.

## Article II Dogs at Large

[Adopted as Art. VII, Sec. 25, of the General Bylaws]

~~§ 111-12 Dogs in cemeteries.~~

~~No person shall permit a dog to enter within the boundaries of any cemetery in the Town of Wellfleet.~~

§ 111-12. (Reserved)

§ 111-13 **Restraint requirements.**

All dogs within the territorial limits of the Town of Wellfleet shall be restrained by a leash unless confined to the property of their owners. Any dog found running at large will be removed may be

restrained and impounded. The owner of any dog so removed is also shall be liable for boarding expenses at the pound at the established rate established by the Animal Control Officer. The Town of Wellfleet Police Department (including special officers) and the Animal Control Officer and any other officials whom the Selectboard may from time to time designate shall have the authority to enforce this section. The provisions of this section shall not apply to Seeing Eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place, nor to any dogs properly trained and under control for aiding the deaf, nor to any dogs qualified as a service animal under the Americans with Disabilities Act or regulations promulgated thereunder.

**§ 111-14 Violations and penalties.**

Any dog found running at large will be removed and impounded. If it is the first offense subject to this article committed by a person within a calendar year, the ~~payment of a fine of \$50 or a warning charge shall be~~ may operate as final disposition of the case dismissed without the payment of any fine; if it is the second offense so committed in the calendar year, the payment of a fine of \$25 \$100 shall may operate as final disposition of the case; if it is the third offense so committed in a calendar year payment of a fine of \$30 \$300 shall may operate as final disposition of the case; if it is the fourth or subsequent offense so committed the payment of a fine of \$50 \$500 shall may operated as a final disposition of the case. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers), and the Dog Officer Animal Control Officer, and any other officials whom the Selectboard may from time to time designate shall have the authority to enforce this article.

Article IV

**Domesticated Animals on the Beach**

**§ 111-18 Domesticated Animals Prohibited From Beach Areas are not allowed in the following areas:**

- A. For purposes of this Article, the definitions contained in ~~of Beach (as defined in § 111-3)~~ are incorporated herein by reference. In addition, the definition of Beach (as defined in § 111-3) shall also include areas below the high water mark where shellfishing could or does take place.
- B. Domesticated Animals are prohibited from ~~On~~ the lifeguarded portions of Newcomb Hollow, Cahoon Hollow, White Crest and Maguire Landing at LeCount Hollow between the hours of 9am and 5pm during the summer season (3<sup>rd</sup> Saturday in June – through Labor Day) except to walk from the parking lot to a point beyond the end of the guarded beach.
- C. Domesticated Animals are prohibited ~~never allowed on~~ from the following salt water beaches and landings: Burton Baker, Indian Neck and Nauset Road, Mayo Beach and Powers Landing.
- D. All owners and Keepers of any Domesticated Animal shall keep said Domesticated Animal under the owners and keepers' control so not to be a nuisance to bathers at all town landings and beaches at all times.
- ~~D. Domesticated animals shall be kept away from bathers at all town landings and beaches at all times~~

**Commented [JGM6]:** This phrase may prove difficult to enforce. You may wish to consider providing an objective standard for the enforcing officer. (i.e., 15 feet).

E. Domesticated animals are ~~not allowed prohibited~~ in the following freshwater ponds ~~or and~~ on the beaches of these ponds ~~from May 15<sup>th</sup> through October 15<sup>th</sup>~~: Gull Pond, Long Pond, Great Pond, Duck Pond, Higgins Pond, the Sluiceway, Spectacle Pond, or Dyer Pond ~~from May 15<sup>th</sup> through October 15<sup>th</sup>~~.

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E.F. ~~The provisions of this section shall not apply to any service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder, and to any emotion support, therapy, comfort, or companion animals.~~

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**Commented [JGM7]:** It is my understanding that a question was raised regarding the extent of the Town's authority under the Colonial Ordinances to limit dog activity associated with hunting/fowling.

Please note that there are extensive federal and state regulations regarding the use of firearms when hunting fowl. For example, hunting or the possession of a loaded weapon is prohibited on or within 500 feet of established bicycle, official nature trails, and buildings. See G.L. c. 269, s. 12E. Additional federal regulations and requirements are applicable on lands within the National Seashore. In my opinion, the use of dogs in connection with hunting waterfowl from coastal areas is subject to comprehensive state and federal requirements.

#### § 111-19 Enforcement.

A. The Officers of the Wellfleet Police Department, Animal Control Officers, Harbormaster, Assistant Harbormasters, Shellfish Constable, Deputy Shellfish Constables shall have the authority to enforce the provisions of this article.

B. Violations of this article shall be enforceable under the noncriminal disposition procedures established by MGL c. 40, § 21D. The noncriminal disposition penalties for any person violating this article shall be a warning or \$50 for the first violation; \$100 for the second violation; \$300 for the third violation; and ~~\$500 for~~ each subsequent violation. Each day of violation shall constitute a separate offense.

(Requested by the Animal Control Officer)

#### **Majority Vote Required**

#### **Recommendations:**

#### **Selectboard:**

**Insert Yes – 5, No – 0, Abstain – 0.**

**Recommend: Yes – 5, No – 0, Abstain – 0.**

**SUMMARY:** The proposed changes that are before you are needed to amend and update the existing animal bylaws. Upon review of the bylaws, it was found that some of the language had been disapproved by the Office of the Attorney General in correspondence from November 23, 2021, and needed to be amended within the bylaws. There currently is a licensing period for dogs in the bylaws' definitions but there is not a bylaw section regarding the registration of dogs with the town. The town registration of dogs is required under Massachusetts General Law. The addition of a clear bylaw setting out the town's process of dog registration as well as clearly defined penalties for the failure to register are needed. It was observed that the leash bylaw was listed in two separate Articles within the bylaws and needed both consolidation and updating. The updates would allow for both discretion in extenuating circumstances and increase the fine schedule to gain compliance from repeat offenders. The current bylaw that doesn't allow animals to be left unattended in parked cars for any amount of time and does not take into consideration circumstances where there is no danger to the animal's health or safety would be updated to be more in line with current Massachusetts General Law and allow for circumstances where there is no threat of danger to the animal's health or safety. The prohibition of dogs in cemeteries through the town bylaws would be

removed as previously voted on and approved and the bylaw mandating the removal of dog waste would remain in effect. The current regulations not already in the bylaws regarding animals from the Beach Rules and Regulations would be brought into the bylaws with the existing schedule of fines. The definition of "Beach" from the bylaws would be expanded within the singular bylaw for purposes of enforcing the beach restriction of animals in shellfishing areas and would allow for a warning for a first offense.

### **SECTION III: STANDARD CLOSING ARTICLES**

#### **ARTICLE NO. 16 - REPORTS OF BOARDS AND COMMITTEES:**

To hear reports of the Selectboard, Town Officers, and all other Committees and to act thereon, or do or act on anything thereon.

(Requested by the Selectboard)

#### **Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes - 5, No - 0, Abstain - 0.**

**Recommend Yes - 5, No - 0, Abstain - 0.**

#### **ARTICLE NO. 17 - OTHER BUSINESS:**

To act on any other business that may legally come before the meeting.

(Requested by the Selectboard)

#### **Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes - 5, No - 0, Abstain - 0.**

**Recommend Yes - 5, No - 0, Abstain - 0.**



**SPECIAL TOWN ELECTION WARRANT**

Wednesday September 27, 2023

The Commonwealth of Massachusetts

To either of the Constables in the Town of Wellfleet in the County of Barnstable:

**GREETINGS:**

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Wellfleet qualified to vote in Town Affairs, to meet at the **WELLFLEET ADULT COMMUNITY CENTER, 715 OLD KING'S HIGHWAY in Wellfleet on Wednesday September 27<sup>th</sup>, 2023**, between twelve o'clock noon and seven o'clock p.m., then and there to vote for the election of the following Town officer: One Selectboard to fill the remainder of a term. Also, to vote on the following questions:

**Question 1:** Shall the Town of Wellfleet be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds issued in order to pay costs associated with the design, permitting and construction of Phase I Wastewater Treatment System to serve 95 Lawrence Road and connect surrounding municipal buildings?

**Majority Vote Required**

**Question 2:** Shall the Town of Wellfleet be allowed to assess an additional \$145,000.00 in real and personal property taxes for the purpose of funding a new Town Planner position for the fiscal year beginning July 1st, two thousand and twenty-three?

**Majority Vote Required**

**2023 SPECIAL TOWN ELECTION WARRANT**

And you are hereby directed to serve these warrants by posting attested copies thereof, one in the Post Office in Wellfleet and one in the Post Office in South Wellfleet, fourteen (14) days at least before the date of said meetings.

Hereof fail not and make do return of these warrants with your doings thereon, to the Town Clerk, at the time and place of said meetings.

Given under our hands this 25th day of July 2023.

**Wellfleet Selectboard**

\_\_\_\_\_  
Barbara Carboni, Chair

\_\_\_\_\_  
John A. Wolf, Vice Chair, Clerk

\_\_\_\_\_  
Michael F. DeVasto, Member

\_\_\_\_\_  
Kathleen Bacon, Member

\_\_\_\_\_  
Ryan Derek Curley, Member

Constable's Return of Service

I have served the foregoing warrant by posting attested copies thereof in the Post Office in Wellfleet and the Post Office in South Wellfleet in the Town on \_\_\_\_\_, which is at least seven (14) days before the date of said meeting, as within directed.

Date: \_\_\_\_\_

Constable: \_\_\_\_\_



# SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023



## BUSINESS

~ D ~

<b>REQUESTED BY:</b>	Selectboard
<b>DESIRED ACTION:</b>	To review and vote to send the draft response to the office of the attorney general regarding open meeting law complaint filed on July 25, 2023, by Jude Ahern
<b>PROPOSED MOTION:</b>  <b>SUMMARY:</b>	I move to approve the letter written by KP Law in response to the open meeting law filed on July 25, 2023 filed by Jude Ahern and send to the Office of the Attorney General.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



# OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

RECEIVED

2023 JUL 25 P 3 48

TOWN CLERK  
TOWN OF WELLFLEET

Please note that all fields are required unless otherwise noted.

## Your Contact Information:

First Name: Judith Last Name: Ahern

Address: PO Box 394, 6 Pleasant Point Landing

City: South Wellfleet State: MA Zip Code: 02663

Phone Number: 9174881513 Ext. \_\_\_\_\_

Email: jude@judeahern.com

Organization or Media Affiliation (if any): n/a

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual  Organization  Media

## Public Body that is the subject of this complaint:

City/Town  County  Regional/District  State

Name of Public Body (including city/town, county or region, if applicable): Wellfleet Selectboard

Specific person(s), if any, you allege committed the violation: Selectboard: DeVasto, Bacon, Carboni and Wolf; Town Administrator Rich Waldo, Fire Chief Rich Pauley, Curt Felix (Dredging and Wastewater comm.)

Date of alleged violation: 6/27/23

## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

The Wellfleet Selectboard broke into Executive Session on June 27, 2023 for one sole purpose: "to hear complaints against a public official or employee". The agenda does not mention agendas or how agendas are formed. The agenda does not mention reorganization of the Selectboard. There must have been discussions at that meeting that extended beyond the stated purpose of the executive session because at the next public Selectboard meeting on July 11, 2023, two of the members speak up, one in the opening Public Comment period and the other claiming "Special Privilege" during "Boards, Committees Appointments and Updates" but both citing an unnamed "municipal association" advisory opinion about agendas. Clearly this was not on the agenda. On July 13, the topic of agendas is not on the agenda, let alone the topic of reorganization (without 48 hours notice). Their demand for reorganization surprised the People and we are still confused as to what occurred during the June 27 Executive Session to precipitate an urgent discussion about agendas and reorganization. There was no basis. Shockingly, the Selectboard removed the Chair within one week with no discussion and no explanation. Board member DeVasto wanted to do it within 48 hours without a proper 48-hour public posting!

The Selectboard claims it cannot tell us why they forced the Chair out because they are bound to confidentiality until the minutes from the Executive Session are released. How then, did Fire Chief Pauley, Curt Felix and Susan Reverby know that it has something to do with our Town Administrator and our Selectboard Chair? Why do some people know what happened during that Executive Session and the rest of us still do not? I believe at least one of the Board members broke that confidentiality. Our Charter outlines the process by which a Town Administrator resigns or is fired. Our Charter states the Selectboard needs to organize annually.

Incredulously, Board member Bacon now suddenly resigns when she's not made Chair or Vice Chair and explains that "She just doesn't have the enthusiasm for it" after serving a little over one year and now forcing another special election.

Attachments: 1) June 27, 2023 Executive Session, July 11, July 13, July 18 Open Session agendas. 2) transcripts of discussions from July 11, July 13 and July 18, 2023 Selectboard open meetings; 3) draft minutes for July 11 and July 13; 4) Carolyn Murray/KP Law email "opinion" about reorganization 5) Board member Kathleen Bacon resignation email; 6) my public records requests for June 27, 2023 Executive Session minutes and KP Law opinions about agendas 7) my request and the Town's response for documents re: agendas between Town of Wellfleet and KP Law in 2021.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

The Wellfleet Selectboard rescind its "reorganization" and reinstate Ryan Curley as its Chair and Barbara Carboni as its Vice Chair as was voted on May 2, 2023. Release the Executive Session minutes of June 27, 2023 and reveal to the People why it wanted to reorganize the Board. The Town Administrator is held accountable by the Wellfleet Selectboard. The Wellfleet Selectboard with Barbara Carboni as its Chair is illegitimate.

## Review, sign, and submit your complaint

### I. Disclosure of Your Complaint.

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

### II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:

**TRANSCRIPT**  
**July 18, 2023**

**Chair Ryan Curley:**

Board reorganization. So I have a short statement. "It's been an honor to serve...[READS A RESIGNATION LETTER] while support has improved somewhat, Administration must do a better job supporting the next Chair and the Board as a whole. It is unfair that so much continues to be asked of the Chair. The DOR, DLS delivered a series of recommendations to the Board. In the Annual Town Report the Board and Mr. Waldo made a pledge to the community to implement those recommendations. This must be a priority. Deviating from these recommendations should be unacceptable. Wellfleet staffing, training and accountability issues were highlighted in the DOR/DLS report, our annual audits and the S&P during that rating review. I look forward to stepping back into a lesser role and perhaps having time to once again read something beyond our packets. I frankly need a break and should have stepped back from being the Chair at the annual reorganization a couple of months ago."

So with that, with the Board reorganization we would have to reelect all the Officers of the Board that would be the Chair, the Vice Chair and the Clerk. So for nominations for the Chair...

I would like to nominate Barbara Carboni...Is there any discussion?

**Me (Jude Ahern):**

Are you guys going to discuss this or are we never going to know what caused this, just on May 2<sup>nd</sup> you were reorganized, you were voted, Ryan you were the most recently voted, you have the community support. Something happened, we are not being told what. Will we ever be told?

**Chair Ryan Curley:**

I mean, the Board does not wish that I continue to be Chair which is fine. So is there any discussion on the motion?

**Me (Jude Ahern):**

But you all serve the People. Our Charter says one year. So I'm just wondering how this all came about and we deserve to know what happened on June 27<sup>th</sup> and why this is happening. You did an amazing job. And as you say, there are a lot of things in the works that I believe will be influenced by this change.

**Chair Ryan Curley:**

So let's not get into discussion about the Charter. Counsel has provided a letter with their opinion on it. So one second Roland, so Mike?

**Board member Mike DeVasto:**

I'm just wondering if anyone else is wishing to be Chair I'd be supportive of Barbara or, or....but I think it's a fair process to see if there are any other Board members interested and I frankly am not.

**Roland Blair (public):**

In watching the last couple of meetings, something happened. May 2<sup>nd</sup>, Ryan was made the Chairperson. Something happened in the meantime and we as taxpayers, as registered voters, as citizens, don't know what's going on or what happened. I just think this whole thing is a veil of secrecy and we don't know what's going on and I'd love to know what's going on. This is my town. That's all I have to say.

**Board member Kathleen Bacon:**

I will nominate myself to be Chair. I feel we are at a critical time and I feel I'm more atuned and invested in the community at this point in time. To Roland's comment, something did happen and it happened in Executive Session and until those minutes can be released we're not able to discuss it. But know that it was serious enough to um...call for reorganization.

**Chair Ryan Curley:**

Kathleen, you just overstepped again....You can't even discuss...

**Roland Blair (public):**

There's just this veil of secrecy about this whole thing and we as citizens deserve more. We need to know what's going on.

**Board member Kathleen Bacon:**

Again Roland, it's Executive Session and it cannot be discussed.

**Roland Blair (public):**

You are hiding behind that veil.

**Chair Ryan Curley:**

So there was a motion on the floor and it was second. And that was Barbara...So the vote carries 5-0 Barbara you are Chair now.



**TRANSCRIPT**  
**Thursday, July 13, 2023**

**Chief Pauley:**

This is a little, it's not difficult for me speaking as a resident and also as Fire Chief of this community. I was appointed by the Selectboard. I can be removed by the Selectboard. But I have to say a couple things about what's been going on recently. First of all I fully support the Town Administrator. I was on the pre-screening committee when we went through this process based upon his qualifications, his education, his experience, his management style. The things that have happened in this past year have been very positive, moving forward, whether it's Herring River, dredging, certifying free cash, financials, again open door policy and our Town Administrator and I do disagree but he's always been a gentleman and we move forward. And I can say unequivocally that the Town Administrator has the majority support of the department staff and senior staff members. I know that for a fact. Watching the meeting a couple nights ago, July 11<sup>th</sup>, as 24 years as a Fire Chief and 40 years plus, I've never seen anything like I saw on July 11<sup>th</sup>. It was disgraceful and embarrassing. We have a divided Board which could turn into a divided town government and a divided community. I do believe that one member does not dictate or overrule the will of the Board. I know that in my research. I know that in public policy and law. If there is a decision or desire of the Board to reorganize, then it's incumbent on that beyond the agenda. That is something I know for a fact and I believe Town Counsel and others have chimed in on this. Again with all respect, the Chair of the Board serves at the pleasure of the Board. And if the majority of the Board, requires or requests an agenda item that has to be put on the agenda. That is a fact. I've had the pleasure of working under a number of town administrators in the last ten years I've been here and Harry Terkanian comes in as top and Rich Waldo comes right in as top from my perspective. I would expect that the July 18<sup>th</sup> agenda will have on the agenda a reorganization of the Board to do as they will. I think this is in the best interest of the Town, I think it is in the best interest of Town Government and the best interest of everyone moving forward. And I'll leave it at that.

**Board member Michael DeVasto:**

About two weeks ago, I as a Board member requested reorganization. Another Board member requested reorganization for the July 11<sup>th</sup> meeting that was defied by the Chair. There was no agenda item placed on that agenda. At that meeting, I made a motion to request that at the next Board meeting there be a reorganization and the vote carried 4-1 with the Chair being the dissenting vote. After that, Town Counsel issued a written opinion, and I read the opinion (?) "It is my opinion that the reorganization of the Board may be added to the Selectboard's agenda for its July 13<sup>th</sup> meeting. Based on information provided it is my understanding that..."

[continues to read EMAIL FROM CAROLYN MURRAY TO REBEKAH ELDRIDGE INCLUDED]

...reorganization of the Board was not listed as a topic in the July 11<sup>th</sup> meeting, presumably because the Chair did not anticipate such topic being raised...

**Michael DeVasto interjects:**

"...Which is in fact not true, it was raised more than a week before that meeting."

[continues to read the letter, "Even though a topic is not listed on a meeting notice..."]

**Board member Michael DeVasto states (as if he's still reading from Town Counsel's email/letter):**

That topic was on the agenda for tonight. The Chair removed that topic from the agenda, The Chair also changed the topic.

**Chair Ryan Curley:**

So, one second Mike, you are over time.

**Board member Michael DeVasto:**

I don't care.

**Chair Ryan Curley:** The..

**Board member Michael DeVasto:** The Shellfish Advisory Board applications...

**Chair Ryan Curley:**

So we can't get into discussion here. But for the record, I did not remove an item or not.

**Board member Michael DeVasto**

That's not what I was told.

**Chair Ryan Curley:**

Barbara?

**Vice Chair Carboni (lawyer):**

Mr, Chairman, I think in light of the fact that we don't have all five members here, regardless of this discussion, that the Board reorganization should take place at the July 18 meeting rather than for discussion tonight.

**Chair Ryan Curley:**

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And did I remove the agenda item?

**Vice Chair Carboni:**

To be honest, I do not remember if I participated in that agenda prep for the 13<sup>th</sup> meeting or not. I just, I don't know. I'm not trying to evade it I just don't remember. Again, so it would just be best to put this off until July 18<sup>th</sup> and it can be on that meeting's agenda and we should move on.

**Board member Michael DeVasto:**

The Public has to know that the Chair defied a vote of 4-1 that the Board put this on the agenda. And I want to know, why he feels above the will of the Board that he can defy the vote of the Board.

*I (Jude Ahern) try to say something from the audience.*

**Vice Chair Carboni (to me):**

You are not recognized. I am recognized. Again I honestly don't remember if this was on the agenda and taken off for tonight's meeting. I don't consider this to be the most important thing. The most important thing is that we will have it on the July 18<sup>th</sup> agenda and that it will be properly noticed and we can move onto the matters under discussion tonight that I am sure the Public is waiting to hear.

I did not remove the item on the agenda. Mr. Waldo, we met in your office on Wednesday. Did I remove any items on the agenda at that time.

No item was placed on the agenda to be removed.

**Board member Michael DeVasto:**

You refused to put it on the agenda.

**Chair Ryan Curley:**

No, I did not.

**Board member Mike DeVasto:**

You are telling me you did not remove it from the agenda?

**Chair Ryan Curley:**

No I did not voice an opinion on it whatsoever.

**Vice Chair Carboni:**

So, Mr. Chair

**Board member John Wolf:**

We are not setting a very good example here.

**Ralph Bassett (public):**

Through the Chair, may I ask Mr. DeVasto if you have such a problem with the Board, why don't you resign?....let's get onto things so they don't take six, eight months....

**Town Administrator (interjects):**

Everyone this is announcements. There is no public time for Public Comments during Announcements.

**Chair Curley:**

No it is listed as Announcements, Open Session, Public Comments Mr. Waldo.

**Vice Chair Carboni:**

So Mr .Chair would you please just end this discussion? We'll put it on for the 18<sup>th</sup> and move on so that the Public can hear the items that were on the agenda.

**Board member John Wolf:**

I just have a question. Will we have a full Board on the 18<sup>th</sup>?

**Chair Curley:**

We should have a full Board on the 18<sup>th</sup> nobody has told me that we would not. I do know that Miss Bacon was unable to attend tonight.

**Brad Morse (public):**

Good evening. I was at a meeting with this whole Board was here and reorganization was voted upon and Mr. Curley was reinstated. Now I don't know why that doesn't hold any weight now, all of a sudden we are back to this? Also in the middle of all these other very pressing issues in this Town we have this drama going on. It is utterly absurd and I take offense to it as a resident and taxpayer of this Town. Also at the 6/20 meeting, Chair Curley brought up to the Town

Administrator that Nancy Civetta (Shellfish Constable) that she had all the files for the grants down at her office. It's one thing if everybody in Town Hall...so if we can't go to the Selectboard chair when we are having these kinds of issues in this town I don't know where we can go with them. I'm at a loss.

**Richard Blakeley (public):**

Well, get rid of the Chair and all of you are just going to be eatin' yourselves up because you are a bunch of spineless wimps and it's not gonna amount to a piss hole of beans, you deserve each other, all of you.

**Me (Jude Ahern):**

As Brad said, your opinion seems to have changed and it seems to have changed because of your executive session on June 27. So why didn't you vote then to do this? Are we going to get those minutes so we understand what the issue was? And what this is really about? Or...you were going to vote on this without even discussing it the other night. Are you planning to discuss it and tell the People what this is really about or not?

**TRANSCRIPT**  
**Tuesday, July 11, 2023**

**Board member Kathleen Bacon:** For the public record, I would like to inform those that are participating in tonight's meeting that two members of the Selectboard have requested an agenda item to reorganize the Selectboard. This request has been ignored and dismissed by Chair Curley. It has put Selectboard members in an awkward and uncomfortable position. We feel a reorganization of the Board as expeditiously as possible is in the best interest of the Town, thank you.

**Curt Felix (public, pushing several big controversial projects as member of committees):**

I'd like to say something, mainly in support of what Kathleen just said but also in support of the town Administrator. I really feel like we have a crisis in leadership right now in Wellfleet and I think it mainly stems from significant overreach, on the part of the current Chair with regard to staff. We've had a lot of turnover, we've had I think about four positions that have been vacated, that revolving door continues, and I think if that continues to happen, we're going to have a real serious problem in the Town of Wellfleet. It's hard enough to get people because of housing, because of everything else that goes on, but I can tell you just one story.

After getting a quite vitriolic email from Chair Curley around some wastewater issues, Hillary Greenberg Lemos called me in tears basically at the end about what she said, and these were her exact quote, "I didn't know there was a bonfire for the Charter and I wasn't invited."

So I think that there is definitely a lot of, very serious support behind the idea of reorganization. I know Ms. Carboni had requested that at the last Board of Selectmen meeting when reorganization was happening (May 2) to keep in the spirit of changing the Chair. I think that's extremely healthy for the Town. So I don't want to make this, I don't think this is personal, but I do think that as a matter of policy, the board had chosen to do that for many many years I think it served the board extremely well, I think Mr. DeVasto said the same thing during the reorganization meeting so I think it would be an extremely helpful thing to reconsider the reorganization of the Board. Thank you.

**Susan Reverby (head of second homeowners association, can't vote):** I'm here as an individual not as the President of the Wellfleet Seasonal Residents. As someone who has watched the Board for what feels like a generation now, I am deeply concerned about all of the problems here and all of us think that some sort of reorganization, at least I think some sort of reorganization and consideration of what's going on really has to happen before the Town is in receivership frankly. Thank you.

**LATER...Under Board/Committee Appointments and Updates:**

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**Board member Michael DeVasto:** Mr. Chair before we move onto the next topic, I have a point of privilege, based on our topic, Boards Committees and Updates, we did have to members of the Board request an agenda item was denied. According to the municipal association (?) when agenda items are declined, when a Board member may request a vote so I move, I make a motion to,

**Chair Ryan Curley:** So, it would be an illegal motion.

**Board member Michael DeVasto:**  
It would not be an illegal motion.

**Chair Ryan Curley:** I believe you need to run it by Town Counsel, the motion will be out of order, it is an illegal motion...

**Board member Michael DeVasto:**  
In order to declare it out of order you have to get the vote of the Board.

**Chair Ryan Curley:** No, I do not.

**Board member Michael DeVasto:**  
I move,

**Chair Ryan Curley:** No, it's an illegal motion Mike.

**Board member Michael DeVasto:**  
It's not illegal.

**Chair Ryan Curley:** It is illegal. I have Case law on it. The Charter states that it should elect a Chair for a year. Nowhere in the Charter does it say or

**Board member Michael DeVasto:**  
Chair you are out of order right now.

**Chair Ryan Curley:** No, I am not out of order. Mr. DeVasto I am warning you.

**Board member Michael DeVasto:**  
Warn me, I am making a motion right now,

**Chair Ryan Curley:** It is an illegal motion.

**Board member Michael DeVasto:**  
It's not illegal. It is not illegal.

**Chair Ryan Curley:** It's an illegal motion, Mike.

**Board member Michael DeVasto:**

I move that the Board reorganize.

**Chair Ryan Curley:** No, it's an illegal motion.

**Board member Michael DeVasto:**

At our next meeting.

**Chair Ryan Curley:** I'm filing a...with State Ethics.

**Board member Michael DeVasto:**

That's fine.

**Chair Ryan Curley:** You and Kathleen both violated State Ethics.

**Board member Michael DeVasto:**

I didn't violate anything. I move,

**Chair Ryan Curley:** No, the motion is illegal.

**Board member Michael DeVasto:**

The motion has been made, to reorganize at our next meeting. It is right here...

**Chair Ryan Curley:** I think you need to run it by town counsel.

**Board member Michael DeVasto:**

I already did.

**Chair Ryan Curley:** No you didn't. So...

**Board member Michael DeVasto:**

I did.

**Town Administrator:**

If I could offer a suggestion. I think if we want to make this motion then we make this motion under Topics for Future Discussion. I think you can make that motion under that agenda item.

**Board member Michael DeVasto:**

We're under an agenda item right now, Boards, Committees, Updates.

**Chair Ryan Curley:** It isn't a legal motion Mike.



**Board member Michael DeVasto:**  
It is NOT illegal.

**Chair Ryan Curley:** It is.

**Board member Michael DeVasto:**  
You do not have the authority to declare that.

**Chair Ryan Curley:** It's because the language in the Charter is specific.

**Board member Michael DeVasto:**  
The language does not preclude the Board from reorganizing at any point. What if someone steps down? The Board can reorganize.

**Chair Ryan Curley:** That person steps down...

**Board member Michael DeVasto:**  
The Chair is not elected for a period of a term which is...

**Chair Ryan Curley:** It says a year.

**Board member Michael DeVasto:**  
It does not. It says the Board shall organize annually.

**Chair Ryan Curley:** Yes.

**Board member Michael DeVasto:**  
That doesn't mean it can't reorganize anytime. You serve at the leisure of the Board.

**Chair Ryan Curley:** No.

**Board member Michael DeVasto:**  
We are a Board of five equal members. There is no dictatorship here.

**Chair Ryan Curley:** We need to get on to the rest of our agenda.

**Board member Michael DeVasto:**  
No, I made a motion.

**Chair Ryan Curley:** No, it's an illegal motion

**Board member Michael DeVasto:**  
It's a legal motion, and you have to declare it out of the order and the Board has to vote whether it is out of order. You cannot unilaterally declare it.

**Chair Ryan Curley:** You cannot make this motion without Town Counsel opinion at this point.

**Board member Michael DeVasto:**

If such a request is denied, however, then the member can call for a vote of the Board to instruct the Chair to include the item on the agenda at the next meeting,

**Chair Ryan Curley:** The issue is not adding an agenda item, the issue is the agenda item itself would be illegal.

**Board member Michael DeVasto:**

That is bullshit!

**Board member John Wolf:**

Excuse me, I have a call in to the Ethics Commission and I'm awaiting a call back on this very issue. I would suggest we wait to hear from them.

**Board member Michael DeVasto:**

No, I already called Town Counsel and they advised me that this is legal and that the Charter does not preclude us from reorganizing at any time that we want. We just have to organize on an annual basis. It says nothing about reorganization. There is no term. There is no specified term for the Chair.

**Board member Kathleen Bacon:** It's actually in the code of conduct policy (?). It's stated in the code of conduct policy that we can do this. It's the third paragraph down, first page.

**Chair Ryan Curley:** So again, you would have to issue a finding

**Board member Michael DeVasto:**

No.

**Chair Ryan Curley:** You would have to...

**Board member Michael DeVasto:**

No.

**Chair Ryan Curley:** I am an employee of the Town. You would have to, right now you are violating my rights, you are violating the rights of everyone else because you would have to hold a disciplinary hearing

**Board member Michael DeVasto:**

I'm not disciplining you.

**Chair Ryan Curley:** Well then there's no basis.

**Board member Michael DeVasto:**

The Board can reorganize at its will. WE are a Board of equal members. Not a dictatorship.

**Board member John Wolf:**

If I may suggest, that our rights, at this point are secondary to the interests of the Town. In keeping our Town Administrator, in keeping a good relationship with him and I suggest we put these individual concerns about these rights aside and schedule a vote, a reorganization for the next Selectboard meeting.

**Chair Ryan Curley:** I'll schedule one soon. There are outstanding, I can't get into it, there are outstanding issues we need to deal with.

**Board member Michael DeVasto:**

The motion has been made. You cannot rule the motion out of order. If such a request is denied...

**Chair Ryan Curley:** The issue that was identified as confidential qualifies as a confidential matter. Do we want to get into that right now?

**Board member Michael DeVasto:**

Get into anything you want. I am not bringing anything up that is confidential.

**Chair Ryan Curley:** Ok, alright, that's going to be on the next agenda as well, including other stuff.

**Board member Michael DeVasto:**

If such a request is denied however, the member can call for a vote of the Board to instruct the Chair to include the item on the agenda of the next meeting. A motion has been made. Can I have a second?

**Board member John Wolf:**

Second.

**Chair Ryan Curley:** I mean, I'm going to need an opinion from Town Counsel making sure it's a proper, um...

**Board member Michael DeVasto:**

Do what you need to do. The motion is on the table right now.

**Chair Ryan Curley:** I don't think it's legal.

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**Barbara Carboni:** Mr. Chairman if I may, so I think it's perhaps there is a question of whether it's legal so I suggest we take the vote, talk to town Counsel and if it turns out it's legal, then it's on the next agenda. I think that would best serve us now. I think it would best serve the Public so if the Chair is prepared to take a roll call vote, please do, otherwise as Vice Chair I will ask for a roll call vote.

**Chair Ryan Curley:** OK the motion was made and seconded. May I have a vote?

**Helen Miranda Wilson (former Selectboard member who resigned one year into her three year term last year):** Yes, between the vote and the motion, as a member of the last Charter Review Committee revisions, this particular section of the Charter was discussed and it's meaning is very simply you have to reorganize the Board at least once a year on any of our committees but that doesn't mean, and there can be emergencies, that you can't reorganize it at any time going through the proper postings and so forth. Thank you.

**Chair Ryan Curley:** Alright, well we'll see. So the motion has been made and seconded to a reorganization on the next available Selectboard meeting. It will not be on Thursday, it's too soon for that to make a posting so can I have a roll call vote.

**Chair Ryan Curley:** Just to clarify, it could be on the 18<sup>th</sup>, uh the 13<sup>th</sup> meeting, it could. It could, I mean we need the questions being responded to by Town Counsel by then. There are...just for the Public I did provide the Board with a letter that said I would step down from Chair in September, after the special town meeting because there are things that are currently in motion and I'll just leave it at that, I've already indicated I will step down from Chair in September.

Took the vote, motion carried 4-1 (Ryan no).

**Chair Ryan Curley:** We don't know about Town Counsel being able to respond or not.

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

**Note:** *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

Merl spoke to the board about a scallop dinner at the Congregational Church on the 16<sup>th</sup> of July, he also explained he will not be able to attend the July 13<sup>th</sup> meeting as an applicant as he will need to be fishing.

Murray, General Manager of the Beach Comber: he spoke about the Cahoon Hollow beach issues, he questioned the enforcing of alcohol drinking on the beach. He read a complaint letter to the board about the vibe that is being killed on the beach. He explained there are many other ways that the town can enforce safety.

Bacon spoke to the board; stating that there has been 2 members of the board that have asked for a reorganization of the board and has been ignored and wanted this known for public record.

Felix spoke to the board stating that there is a crisis in leadership, stating there was significant overreach because of the chair, and he is stating that if the overreaching continues from the chair there will be more issues in Wellfleet. He stated he felt the Selectboard should be reorganized to keep in the spirit of.

Reverby, spoke to the board about the issues about the board and stated there needs to be reorganization of the board before the town goes into receivership.

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draft  
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VI. ***Board/Committee Appointments and Updates***

A. Appointment of Jeffrey Korgen to the Wellfleet Planning Board

Korgen spoke to the board about his application. The board asked if Korgen knew anything about zoning and housing, he spoke to both. Stating he didn't have a lot of knowledge with zoning, and he spoke about housing and his work on studying land trusts. Curley asked him to review the housing production plan.

**Chair Curley Moved; Board Member Seconded; and it was voted to approve the appointment of Jeffrey Korgen to the Wellfleet Planning Board as a voting member, for a term of three years to end June 30, 2026, to be sworn in by the town clerk and to take the required ethics class online before voting at a public meeting.**

**Roll Call Vote: 4-0-1 (DeVasto abstained)**

DeVasto spoke to the board members stating that there was a discussion to reorganize the board. Chair Curley stated that this would be an illegal motion and DeVasto was out of order.

**DeVasto moved; Board Member Wolf Seconded; and it was voted to reorganize the board at the agenda on the next meeting.**

**Roll Call Vote: 4-1 (Curley voted no)**

There was much discussion on this, and it was decided that town counsel will look over this motion and determine if it is legal. Town counsel joined the meeting and the Chair refused to go back to this item.

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July 11, 2023  
draft  
minutes

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

**Note:** *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

Chief Pauley stood up to the microphone and read a statement to the board and public, stating that town leadership is at an all time low, speaking his full support of the town administrator and the need for this board to reorganize.

DeVasto spoke to the public regarding the motion that was made and voted on at the previous meeting, he was upset that it was not placed on tonight's agenda.

Brad Morse spoke to the board stating that the board was taking up the time this room needs for a meeting.

P 20/35

7/13/23

draft  
minutes

6/27/23 agenda

**Note: Start Time of 7pm**

The Wellfleet Selectboard will hold a public meeting on Tuesday, June 27, 2023, at 7:00 p.m. In-person at the Wellfleet Library Meeting Room, 55 West Main Street, Wellfleet, MA, 02667

It is at the Chair's discretion to call on members of the public. All speakers must be recognized to speak. Anyone may record the session but must notify the Chair and may not interfere with the meeting to record it.

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

- Note: Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.

Part 1/35

**II. Executive Session pursuant to G.L. c. 30A, Sec. 21(a)(1) to hear complaints against a public official or employee**

**III. Open Session – Discuss and deliberate regarding communication and staffing issues**

**IV. Adjournment**

**Join Zoom Meeting**

<https://us02web.zoom.us/j/82471307504?pwd=WVZVdnRaN0FkWmc5TVExUXRZZXdaZz09>

**Meeting ID: 824 7130 7504**

**Passcode: 087054**

**Dial by your location**

• +1 929 205 6099 US (New York)





## Wellfleet Selectboard

*agenda*

**Note: Start Time of 7pm**

The Wellfleet Selectboard will hold a public meeting on **Tuesday, July 11, 2023, at 7:00 p.m.** The Chapter 2 of the Acts of 2023, this meeting will be conducted in person and as a courtesy via remote means, per 940 MCR 29.10 and the Town's Remote Participation Policy. While an option for remote attendance and/or participation is provided as a courtesy to the public, the meeting/hearing may not be suspended or terminated if technological problems interrupt the virtual broadcast unless otherwise required by law.

**Joining the Meeting:**

In-person at the Wellfleet ACC, 715 Old King's Highway, Wellfleet, MA, 02667

**Join the meeting hosted in Zoom by using the following link:**

<https://us02web.zoom.us/j/85689604806?pwd=blplVFFBZzViO0xNWkZKMm9iMVdrdz09>

By Phone: phone to +1 929 205 6099 and enter Meeting ID: 856 8960 4806 | Passcode: 611877 Landline callers can participate by dialing \*9 to raise their hand.

**To Participate during public comment:**

- Zoom: Raise hand to be called on to speak.
- Phone: dial \*9 to raise your hand.

It is at the Chair's discretion to call on members of the public. All speakers must be recognized to speak. If attending a meeting in person, please find the closest available microphone and confine any personal conversations to the outside of the meeting room. Anyone may record the session but must notify the Chair and may not interfere with the meeting to record it.

Additionally, the meeting will be broadcast live, in real time, via live broadcast on Comcast cable (Wellfleet Government TV Channel 18), also available via livestream or Video on Demand (VOD) recordings at [wellfleet-ma.gov](http://wellfleet-ma.gov)

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- I. ***Announcements, Open Session and Public Comments***  
***Note:*** *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*
  - II. ***Consent Agenda***
  - III. ***Community Updates***
    - A. Police Department fourth of July weekend update
  - IV. ***Public Hearing***
    - A. Beach Rules and Regulations ~ Maguire's Landing/Lecount Landing Beach to be a resident and Taxpayer Beach permanently ~ Suzanne Grout Thomas
  - V. ***Use of Town Property***
    - A. Sacred Surf School, LLC ~ Jay Pawa ~ Whitecrest Beach, surf lessons for groups of no more than 10 people.

*P 22/35*

- B. Collective Dynamics ~ Leigh Cremin ~ varies sidewalk and grassy areas to do street performances with her 2x2 chalkboard for “Word Play” ~ see application for further details.
- C. Rebecca Arnoldi ~ Nature classes/walks ~ Newcomb Hollow, Mayo Beach August through September.
- VI. ***Board/Committee Appointments and Updates***
  - A. Appointment of Jeffrey Korgen to the Wellfleet Planning Board
- VII. ***Zoning Bylaws for Special Town Meeting Warrants***
  - A. Inclusionary Zoning
  - B. Cottage Colonies
  - C. Intensity of Use of Multi-Family Dwellings
  - D. Developments of Significant Planning Interest and Food Establishments
  - E. Definition of Trees
  - F. Cutting of Timber Amendment
  - G. Landscape and Tree Preservation Bylaw
  - H. Locally Notable Trees
  - I. Zoning Enforcement Penalty
- VIII. ***Special Town Meeting Warrant***
  - A. The board will review and may take votes on articles for the September town meeting.
- IX. ***Business***
  - A. Special Town Election ~ Date to be chosen ~ Selectboard.
- X. ***Selectboard Reports***
- XI. ***Town Administrator’s Report***
- XII. ***Topics for Future Discussion***
- XIII. ***Vacancy Reports***
- XIV. ***Minutes***
  - A. June 20, 2023
- XV. ***Adjournment***



## Wellfleet Selectboard

*agenda*

**Note: Start Time of 6:30pm**

The Wellfleet Selectboard will hold a public meeting on **Thursday, July 13, 2023, at 6:30 p.m.** The Chapter 2 of the Acts of 2023, this meeting will be conducted in person and as a courtesy via remote means, per 940 MCR 29.10 and the Town's Remote Participation Policy. While an option for remote attendance and/or participation is provided as a courtesy to the public, the meeting/hearing may not be suspended or terminated if technological problems interrupt the virtual broadcast unless otherwise required by law.

### **Joining the Meeting:**

In-person at the Wellfleet ACC, 715 Old King's Highway, Wellfleet, MA, 02667

### **Join the meeting hosted in Zoom by using the following link:**

<https://us02web.zoom.us/j/85689604806?pwd=blplVFFBZzViQ0xNWkZKMm9iMVdrdz09>

By Phone: phone to +1 929 205 6099 and enter Meeting ID: 856 8960 4806 | Passcode: 611877 Landline callers can participate by dialing \*9 to raise their hand.

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Additionally, the meeting will be broadcast live, in real time, via live broadcast on Comcast cable (Wellfleet Government TV Channel 18), also available via livestream or Video on Demand (VOD) recordings at [wellfleet-ma.gov](http://wellfleet-ma.gov)

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

**Note:** *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

### **II. *Year End Budgetary Transfers***

A. The finance committee will approve any transfers that need to be made at this meeting for the end of the year. ~ Finance Committee, Selectboard, Town Administrator

### **III. *Deputy Shellfish Constable Appointments ~ Seasonal Positions***

- A. Erika Smith
- B. Mark Howard

IV. ***Shellfish Advisory Board Applicants***

- A. **Adrien Kmiec** ~ Voting Member application received June 5<sup>th</sup> to move from alternate member to voting member.
- B. **Bradford Morse** ~ Application received May 11, 2023, to be on the board in any capacity.
- C. **Nemanja Krsmanovic** ~ Application Received June 1, 2023, to be on the Shellfish Advisory board in any capacity.
- D. **Helen Miranda Wilson** ~ Application received June 12, 2023, to be on the Shellfish Advisory Board as a Voting Member
- E. **Chris Merl**, application received June 28, 2023, to be on the board as a voting member.

V. ***Business***

- A. Mary Mallory commercial permit hardship exemption
- B. Kathleen Murphy commercial permit hardship exemption
- C. Letter to Legislature in support of Bill S261 & H60
- D. Open Meeting Law Complaint ~ Chad Williams
- E. Principal Clerk, shellfish job position description

VI. ***Public Hearings 7PM***

**In accordance with MGL Chapter 130 Sections 52, 57, 58, 60, and 68 and all applicable Town Shellfish Regulations, notice is hereby given that the Wellfleet Selectboard will hold a hybrid public hearing on July 13, 2023, at 7:00 p.m. to consider the following:**

- A. Application received on 4/14/2023 from Brent Valli (Wellfleet, MA) and Sandra Mitchell (Wellfleet, MA) for the renewal of shellfish grant license #s 95-21/22 consisting of approximately two acres on Egg Island for seven years beginning March 1, 2023, and expiring March 1, 2030.
- B. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) for the renewal of shellfish grant license #s 95-13/14 consisting of approximately two acres on Egg Island for ten years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.
- C. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) and Alfred Pickard (Wellfleet, MA) for the renewal of shellfish grant license # 2000-4 consisting of 2.16 acres on Egg Island for ten years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.
- D. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) for the transfer of shellfish grant license #s 95-13/14 consisting of approximately two acres on Egg Island from Jeremy Storer to Jeremy Storer and Brandon Silva (Wellfleet, MA).
- E. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) and Alfred Pickard (Wellfleet, MA) for the transfer of shellfish grant license # 2000-4 consisting of 2.16 acres on Egg Island from Jeremy Storer and Alfred Pickard to Jeremy Storer, Alfred Pickard and Brandon Silva (Wellfleet, MA).
- F. Application received on 5/30/2023 from Peter Rennert (Wellfleet, MA) and Zach Rennert (Wellfleet, MA) for the transfer of shellfish grant license #s 95-23/24 consisting of approximately two acres on Egg Island from Peter Rennert and Zach Rennert to Zach Rennert.

- G. Application received on 6/29/2023 from Michael Ramsdell (Wellfleet, MA) and Michael DeVasto (Wellfleet, MA) for the transfer of shellfish grant license #s 855 and 855B consisting of approximately two acres on Field Point from Michael Ramsdell and Michael DeVasto to Michael DeVasto and Kathleen Murphy (Wellfleet, MA).
- H. Application received on 6/29/2023 from Michael DeVasto (Wellfleet, MA) for the transfer of shellfish grant license # 855C consisting of approximately 1.6 acres on Field Point from Michael DeVasto to Michael DeVasto and Kathleen Murphy (Wellfleet, MA).
- I. Application received on 6/29/2023 from Rebecca Taylor (Wellfleet, MA) and Myron Taylor (Wellfleet, MA) to transfer shellfish grant license #s 734 and 734A consisting of a total of approximately 3.5 acres on Mayo Beach from Rebecca Taylor and Myron Taylor to Rebecca Taylor.
- J. Application received on 6/9/2023 from Rebecca Taylor (Wellfleet, MA) for two extensions to shellfish grant license # 734 (to be called 734B and 734C) on Mayo Beach for approximately 1.4 acres total, reconfigured from an extension approved by the Wellfleet Selectboard at its 3/21/2023 public hearing.
- K. **CONTINUED FROM 6/6/2023** ~ Application received 1/10/2023 for a grant extension (to be numbered #99-1 Ext) to shellfish grant license #99-1 consisting of approximately .43 acres on Mayo Beach from Angela Osowski (Wellfleet, MA), Robert Mallory (Wellfleet, MA) and Mary Mallory (Wellfleet, MA). New configuration of proposed grant extension submitted on 5/26/2023 equal to 0.35 acres.
- L. Application received on 5/26/2023 from Stephen Pickard (Wellfleet, MA), Iris Pickard (Wellfleet, MA) and Benjamin Pickard (Wellfleet, MA) for an extension to shellfish grant license # 2000-2 (to be called 2000-2 Ext.) on Egg Island for approximately 1.23 acres.

VII. *Special Town Meeting Warrant*

VIII. *Adjournment*



# Wellfleet Selectboard

*Agenda*

**Note: Start Time of 7pm**

The Wellfleet Selectboard will hold a public meeting on **Tuesday, July 18, 2023, at 7:00 p.m.** The Chapter 2 of the Acts of 2023, this meeting will be conducted in person and as a courtesy via remote means, per 940 MCR 29.10 and the Town's Remote Participation Policy. While an option for remote attendance and/or participation is provided as a courtesy to the public, the meeting/hearing may not be suspended or terminated if technological problems interrupt the virtual broadcast unless otherwise required by law.

**Joining the Meeting:**

In-person at the Wellfleet ACC, 715 Old King's Highway, Wellfleet, MA, 02667

**Join the meeting hosted in Zoom by using the following link:**

<https://us02web.zoom.us/j/85689604806?pwd=blpVFFBZzViQ0xNWkZKMm9iMVdrdz09>

By Phone: phone to +1 929 205 6099 and enter Meeting ID: 856 8960 4806 | Passcode: 611877 Landline callers can participate by dialing \*9 to raise their hand.

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- I. **Announcements, Open Session and Public Comments**  
*Note: Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*
- II. **Consent Agenda**
  - A. Collective Bargaining Ratifications
    - WEA
- III. **Board Reorganization**
- IV. **Use of Town Property**
  - A. Baker's Field Pavilion ~ Celebration of Life for Jane Tesson ~ date to be determined based on availability.
- V. **Business**
  - A. Dredging Mitigation

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- B. Financial Update
- C. Town Administrator Development Plan
- D. Departmental Goals

- Administration
- Human Resources
- Police
- Fire
- DPW
- Building Department
- Community Services
- Town Clerk
- Shellfish Department
- Harbor Master

- E. Special Town Meeting Warrant

VI. ***Adjournment of Open Session; Enter into Executive Session; M. GL. c.30A, Sec. 21***

*Purpose 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.*

- Collective Bargaining  
WEA

VII. ***Adjournment***

**From:** Jude Ahern jude@judeahern.com  
**Subject:** URGENT: 6/27 executive session minutes and recordings and documents  
**Date:** July 13, 2023 at 8:57 AM  
**To:** Jennifer Congel jennifer.congel@wellfleet-ma.gov, Board of Selectmen bos@wellfleet-ma.gov, Richard Waldo richard.waldo@wellfleet-ma.gov

Dear Ms. Congel:

Pursuant to the Massachusetts Public Records Law, M.G.L. c.66, §10, I hereby request the following records:

THE WELFLEET SELECTBOARD EXECUTIVE SESSION MINUTES AND RECORDING OF THEIR JUNE 27, 2023 MEETING. I ALSO REQUEST ANY DOCUMENTS USED OR REFERRED TO IN THAT MEETING AND ANY NOTES TAKEN BY ANY PERSON PRESENT AT THAT MEETING.

THERE IS AN URGENCY TO THIS REQUEST BECAUSE WHAT OCCURRED IN THAT MEETING PRECIPITATED THE DEMAND FOR THE REORGANIZATION OF THE SELECTBOARD, THE PUBLIC NEEDS THIS INFORMATION BEFORE ANY OPEN SELECTBOARD MEETING TO DISCUSS ITS REORGANIZATION.

I also request that, if appropriate, fees be waived as we believe this request is in the public interest, as suggested but not stipulated by the recommendations of the Massachusetts Supervisor of Public Records. The requested documents will be made available to the general public free of charge and not for commercial usage.

I expect the request to be filled in an accessible format. In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days, as the statute requires.

Sincerely,

Jude Ahern

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**From:** Jude Ahern jude@judeahern.com  
**Subject:** Public records request because TA won't share KP Law's opinion with the People  
**Date:** July 20, 2023 at 12:16 PM  
**To:** Jennifer Congel jennifer.congel@wellfleet-ma.gov, Richard Waldo richard.waldo@wellfleet-ma.gov, Board of Selectmen bos@wellfleet-ma.gov

I asked Rich to please send this to me yesterday or I'd be forced to make a public records request.

Dear Ms. Congel:

Pursuant to the Massachusetts Public Records Law, M.G.L. c.66, §10, I hereby request the following records:

All correspondence since 2020 between any town employee, elected official or volunteer and KP Law about setting Selectboard agendas and reorganization of the Selectboard. This includes all of the correspondence regarding this important issue dating from 2020 when Michael DeVasto posted his own public hearing notice and put himself on the Selectboard agenda without the other members knowing. More recently it includes the letter DeVasto recited on July 11, 2023 about agendas and another letter dated around July 11-18 regarding reorganization of the Selectboard as it relates to our Charter.

I also request that, if appropriate, fees be waived as we believe this request is in the public interest, as suggested but not stipulated by the recommendations of the Massachusetts Supervisor of Public Records. The requested documents will be made available to the general public free of charge and not for commercial use.

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I expect the request to be filled in an accessible format. In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days, as the statute requires.

Sincerely,

Jude Ahern

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**From:** Jude Ahern [jude@judeahern.com](mailto:jude@judeahern.com)  
**Subject:** Fwd: the Selectboard agenda  
**Date:** July 25, 2023 at 12:00 PM  
**To:** Board of Selectmen [bos@wellfleet-ma.gov](mailto:bos@wellfleet-ma.gov)

Remember this Mikey?! Sure, two years ago almost to the day it was Administration that set agendas, not you!

Like I said, I hope all of you have very good attorneys and they aren't all Bruce.

Begin forwarded message:

**From:** Jude Ahern <[jude@judeahern.com](mailto:jude@judeahern.com)>  
**Subject:** the Selectboard agenda  
**Date:** July 28, 2021 at 6:39:29 AM EDT  
**To:** Board of Selectmen <[bos@wellfleet-ma.gov](mailto:bos@wellfleet-ma.gov)>  
**Cc:** [charles.sumner@wellfleet-ma.gov](mailto:charles.sumner@wellfleet-ma.gov)

2021 re: agendas

Dear Selectboard and Mr. Sumner:

Please read the attached document from our actual Town Clerk, dated July 6th, four days after DeVasto's public hearing notice was published online (only) in the Cape Cod Times, apparently by Divine Intervention.

Note that the Town states that there is just one email between DeVasto and Eldridge from March 18 and no correspondence exists between DeVasto and the principal Clerk, Jeannie MacLaughlin.

DeVasto stated last night that my OML complaints against the Selectboard June 22 and July 13 meetings are full of inaccuracies and that our Administration, not our Selectboard, sets the Selectboard agendas. When we don't have a TA, does that mean that tasks falls to Rebecca Eldridge (!) or when Mr. Sumner got here, him? He himself admits that he doesn't know much about shellfish and he's too busy fixing our financial mess. Is he aware of Chapter 130 and its requirements?

Please explain how DeVasto's grant expansions got placed on three (very crowded) agendas if neither Eldridge or MacLaughlin assisted him. Please explain how Administration ensures that public hearing notice time exposures have been satisfied before being placed on an agenda.

Lastly, please tell me where and when this public notice was placed in three public areas because I asked this simple question several times last night and instead of answering, Eldridge kicked me out of the meeting.

I paid the \$ 284.44 on July 8. It's now twenty days later and I have not received anything. You have demanded an additional \$ 330 for another public records request. May I ask that you provide what I payed for already first? I need this information or lack thereof to request further review.

This back and forth is going to cost the Town a lot of money. I warned you not to go down this path again.

Sincerely,

Jude



responssetopubli  
crecor...ac.pdf



EldridgeONEem  
ailwith...sto.pdf



OFFICE OF THE TOWN CLERK  
300 MAIN STREET WELLFLEET, MASSACHUSETTS 02667  
[townclerk@wellfleet-ma.gov](mailto:townclerk@wellfleet-ma.gov)  
O: 508-349-0301 F: 508-349-0317

July 6, 2021

BY ELECTRONIC MAIL ONLY ([jude@judeahern.com](mailto:jude@judeahern.com))

Public Records Requests Received on June 21, 2021 - Town of Wellfleet

Dear Ms. Ahern:

The Town of Wellfleet (the "Town") is in receipt of three public records requests, dated June 21, 2021, and received by electronic mail on that date. As the custodian of the requested records, I am providing the within response in accordance with M.G.L. c. 66, §10 of the Massachusetts Public Records Law.

**Summary of Request**

In your requests, you seek the following records:

1. All correspondence between Jeanne Maclauchlin and Michael Devasto since January 1, 2021. This includes all emails, texts, attached or reference documents, telephone notes and dates of telephone conversations. I also request the TALK and TEXT activity log from Jeanne Maclauchlin's cell phone which she combines with official town use;
2. All correspondence between Jeanne Maclauchlin and Nancy Civetta since January 1, 2021. This includes all emails, texts, attached or reference documents, telephone notes and dates of telephone conversations. I also request the TALK and TEXT activity log from Jeanne Maclauchlin and Nancy Civetta's cell phones which both combine with official town use;
3. All correspondence between Rebekah Eldridge and Michael DeVasto since January 1, 2021 related to shellfish, including placing shellfish grant topics on the Selectboard agenda. This includes all emails, texts, attached or reference documents, telephone notes and dates of telephone conversations. I also request the TALK and TEXT activity log from Rebekah Eldridge's cell phone which she combines with official town use; and
4. All correspondence between Rebekah Eldridge and Nancy Civetta since January 1, 2021 related to shellfish, including placing shellfish grant topics on the Selectboard agenda. This includes all emails, texts, attached or reference documents, telephone notes and dates of telephone conversations. I also request the TALK and TEXT activity log from Rebekah Eldridge's cell phone which she combines with official town use.

Please be advised that the Town's duty to respond to records requests extends only to records that are in existence and in the custody of the Town, and the Town is under no obligation to create records in response to your Requests. Furthermore, the Town is not required to answer questions in response to a public records request. See "A Guide to the Massachusetts Public Records Law," January, 2017, published by the Secretary of the Commonwealth, at page 3.

The Town has reviewed your requests, and based upon its initial diligent review, it has determined that there are no documents in the Town's possession that responsive to request Number 1. The Town has also located a limited number of documents responsive to Request Number 3 and those documents are attached hereto. No other documents responsive to Request Number 3 have been located.

The Town also anticipates that it has records responsive to Requests Numbers 2 and 4. Responsive records that are subject to mandatory disclosure under the Public Records Law will be provided upon payment of any applicable fees (noted below). Where permitted by law, however, such records or material contained therein may be withheld or redacted under any of the exemptions to the Public Records Law, other applicable provisions of law, and/or common law privileges. We will also withhold and/or redact any records containing personal information or communications amongst the named individuals that do not relate to the business of the Town.

#### **Time Frame for Response**

The Town has documents responsive your requests. The Town, however, is not able to fully respond to your request within the first ten (10) business days after receipt. This is due in part to the magnitude of the request and the scope of efforts required to search for and compile responsive documents and the limitations on the availability of staff to complete the work. If you wish to narrow or modify the time frame of your request, the Town could certainly provide a revised estimate and will work with you cooperatively to more efficiently and expeditiously respond.

#### **Fee Estimate**

It is estimated that it will cost \$ 284.88 to comply with your Request. That amount is broken down as follows:

Employee search time:

<i>Title</i>	<i>Hours</i>	<i>Per Hour Cost</i>
Principal clerk	4 hours	\$23.74
Shellfish Constable	8 hours	\$23.74
<b>TOTAL</b>		<b>\$284.88</b>

The employee search and segregation time quoted above is charged at the hourly rate of the lowest paid person capable of searching for the responsive records, in accordance with 950 CMR

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32.07(2)(i). Such hourly rate shall not exceed \$25 per hour unless otherwise authorized by the Supervisor of Records. Where the lowest paid employees capable of doing this work are paid at rates of more than \$25 per hour, you will be charged at the maximum rate of \$25.00 per hour. Please note that because the Town has less than 20,000 residents, pursuant to the last Decennial U.S. Census, you will be charged for the first two hours of work associated with this request. The actual cost of producing the records may vary once the Town begins preparing the records for response.

Upon receipt of your payment in the amount of \$ 284.88 made payable to the Town of Wellfleet, the Town will begin the work necessary to search and redact (where required by law) the documents you have requested. It is anticipated that the Town shall produce the requested records, subject to withholding or redaction, within fifteen (15) business days of receiving payment.

**Statement of Appeal Rights**

You may appeal this response to the Supervisor of Public Records pursuant to 950 CMR 32.08(1)(d). By law, the Supervisor is required to respond within ten (10) business days of receipt of your appeal. You may also seek judicial review of an unfavorable response by commencing a civil action in the superior court, under G.L. c. 66, §10A(c).

Please do not hesitate to contact me with any questions.

Sincerely,

Jennifer M. Congel  
Town Clerk  
Town of Wellfleet

August 3, 2023

**Carolyn M. Murray**  
cmurray@k-plaw.com

BY ELECTRONIC MAIL ONLY ([openmeeting@state.ma.us](mailto:openmeeting@state.ma.us))

Carrie Benedon, Esq.  
Director, Division of Open Government  
Office of Attorney General  
One Ashburton Place  
Boston, MA 02108

Re: Town of Wellfleet – Select Board  
Open Meeting Law Complaint from Jude Ahern dated July 25, 2023

Dear Ms. Benedon:

Please be advised that this firm serves as Town Counsel to the Town of Wellfleet (the “Town”). The Town’s Selectboard (“Board”) is in receipt of an Open Meeting Law Complaint (the “Complaint”) filed by Ms. Jude Ahern (the “Complainant”), dated July 25, 2023, which was received by the Town that same day. The Complaint alleges that the Board violated the Open Meeting Law in various ways at the June 27, 2023, July 11, 2023, July 13, 2023, and July 18, 2023 meetings. A copy of the Complaint is attached hereto as Exhibit 1.

On August 8, 2023, the Board met at a properly posted meeting to discuss the Complaint and consider its response. The Board has carefully reviewed the allegations contained in the Complaint and, following such discussion, has authorized this response on its behalf, in accordance with G.L. c.30A, §23 and 940 CMR 29.05(5), which is based upon information provided by the Town.

### DISCUSSION

As explained below, no violations of the Open Meeting Law occurred at any of the meetings referenced in the Complaint.

*I. June 27, 2023 Meeting.*

The Complaint alleges that the Board violated the Open Meeting Law at its June 27, 2023 executive session in two ways: 1) that the name(s) of the public official(s) at issue were not listed on the agenda and 2) topics, including agenda development and reorganization of the Board, were discussed improperly. Neither allegation constitutes a violation of the Open Meeting Law. The properly posted agenda for the June 27, 2023 meeting is attached hereto as Exhibit 2.

First, with respect to the name(s) of the public official(s) at issue, the Open Meeting Law requires that all meetings of a public body be conducted in an open session, with some exceptions.

Carrie Benedon, Esq.  
Director, Division of Open Government  
August 3, 2023  
Page 2

G.L. c.30A, §§20(a), 21(a). Public bodies may enter a closed, executive session for any of ten purposes enumerated in the Open Meeting Law, provided that the chair of the public body first announces in open session the purpose for the executive session, “stating all subjects that may be revealed without compromising the purpose for which the executive session was called.” G.L. c.30A, §§21(a), 21(b)(3). One permissible reason for executive session is “[t]o discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.” G.L. c. 30A, §21(a)(1). Here, to reveal the individual(s) against whom the “complaints or charges” were brought would have compromised the purpose of the executive session.

Second, with respect to the topics discussed, the process of setting the agenda for Board meetings was not discussed in the executive session. At the executive session, Member DeVasto stated that he wanted to reorganize the Board to elect a new chair; however, no further discussion was had on the topic and the Board then adjourned. The Board discussed draft minutes for this executive session on July 25, 2023, where substantial revisions were suggested. The minutes will be finalized at an upcoming Board meeting. Further, the Board has not determined whether the purpose of the executive session has concluded, such that the minutes are ripe for release to the public.

## *II. July 11, 2023 Meeting.*

The Complaint alleges that the Board violated the Open Meeting Law at its July 11, 2023 open session because discussion of Board reorganization was not on the agenda. The Open Meeting Law was enacted “to eliminate much of the secrecy surrounding deliberations and decisions on which public policy is based.” Ghiglione v. School Committee of Southbridge, 376 Mass. 70, 72 (1978). A public body must post notice of every meeting at least 48 hours in advance, not including Saturdays, Sundays, and legal holidays. G.L. c.30A, §20(b). Notices must include “a listing of topics that the chair reasonably anticipates will be discussed at the meeting.” Id. The list of topics must have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting. 940 CMR 29.03(1)(b).

Here, while an individual Board member expressed a preference for reorganizing Board leadership, the Chair did not include this topic on the agenda because the Chair had previously informed the Board of his intent to step down as Chair at a future date and did not anticipate that reorganization would be raised at this meeting. The Board had an animated discussion about Board leadership under the topic “Board/Committee Appointments and Updates.” Ultimately, the Board voted 4-1 to include reorganization on the agenda at its next Board meeting.

## *III. July 13, 2023 Meeting.*



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Director, Division of Open Government  
August 3, 2023  
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Similar to the July 11, 2023 meeting, reorganization of the Board was not on the agenda. Board member DeVasto raised the issue again, but due to the topic not being on the agenda, the Board deferred to its next meeting. The Board chose not to vote at that meeting in order to ensure compliance with the Open Meeting Law.

Further, no Board member breached the confidentiality of the June 27, 2023 executive session. The public comment the Complaint mentioned at this meeting did not indicate otherwise. The Fire Chief, for example, stated that he was motivated to speak because of the discord exhibited at the July 11, 2023 open session meeting. Absent sufficient evidence to the contrary, the Division of Open Government should credit a public body's account of the facts. See OML 2019-73; OML 2017-93; OML 2016-141; see also LaPointe v. License Board of Worcester, 389 Mass. 454 (1983) ("There is every presumption in favor of the honesty and sufficiency of the motives actuating public officers in actions ostensibly taken for the general welfare.").

*IV. July 18, 2023 Meeting.*

The topic of reorganization was included on the Board's agenda for July 18, 2023. See Exhibit 3, attached. The Complaint alleges that the Board improperly reorganized in violation of the Town Charter. The provisions of G.L. c.30A, §23 state, in pertinent part, "Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law" (emphasis added). Absent a showing or claim that the Open Meeting Law has been violated, the Division of Open Government is not empowered to review the Complaint. The Division of Open Government generally declines to review allegations that do not implicate the Open Meeting Law. See OML Declination January 25, 2016 (Nahant); OML Declination April 8, 2022 (Savoy).

The Complainant's allegations plainly do not involve the Open Meeting Law, and there is no suggestion in the Complaint that any provision of the Open Meeting Law was violated by the Board. Rather, the Open Meeting Law requires that boards and committees conduct their business in a public and accessible manner. Here, the business of the board was properly conducted in compliance with the Open Meeting Law. Whether the Board acted in the manner desired by the Complainant with respect to the Town Charter is not a matter relevant to Open Meeting Law compliance and therefore is not subject to review by the Division of Open Government.

**CONCLUSION**

Based on the foregoing, the Board respectfully submits that there has been no violation of the Open Meeting Law and as such, the Board considers this matter resolved.



Carrie Benedon, Esq.  
Director, Division of Open Government  
August 3, 2023  
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Please do not hesitate to contact me if you require additional information.

Very truly yours,

Carolyn M. Murray

CMM/mad

Enc.

cc: Jude Ahern (by e-mail only to [jude@judeahern.com](mailto:jude@judeahern.com))  
Select Board

875578/WELL/0178



# SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

VI

## SELECTBOARD REPORTS:

Reported by:	Topic:



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

VII

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### TOWN ADMINISTRATOR REPORTS

- **Please see Selectboard packet for full report**



# MEMORANDUM

TOWN OF WELFLEET MASSACHUSETTS 02667  
Tel (508) 349-0300 Fax (508) 349-0305  
www.wellfleet-ma.gov

To: Selectboard  
From: Richard J. Waldo, Town Administrator  
Cc: Rebekah Eldridge, Executive Assistant to Town Administrator  
Subject: Department Update Report for the August 8, 2023 Select Board Meeting  
Date: August 3, 2023

## Administration

- The OneCape summit hosted by the Cape Cod Commission was once again an excellent display of the 15 Cape Cod communities working collaboratively on addressing housing, wastewater, and other local challenges we face. The event was attended by many communities with excellent guest speakers and breakout sessions.
- The Special Town Meeting Warrant will close on August 15<sup>th</sup>, 2023 with the actual meeting be held on Monday September 18<sup>th</sup> starting at 6pm. We plan to offer childcare for those parents that wish to attend the meeting, be on the lookout for registration information on the Towns website.
- The dredge mitigation plan has been submitted to the Army Corp of Engineers and we are awaiting the issuance of a permit to dredge the mooring field. Should we receive the permit in the next few weeks we plan to award the dredge contract to the lowest responsive and responsible bidder.
- 95 Lawrence Rd WWTF  
Representatives of Onsite engineers will be seeking placement on the August 8 Select Board agenda seeking approval of the layout and location of the facility. This is a critical path item as the next step will be to seek a Groundwater Discharge Permit from DEP. Without approval of the location and layout of the plant; the design cannot proceed, and the permit application will be delayed. The developer's engineer and the developer have approved the location and layout.
- The engineer has committed to providing a cost estimate for the Special Town Meeting Warrant on or before August 2, 2023. Jay Norton is in the loop and will aid in the Board presentation.
- Municipal Fiber Grant  
The Municipal Fiber project kicked-off last week. Josh Yeston has drafted a preliminary scope for an RFP. We need to circle back with Barnstable County IT on some administrative and technical issues. We would expect that we will be able to issue an RFP in the Fall. It is possible that this can be done under an existing State contract, however we need to do some further research.
- On-line permitting.

We are in the process of determining the status of bringing Administration, Building, Health, and Conservation online. Last week ATA met with town staff and this week we will meet with OpenGov. The ATA will provide a separate report early next week. It is likely that most of these departments will be able to go live shortly after Labor Day.

- Recruitment of Applicants for various vacancies  
Working with the HR Director we have held three interview for Asst. Treasurer and Collector and will hold 4 interviews for ATA next week. All job postings have been renewed.
- Water Rate Study  
We have met with the chair of the Water Commissioners and have a meeting scheduled with the water rate study consultant on Thursday morning. We hope to be able to put together a water rate methodology proposal in a few weeks.

### Building

- No Update

### Collector

- The search for a new assistant Treasurer/Collector continues. We had one very promising interview on Tuesday the 25<sup>th</sup> of July.
- The fourth commitment for 2023 motor vehicle excise tax bills from the registry will be issued August 1<sup>st</sup> and due the 31<sup>st</sup>. At the same time I have demands issuing for motor vehicle excise commitment #3.
- I've started the first part of collections of the outstanding 2022 real estate bills. There are 49 still outstanding. July 25<sup>th</sup> balance statements went to all 49 owners. After the 2 weeks is up, I will be contacting our tax attorney regarding tax taking proceedings. The amount of tax outstanding is \$80,611., with the fees and interest it is \$95,632.
- Personal property bills continue to get paid when they are flagged at the beach sticker office. There are 98 outstanding bills left for 2022 and 54 from 2021. Good work sticker office!
- I will be gone August 15-18 to attend the annual treasurer/collector school at UMASS in Amherst.

### Community Services

#### **Council on Aging**

- Thanks to Sally Largey, our Outreach Coordinator, the COA was in the parade for the first time!



- The van took Second Place in their division.
- Memoir Writing with Mary Hamlin on Tuesdays – call for information
- On July 17th, there was a public forum presented by the Veterans Administration as part of the newly formed collaboration between the VA and the Wellfleet COA.

### SOCIAL AND HUMAN SERVICES

- The Social and Human Services Committee convened on July 5 to review the responses to the RFPs and allocate available funds. The total allocation for FY24 for grants is \$80,000.

Agency	FY24 Funding
Cape Abilities	\$ 2,000.00
Cape Cod Children's Place	\$ 10,000.00
Elder Services (MOW)	\$ 2,500.00
Food 4 Kids	\$ 3,000.00
Helping Our Women	\$ 5,000.00
Homeless Prevention Council	\$ 15,000.00
Housing Assistance Corporation	\$ 2,500.00
Independence House	\$ 4,700.00
Lower Cape Outreach Council	\$ 10,000.00
Mass Appeal	\$ 6,800.00
Mustard Seed Kitchen	\$ 4,000.00
South Coastal Counties Legal Services	\$ 2,000.00
Wellfleet Montessori School	\$ 2,500.00
Outer Cape Health Services	\$ 10,000.00
	<b>\$ 80,000.00</b>

- Navigator (voted at ATM) - \$25,000
- Childcare/Preschool Vouchers - \$275,000
  - Applications close on August 1
  - Report will be submitted in the next Department Update

## **BEACHES**

- Numbers are down from 2022 especially at White Crest because of the poor weather
  - 2022 (through 7/28) - \$92,250 – 3075 paid parking
  - 2023 (through 7/28) - \$67,680 - 2260 paid parking
  - (\$24,570) as of 7/28.
- Year to date
  - 2022 – \$810,345
  - 2023 – \$809,965
  - (\$380) in the negative over last year

## Harbormaster

- No Update

## Health/Conservation

- No Update

## Fire

- Our two (2) newest hires will officially start employment with us on August 3, 2023. Firefighter/Paramedic Luke Walsh comes to us fully trained to include State Fire Academy certified from the West Barnstable Fire Department. EMT Kenyon Keyes is a graduate of the Massachusetts Maritime Academy and has five (5) years of experience on oil drilling rigs in the Gulf of Mexico. Kenyon will be a provisional employee, filling in for a member who is on a long term injury. Both gentlemen will go through a two (2) week orientation program and then will be assigned to their respective work groups. We welcome both Luke and Kenyon to our Fire Department family.
- Deputy Chief Cappello and Chief Pauley recently completed a comprehensive fire and life safety inspection of the two main buildings located at 70 Main Street otherwise known as the Copper Swan. Numerous violations and concerns of the Massachusetts Comprehensive Fire Safety Code were found. A detailed report has been submitted to the owners of the property and we will be working with them to gain compliance with the Code(s).
- We continue to work with the Nauset School District and Rustic Fire Protection relative to the installation of the new automatic fire sprinkler system at the Wellfleet Elementary School. This is a significant project for this existing building, but, work appears to be on schedule as planned.
- In terms of the annual summer season, we continue to be busy with requests for emergency assistance. I would be remiss if I again, did not mention the excellent cooperation this Department has with our Wellfleet Life Guards when we respond to medical emergencies on the Town owned beaches. The relationship between our Firefighter Paramedics/EMTs, and, the Lifeguards has been remarkable and we truly consider them as equal public safety partners for our community. Often times, when we arrive to a medical emergency the lifeguards have already initiated some type of patient care, gathering of pertinent patient information, etc. We thank them for their professionalism, dedication and true compassion in patient care.

## Library



- As part of our strategic planning, we are soliciting community feedback via a survey. It is not very long, and we are asking people to be thoughtful in their responses so we can go forward in planning for the future. Please visit our survey at [Tinyurl.com/WellfleetLibrary](http://Tinyurl.com/WellfleetLibrary). You can also go to our homepage at [wellfleetlibrary.org](http://wellfleetlibrary.org) and scan the QR code or look on our social media and see the link there.
- Local artist, Robert Henry, will be having a monthlong exhibit here (July 31-September 1). We will be holding a reception on his 90th Birthday, Saturday, August 5th, from 5-7 pm. We are so fortunate to have such a wonderful space for a gallery as well as a multitude of other events - we could not be more pleased to be hosting Robert Henry on this special day.
- As you may or may not know, I am the Town liaison to the Wellfleet Cultural District. I have been involved with the District since its inception, and we have struggled to get traction because of so much employee turnover and various other factors. We finally have an incredible consultant and had our first Steering Committee meeting of local stakeholders at the Library on July 31st. We are formulating a path going forward and are really excited to see so many years of hard work finally coming to fruition. Please check out the District's homepage on [Wellfleetculturaldistrict.org](http://Wellfleetculturaldistrict.org)
- The Friends of the Wellfleet Library annual Distinguished Speaker series will be held at the Congregational Church on Thursday, August 10th. This year, the Friends are welcoming NPR Legal Affairs Correspondent, Nina Totenberg. This event sold out in four days! We are thrilled with the reception from the community. Proceeds from this event fund such things as our Youth Services programming and our Music programming as no programming funds are in our operating budget at all.
- Richard Rothstein, renowned author of the important work, *The Color of Law*, has published a follow-up book (with his daughter, Leah,) called *Just Action: how to challenge segregation enacted under the color of law*. We are thrilled to be hosting this event on Sunday, August 13th at 7:00 PM.
- I am currently working on our Annual Report Information Survey (ARIS) which is required by the Mass. Board of Library Commissioners. It's one of two large-scale reports that I have to complete each year. This one counts everything - from attendance to holdings to circulations. It's complicated by the fact that we migrated systems halfway through the reporting year!

## Police

- 4th of July Parade was a success with little disruption to the town.
- Hiring update.  
Our last appointee failed to complete all requirements for the hiring process and is no longer in the process. We are currently accepting applications and have two individuals who are moving forward in the hiring process. If all goes well, we plan to bring them forward to the board of selectman soon for appointment, thereafter both Student officers will attend an academy in the fall.
- The Department and the National Seashore's policy restricting alcohol at Cahoon Hollow Beach is showing to be successful with a large reduction in chartered busses, A full report will be presented after labor day.

- The recently promoted members of the Department, Lieutenant Turner, Sergeant Daley, and Sergeant Braun continue to assimilate their new positions. All three will be attending specialized training for their positions sometime in the fall.
- Most projects have been on hold as we continue our busy season.

### Public Works

- DPW Administration
  - a. Director Norton met with interim Assistant Town Administrator (ATA) David Colton to review projects that were given to Norton to oversee during the transition from former ATA Roughley.
  - b. An advertisement is active for Loader Operator/Laborer position at the Transfer Station. We hired within for the new Building Custodian position.
  - c. We currently have 2 open seasonal positions still available (4/6 have been filled so far)
  - d. All Capital projects/items approved at ATM 2023 are being ordered and/or worked on.
  - e. Capital Improvement Plan for FY 25 budget review will commence in August. Director Norton and Assistant Director Morris will be meeting individually with the Foremen of Facilities, Transfer Station and Highways to participate in that process
  - f. We continue to move forward with NRCS drainage projects at Kendrick Ave, Powers Landing, and Lt Island Road, as well as the culvert replacement project at Briar Lane/Ryder Ct.
  - g. Herring River Restoration Project is running smoothly and the DPW posts monthly updates on Facebook to inform the public of the progress.
  - h. Assistant Director Morris has been tasked with lining up various training/safety courses for staff for the fall.
- Facilities/Grounds
  - a. Mowing/brushing continues throughout Town, including cemeteries
  - b. Continue to assist other departments (Beach/Rec, etc.)
  - c. Staff is busy keeping up with facility maintenance and making sure HVAC systems are operating effectively
- Highway Department
  - a. Line striped parking lots throughout Town
  - b. Roadside brushing and mowing continues for the summer season.
  - c. Requests to grade dirt roads are at an all-time high with all the rain we've had. It's becoming burdensome and time consuming to keep responding to these requests over and over again. Most of the time the roads aren't nearly as bad as how they are described to us from the complainant. We are thinking about coming up with a policy with some guidelines/standards that will help us manage these requests more efficiently and effectively.
  - d. Next week we will be sweeping and cleaning roadsides for the upcoming Pan Mass Challenge.
- Transfer Station
  - a. Awaiting a Board of Health meeting to ratify the rate increases discussed with the Selectboard and BOH.
  - b. Utilizing the new Mack Roll off truck with hauling solid waste/recycling to various material recycling/processing facilities
  - c. We ordered the Pup trailer for the roll off truck that was approved at ATM 2023.

- d. We are moving forward with the swap shop replacement project and intend on having a new building in place mid 2024

### Recreation

- Summer Recreation Programs are in Full swing with excellent staff at both the Baker's Field and Gull Pond Swim Programs with everyone enjoying the first truly restriction free summer since 2019. Square Dances and Music at Mayo Concerts are also very well attended and popular.
- The Department is hosting an informal retirement party for longtime assistant director Angel Robinson on Friday August 18 during disco night from 6 :30-9:30 at the Baker's Field Pavilion to congratulate Angel for 22 years of service to the Town.
- The Wellfleet Post Office will be doing a stamp dedication of the newly minted "art of the skateboard stamp" at the Wellfleet Park during the annual skateboard park competition on August 19 at 10:00 AM. Postmistress Joselyn Prudeaux said that the post office wants to help highlight the success of the Wellfleet park, especially the sense of community fostered by skaters of all ages,. Skateboard artwork celebrated on the stamp, reflects, reality, incorporating raw, creative designs which highlight the diversity of this culture and our country. The Art of the Skateboard stamps feature four unique designs created by skateboarders-turned-artists
- Extensive planning is underway fall programming.
- Pickleball round robins and clinics are offered 6 days per week in July and August for all levels of play. With the availability of six courts, pickleball is the fastest growing activity offered.
- A full list of summer and all recreation activities as well as the Music at Mayo Concert Schedule can be found on the Town of Wellfleet website.

### Shellfish Department

#### **Enforcement**

- We continued grant inspections. We have completed 39 so far and will need to return to five of them for a re-check of tags. There are a total of 160 grants in Wellfleet, equaling 109 farms.
- We are monitoring 13 farms for minimum productivity, three for derelict gear removal and two new farms for gear and seed investments.
- We performed a dozen random full state vibrio checks on farmers and commercial shellfishermen. The state asks us to complete one for each grant holder over the course of the vibrio season. There are 131 grant holders.
- Checked tags on hats in Cove. In March of 2022, the Selectboard voted to require all hat gear to be tagged, and this year we have nearly 100% compliance (just one collection of hats with unreadable tags and one person whose hats weren't tagged; we will follow up). We also checked spat on hats – and you can already see juvenile oysters so it seems like it was an incredible set!

- Received a call about a mysterious boat fishing harbor with drag rigging. Turned out to be a man trying to get bait.
- Responded to a complaint from a farmer about another farmer taking oysters from his bed and putting them on their bed.
- Verbal warnings given to commercial shellfishermen for not having vibrio logbooks on them.
- We confiscated oysters from two commercial shellfishermen, one for seed and another for not meeting the two-hour vibrio time window from exposure. A written warning was issued for the seed violation.
- We have received three complaints of driving too fast on the beach. We will put a reminder in a Crier.

### **Propagation**

- We stripped clam nets off the grant, and Johnny dug and relayed clams to the Indian Neck recreational area.
- We finished tagging all of our hats in the Cove and on our grant. Tags also put on all shell bag gear in the Cove.
- Planted 180,000 oyster seed: 100,000 was the department order; 80,000 was for dredging mitigation.
- Broke down early seed into lesser density bags. In process of strapping them down to racks.

### **Recreational Fishery**

- The majority of people are harvesting well and are happy and asking questions to learn more!
- We are encountering problems with permit holders bringing too many other people with them and letting them harvest on their permit, which the Town regulations do not allow.
- We have also found renters using homeowners' permits and friends using friends' permits, yet permits are non-transferable. A compounding problem is that these folks arrive without a gauge or even a basket and have no idea what they are doing as they don't receive our email communications. We will be issuing a Crier soon to remind people that their permits are not transferable.
- We have issued a half dozen seed warnings by marking people's permits with an "S" and many verbal warnings.

### **State**

- State water quality testing done on 7/6: We had a bad reading in the conditional (currently open) area where the two candy striped poles marking the closure line are. The state spoke with us about possible early closure if another bad result comes back; we discussed other ideas such as leaving an area open far away from the bad reading. We sent emails out to Cape Cod Commission, Friends of Herring River, Center for Coastal Studies (CCS), etc. to request water flow data to understand how fecal coliform might be traveling within the system. The state's 7/27 samples all came back clean; they'll sample again in mid-August. Herring River remains open.
- State brought FDA on an inspection to monitor how the National Shellfish Sanitation Program is working in Wellfleet. They focused on pier transfers and dealers. We got good reports back.
- Sent Selectboard's seasonal Deputy Shellfish Constable appointment letter to MADMF.

### **Dredging Mitigation**

- Nancy and Johnny both attended dredging mitigation meetings with Army Corps.
- Nancy met with Dan at GEI about mitigation inputs and edited mitigation map area and added two sample points. All updates were submitted to working group and Selectboard in advance of their July 18 meeting.

#### **Other**

- Nancy attended two Selectboard meetings; one with 16 shellfish agenda items.
- Johnny and Chris participated in a meeting about bamboo worms throughout the harbor with science partners from CCS and Cape Cod Cooperative Extension.
- Received new truck, got it registered and had Wellfleet Shellfish Dept. logo painted on both new trucks (CIP FY23 and FY24).
- Nancy and Johnny conducted final AmeriCorps member evaluation and team held a thank you goodbye. Our member won the AmeriCorps Cape Cod award ... go Henry!
- Chris hurt his back lifting outboard motor on barge.
- Nancy fulfilled another public records request from Jude Ahern regarding communications with Michael DeVasto and Kathleen Murphy. Working on another about correspondence with National Park Service regarding clutching in the Herring River per the Town's order of conditions.
- Nancy is also preparing responses to two complaints filed by Ms. Ahern: She filed second complaint with the Mass. Dept. of Environmental Protection and also filed one with the Wellfleet Conservation Commission – both about the department's clutching operations and the Order of Conditions.

#### Town Clerk

- Preparations for the Special Town Election including Vote by Mail application processing and setting up nomination papers.
- Marriage licenses.
- Ongoing work on public records requests, vital records, voter registration, and Raffle permits.



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

VIII

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### TOPICS FOR FUTURE DISCUSSION

- The board will bring up topics that they wish to be on future agendas.



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023

IX

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## VACANCY REPORTS

**\*\*\*Please see the packet for full report\*\*\***

**Boards and Committees**

**Affordable Housing Trust – 1-year term –**

- Elaine McIlroy 6/30/2024
- Gary Sorkin 6/30/2024
- Sharon Rule-Agger 6/30/2024
- James Hood 6/30/2024
- Harry Terkanian 6/30/2024
- Kathleen Nagle 6/30/2024
- Michael DeVasto 6/30/2024

**Bike and Walkways – 3-year term – 5 Members – NO LONGER MEETS**

- Ned Oliver
- Christie O’Campbell
- Peter Cook complete term
- **2 Vacancies**

**Board of Assessors – 3-year term – 3 Members, 1 Alternate**

- Nancy Vail 6/30/2025
- Diane Galvin 6/30/2024
- Gail Stewart 6/30/2024

**Board of Health – 3-year term – 5 Members 1 Alternate**

- Kenneth Granlund 6/30/2026
- Janet Drohan 6/30/2024
- Nick Picariello 6/30/2024
- Gary Locke 6/30/2024
- Deborah Freeman 6/30/2025
- **1 Alternate position open**

**Board of Water Commissioners – 3-year term – 5 Members, 1 Alternate**

- Jim Hood 6/30/2026
- Peter Simon 6/30/2026
- Thomas Flynn 6/30/2024
- Curt Felix 6/30/2025
- Neal Gadwa 6/30/2024
- **2 Alternate positions open**



**Board of Registrars – 3- year term – 4 Members**

- Andrea Pluhar 2025
- Sheryl Jaffee 2026
- Jennifer Congel ex-officio
- **1 Vacancy**

**Building and Needs Assessment Committee – 3-year term – 5 Members**

- Sean Donoghue
- Jay Horowitz
- Harry Terkanian
- Jay Norton – DPW Liaison
- Kathy Granlund – Finance Committee Liaison
- **2 Vacancies**

**Bylaw Committee – 3-year term – 3 Members**

- Dawn Rickman ATM 2025
- Lizanne Stansell ATM 2026
- Sam Pickard ATM 2024

**Cable Internet and Cellular Service Advisory Committee – 1-year term – 5 Members**

- Josh Yeston Chair 6/30/2024
- Steven Kopits Vice-Chair 6/30/2024
- Thomas Cole 6/30/2024
- Heather Doyle 6/30/2024
- Larry Marchal 6/30/2024
- **1 Vacancy**

**Cemetery Commission –**

- Nancy Vail Chair ATE 2025
- Bonnie Robicheau ATE 2026
- David Agger ATE 2024

**Commission on Disabilities – 3-year term – 5 Members**

- Suzanne Grout Thomas ADA Coordinator
- Fred Gentner 6/30/2026
- Kate Clemens 6/30/2026
- James McAuliffe 6/30/2024
- George Harris 6/30/2024
- Bob Dupuis 6/30/2026

**Community Preservation Committee – 3-year term**

- Gary Sorkin                      Chair LHP                      6/30/2026
- Jan Plaue                      Vice-Chair At Large                      6/30/2026
- Elaine McIlroy                      Housing Authority                      6/30/2026
- Fred Streams                      Open Space                      6/30/2024
- James McAuliffe                      Historical Comm.                      6/30/2025
- Rhonda Fowler                      Recreation                      6/30/2024
- David Mead-Fox                      Planning Board                      6/30/2024
- Geraldine Ramer                      At Large                      6/30/2024
- Michael Fisher                      Conservation Com.                      6/30/2024

**Conservation Commission – 3-year term – 7 Members, 2 Alternates**

- Barbara Brennessel                      6/30/2026
- Martin F Murphy                      6/30/2024
- John Cumbler                      6/30/2026
- Michael Fisher                      6/30/2024
- Leon Shreves                      6/30/2026
- Benjamin Fairbank                      6/30/2026
- Robert Stewart                      6/30/2026
- **2 Alternate vacancies**

**Council on Aging – 3-year term – 9 Members**

- Brian Quigley                      co-chair                      6/30/2026
- Wayne Clough                      co-chair                      6/30/2026
- Sarah Multer                      6/30/2026
- Laura Gazzano                      6/30/2024
- Denya Levine                      6/30/2024
- Judith Cumbler                      6/30/2024
- Mary Goodhouse                      6/30/2026
- **1 Vacancy**

### **Cultural Council – 3-year term – No more than 15 Members**

- Carolyn Rogers            Chair                    6/30/2025
- Francis Corbin            Treasurer                6/30/2025
- Susan Blake                Secretary                6/30/2026
- Yvonne Barocas                                    6/30/2026
- Merrill Mead-Fox                                6/30/2024
- Kevin McMahon                                 6/30/2024
- Moira Meehan                                    6/30/2024
- David Blackman                                 6/30/2024
- Vicki Solomon                                  6/30/2024
- Kathleen Grzewinski                            6/30/2025
- **5 Vacancies**

### **Dredging Task Force – 3-year term – 7 Members**

- Christopher Allgeier            Co-Chair                6/30/2025
- Joseph Aberdale                Co-Chair                6/30/2026
- Skip Annette                                      6/30/2025
- Curt Felix                                        6/30/2024
- **3 Vacancies**

### **Energy Committee – 3-year term – 7 Members**

- Suzanne Ryan                    Chair                      6/30/2025
- Lilli-Ann Green                Vice Chair                6/30/2026
- Mary (Carol) Magenau            Secretary                6/30/2025
- Robert Shapiro                                    6/30/2025
- David Mead-Fox                                 6/30/2024
- Gorham Brigham                                6/30/2025
- Dick Elkin                                        6/30/2024
- Jay Norton – DPW Liaison
- Jeff Tash – Finance Committee Liaison
- **No vacancies**



**Local Housing Partnership – 1-year term – At least 10 Members**

- Sharon Rule-Agger 6/30/2024
- Anne Suggs 6/30/2024
- John Cumbler 6/30/2024
- Susan Spear 6/30/2024
- Karen Kaminski 6/30/2024
- Judy Taylor 6/30/2024
- Alfred Pickard Planning Board
- Gary Sorkin Housing Authority
- Sharon Inger Zoning Board of Appeals

**Marina Advisory Committee – 3-year term – 7 Members, 2 Alternates**

- Joseph Aberdale Chair 6/30/2024
- David Stamatis Vice -Chair 6/30/2024
- Edward Kane 6/30/2024
- William Barrio 6/30/2024
- Martha Wilson 6/30/2026
- Fredrick Felix 6/30/2024
- Kevin Coakley 6/30/2026
- Doug Straus Alternate 6/30/2024.
- James Gray Alternate 6/30/2024

**Natural Resource Advisory Board – 3-year term – 7 Members**

- John Duane Chair 6/30/2024
- Laura Hewitt 6/30/2025
- Thomas Slack 6/30/2026
- Herbert Gstalder 6/30/2024
- **3 Vacancies**

**Open Space Committee – 3-year term – 7 Members**

- Bruce Hurter Chair 6/30/2024
- Thomas Slack Vice-Chair 6/30/2024
- Lynn Southey 6/30/2024
- Fred Streams 6/30/2024
- Margaret Sagan 6/30/2024
- John Grieb 6/30/2024
- Elizabeth McDonald 6/30/2024

**Personnel Board – 3-year term – 4 Members, TA & FinCom Representatives**

- **Haven't Met**

**Planning Board – 3-year term – 7 Members, 2 Alternates**

- Gerald Parent Chair 6/30/2025
- Bonnie Shepard 6/30/2024
- David Mead-Fox 6/30/2024
- Alfred Pickard Jr. 6/30/2026
- Beth Ann Singer 6/30/2026
- Jeffry Korgen 6/30/2026
- **1 Voting Member Vacancy**
- **2 Alternate Vacancies**

**Recreation Committee – 3-year term – 7 Members**

- Christine Bezio 6/30/2026
- Kevin Scalley 6/30/2026
- Kerry Cox 6/30/2026
- Kathy Granlund FinCom Liaison
- Rhonda Fowler CPC Liaison
- **2 Vacancies**

**Recycling Committee – 3-year year term – 7 Members, 2 Alternates**

- Christine Lustig Shreves Co- Chair 6/30/2025
- Lydia Vivante Co-Chair 6/30/2025
- Jaya Karlson 6/30/2024
- Nancy Najmi 6/30/2024
- Christine Wisniewski 6/30/2024
- Olivia Kraus 6/30/2024
- (Mary) Carol Magenau 6/30/2026
- **2 Alternate Vacancies**

**Rights of Public Access Committee – 3-year term – 5 Members**

- Melissa Yow
- **4 Vacancies**

**Shellfish Advisory Board – 3-year term – 7 Members, 2 Alternates**

- Karen Johnson Chair 6/30/2025
- John Duane 6/30/2024
- Nick Sirucek 6/30/2025
- Ethan Etsey 6/30/2024
- Adrien Kmiec 6/30/2026
- Stephen Pickard 6/30/2025
- Rebecca Taylor 6/30/2024
- Damian Parkington – Alternate 6/30/2025
- Brad Morse– Alternate 6/30/2026

**Taxation Aid Committee – 3-year term**

- Dawn Rickman Chair 6/30/2026
- Nancy Bierhans Vice-Chair 6/30/2026
- Susan Messina Secretary 6/30/2024
- Diane Galvin Board of Assessors
- Town Treasurer – Vacant

**Wellfleet Elementary School Committee – 3 -year term**

- Martha Gordon Chair ATE 2026
- Liberty Schlipp ATE 2024
- Laura Baghetti ATE 2026
- Joan Zukas ATE 2025

**Wellfleet Affordable Housing Trust – 2-year term**

- Gary Sorkin Trustee
- Kathleen Nagle Trustee
- Harry Sarkis Terkanian Trustee
- Elaine Mellroy Trustee
- Sharon Rule-Agger Trustee
- James Hood Trustee

**Wellfleet Public Library Trustees – 3-year term- 7 Members**

- Robin Robinson                      Chair                      ATE 2026
- Kathleen Hickey                      ATE 2025
- Andrew Freeman                      ATE 2026
- Yvonne Barocas                      ATE 2024
- Adam James Miller                      ATE 2024
- Kathleen Shorr                      ATE 2024
- **1 Vacancy**

**Zoning Board of Appeals – 3-year term – 5 Members, 4 Alternates**

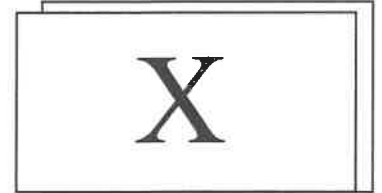
- Sharon Inger                      Chair                      6/30/2026
- Michael Lynch                      Vice-Chair                      6/30/2026
- Theodore Heyliger                      Clerk                      6/30/2025
- C. Wilson Sullivan                      6/30/2026
- Trevor Pontbriand                      6/30/2024
- Reatha Ciotti                      6/30/2026
- Janet Morrissey                      6/30/2024
- Andrew Freeman                      Alternate                      6/30/2026
- Al Mueller                      Alternate                      6/30/2024





## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023



### MINUTES

<b>REQUESTED BY:</b>	<b>Executive Assistant</b>
<b>DESIRED ACTION:</b>	<b>Approval of the Meeting Minutes of July 11, 2023, July 13, 2023, &amp; July 18, 2023, and July 25, 2023.</b>
<b>PROPOSED MOTION:</b>	<b>I move to approve the minutes of July 11, 2023, July 13, 2023, and July 18, 2023, and July 25, 2023, as printed in draft.</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

**Wellfleet Selectboard  
Hybrid Meeting  
Zoom/ 715 Old King's Highway, Wellfleet  
Tuesday July 11, 2023  
Meeting Minutes**

**Members Present:** Ryan Curley, chair; Barbara Carboni, Vice Chair; Michael DeVasto, Kathleen Bacon, John Wolf

**Others Present:** Richard Waldo, Town Administrator; Rebekah Eldridge, Executive Assistant; Kevin LaRocco, Deputy Chief of Police; Suzanne Grout Thomas, Community Service/Beach Director; Jay Pawa, Sacred Surf School, LLC; Leigh Cremin, Collective Dynamics; Rebecca Arnoldi, Be Body & Earth; Jeffry Korgen, Planning Board Applicant; Chris Merl, Resident; Tim Sayer; Dan Murray, owner of the Beach Comber; Curt Felix; Suzane Reverby, Kevin LaRocco; Deputy Chief; Lt. Turner; Suzanne Grout Thomas, Beach/Community Service Director; Rebecca Arnoldi, applicant for use of town property, Gerry Parent, Chair of the Wellfleet Planning Board

Chair Called the meeting to order at: 7:00pm

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

**Note:** *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

Merl spoke to the board about a scallop dinner at the Congregational Church on the 16<sup>th</sup> of July, he also explained he will not be able to attend the July 13<sup>th</sup> meeting as an applicant as he will need to be fishing.

Murray, General Manager of the Beach Comber: he spoke about the Cahoon Hollow beach issues, he questioned the enforcing of alcohol drinking on the beach. He read a complaint letter to the board about the vibe that is being killed on the beach. He explained there are many other ways that the town can enforce safety.

Bacon spoke to the board; stating that there has been 2 members of the board that have asked for a reorganization of the board and has been ignored and wanted this known for public record.

Felix spoke to the board stating that there is a crisis in leadership, stating there was significant overreach because of the chair, and he is stating that if the overreaching continues from the chair there will be more issues in Wellfleet. He stated he felt the Selectboard should be reorganized to keep in the spirit of.

Reverby, spoke to the board about the issues about the board and stated there needs to be reorganization of the board before the town goes into receivership.

**II. *Consent Agenda***

There were no items on the consent agenda to be voted on or approved.

**III. Community Updates**

**A. Police Department fourth of July weekend update**

LaRocco and Turner briefed the board and public on the weekend of July 4<sup>th</sup> he stated there was a letter to the board, with a decrease in busses due to the weather. He stated this year there were 36 buses compared to last year there were 109 buses. Wolf questioned the Chief about the large presence of the police at the beach. LaRocca explained that they are there to educate the public with the new regulations not to ruin the beachgoers time on the beach. The board spoke to the Lt. and Chief thanking them for their service and time on the beach. Waldo stated that after this season they would go back to the Park Service to discuss the season and moving forward with drop off locations.

**NO ACTION WAS TAKEN**

**IV. Public Hearing**

**Chair Curley opened the public hearing at 7:16pm:**

- A. Beach Rules and Regulations ~ Maguire's Landing/Lecount Landing Beach to be a resident and Taxpayer Beach permanently ~ Suzanne Grout Thomas**  
Thomas spoke to the board making this a permanent decision, so it doesn't need to be brought back in front of the board in the future. DeVasto made the point that this is just a parking privilege for residents and taxpayers, the beach is open to all. Sayer spoke to the board asking to amend the motion stating it is for parking.

**Chair Curley Moved; Board Member Wolf Seconded; and it was voted to approve McGuire's Landing at Lecount Hollow to be a resident taxpayer parking only.**

**Roll Call Vote: 5-0**

**V. Use of Town Property**

- A. Sacred Surf School, LLC ~ Jay Pawa ~ Whitecrest Beach, surf lessons for groups of no more than 10 people.**

Jay was not on the meeting,

**Chair Curley Moved; Board Member DeVasto Seconded; and it was voted to approve Jay Pawa of Sacred Surf LLC, to use Whitecrest Beach for surf lessons for small groups for a fee of \$385.00.**

**Roll Call Vote: 5-0**

- B. Collective Dynamics ~ Leigh Cremin ~ varies sidewalk and grassy areas to do street performances with her 2x2 chalkboard for "Word Play" ~ see application for further details.**

**Chair Curley Moved; Board Member DeVasto Seconded; and it was voted to approve the various places in Wellfleet to perform word play with a chalk board and chalk ending September 30, 2023.**

**Roll Call Vote: 4-1 (Bacon voted No)**

- C. Rebecca Arnoldi ~ Nature classes/walks ~ Newcomb Hollow, Mayo Beach August through September.**

Arnoldi spoke to the group explaining her nature walks and what she plans to do with them. There was discussion of a fee.

**Chair Curley moved; Board Member Carboni Seconded; and it was voted to approve the use of Newcomb Hollow and Mayo Beach for nature walks**

**and calming classes for a fee to be negotiated with the Community Service Director.**

**Roll Call Vote: 5-0**

**VI. *Board/Committee Appointments and Updates***

**A. Appointment of Jeffrey Korgen to the Wellfleet Planning Board**

Korgen spoke to the board about his application. The board asked if Korgen knew anything about zoning and housing, he spoke to both. Stating he didn't have a lot of knowledge with zoning, and he spoke about housing and his work on studying land trusts. Curley asked him to review the housing production plan.

**Chair Curley Moved; Board Member Seconded; and it was voted to approve the appointment of Jeffrey Korgen to the Wellfleet Planning Board as a voting member, for a term of three years to end June 30, 2026, to be sworn in by the town clerk and to take the required ethics class online before voting at a public meeting.**

**Roll Call Vote: 4-0-1 (DeVasto abstained)**

DeVasto spoke to the board members stating that there was a discussion to reorganize the board. Chair Curley stated that this would be an illegal motion and DeVasto was out of order.

**DeVasto moved; Board Member Wolf Seconded; and it was voted to reorganize the board at the agenda on the next meeting.**

**Roll Call Vote: 4-1 (Curley voted no)**

There was much discussion on this, and it was decided that town counsel will look over this motion and determine if it is legal. Town counsel joined the meeting and the Chair refused to go back to this item.

**VII. *Zoning Bylaws for Special Town Meeting Warrants***

**A. Inclusionary Zoning**

Chair Curley spoke to the board about this bylaw stating the Harry Terkanian amended it a little to take most of the math out of it. The board spoke about some of the amendments and the bylaw.

Parent spoke to the board about posting a public hearing regarding the zoning. He then stated that this is a very short amount of time for zoning bylaws to be on a warrant.

Curley explained to Parent that the Planning Board spoke about all these zoning bylaws previously. Parent explained that these were changes and there still hasn't been a final version sent over to them for them to review. DeVasto spoke in favor of Parent's remarks.

**Chair Curley Moved; Board Member Wolf Seconded; and it was voted to refer the Inclusionary Zoning Bylaw as a draft to the Planning Board and town counsel for comment and respond to the town administrator.**

**Roll Call Vote: 5-0**

**B. Cottage Colonies**

Chair Curley stated that this was a straightforward bylaw. Parent agreed. The board had a few questions for the increase of numbers.

**Chair Curley Moved; Board Member Bacon Seconded; and it was voted to refer The Cottage Colonies Zoning Bylaw Amendment to the Planning**

**Board and town counsel as a draft to follow the town administrator's schedule.**

**Roll Call Vote: 5-0**

**C. Intensity of Use of Multi-Family Dwellings**

Chair Curley spoke to the board and has been seen by the Planning Board and town counsel and has not been changed. The board discussed this bylaw, including septic and the watershed permit.

**Chair Curley Moved; Board member Wolf seconded; and it was voted to defer the Intensity of Use of Multi-Family Dwellings Zoning Bylaw Amendment for a public hearing to be held within 65 days.**

**Roll Call Vote: 4-1 (DeVasto voted no)**

**D. Developments of Significant Planning Interest and Food Establishments**

Bacon stated she wanted this to be send to the Planning Board and town counsel in draft form and to town counsel for review. She stated this needs to go back to them with changes. DeVasto stated he has trouble with this bylaw stating that he believes this could cause unending litigation. Parent stated that this could make most if not all the restaurants in Wellfleet preexisting nonconforming. The board continued to discuss this bylaw and how it would be determined.

**Board Member Bacon Moved; Chair Curley Seconded; and it was voted to refer the Development of Significant Planning Interest and Food Establishments to the Planning Board for a public hearing to be held within 65 days.**

**Roll Call Vote: 4-1 (DeVasto voted No)**

**E. Definition of Trees**

**Board Member Bacon Moved; Chair Curley seconded; and it was voted to refer the Definition of Trees to the Planning Board for a public hearing to be held within 65 days.**

**Roll Call Vote: 4-1 (DeVasto voted no)**

**F. Cutting of Timber Amendment**

Sayre spoke against this motion stating that the board doesn't have the right to not allow the members to strip property owners. The board discussed having the building commissioner be the person to allow the cutting of trees.

**Chair Curley Moved, Board Member Carboni Seconded; and it was voted to refer the Cutting of Timber Zoning Bylaw Amendment to the Planning Board for a public Hearing as amended to be held within 65 days.**

**Roll Call Vote: 5-0**

**G. Landscape and Tree Preservation Bylaw**

The board moved onto this bylaw Chair Curley explained that this was a vote at town meeting to ask the Selectboard to draft a bylaw.

DeVasto stated that he is against this bylaw, and he feels the town shouldn't be telling residents they can't cut trees on their own property. Wilson spoke to this article.

**Chair Curley Moved; Board Member Seconded, and it was voted to refer the Landscape and Tree Preservation Bylaw to the Planning Board and town counsel as a draft for comments to follow the town administrator's schedule.**

**Roll Call Vote: 4-1 (DeVasto voted no)**

**H. Locally Notable Trees**

Wolf stated he couldn't find the definition of locally notable trees. Chair Curley read the definition.

**Board Member Bacon Moved; Board Member Carboni Seconded; and it was voted to refer the Locally Notable Trees Zoning Bylaw to the Planning Board for a public hearing to be held within 65 days.**

**Roll Call Vote: 5-0**

**I. Zoning Enforcement Penalty**

Parent stated there are Zoning Bylaw violations all over town. He stated that he has spoken with the Building Commissioner and stated that \$50 for the 3<sup>rd</sup> offense is something that doesn't cause a violator to change. He stated the higher the fee the more compliant the offender would be.

**Board Member Bacon Moved, Board Member Carboni Seconded; and it was voted to refer the Zoning Enforcement Penalty Bylaw to the Planning Board for a public hearing to be held withing 65 days.**

**Roll Call Vote; 5-0**

**VIII. *Special Town Meeting Warrant***

**A. The board will review and may take votes on articles for the September town meeting.**

Chair Curley Moved this item up so the animal control officer.

**Chair Curley Moved; Board Member Seconded and it was voted to insert and recommend the amended working for the animal control bylaw.**

**Roll Call Vote: 5-0**

**IX. *Business***

**A. Special Town Election ~ Date to be chosen ~ Selectboard.**

Chair Curley asked if there was a date that worked for the election, Waldo stated that in speaking with the town clerk she would not like to have an election the day after town meeting. He explained there were other days in September that wouldn't work due to Yom Kippur and an event being held at the Community Center. He mentioned October 2<sup>nd</sup> or October 9<sup>th</sup>. Chair Curley questioned the tax rate being able to be set on time. Bacon stated waiting that long for a special election wouldn't be in the best interest.

Waldo stated that he would work with the clerk about September 27<sup>th</sup> or 28<sup>th</sup> for a special election.

**NO ACTION WAS TAKEN**

**X. *Selectboard Reports***

Carboni spoke about establishing a scholarship fund. She stated she met with the proponent of the article.

Wolf spoke about the dredging task force regarding the dredging mitigation.

**XI. *Town Administrator's Report***

Waldo gave some points on his report. He acknowledged the Chamber of Commerce for the fourth of July parade. He also stated that the town received a grant for fiber optics, and he met with the Cable Committee earlier in the day, to try and help with getting service to the beach.

**XII. *Topics for Future Discussion***

Art Shacks at the Beach need to be put on an upcoming agenda.

**XIII. *Vacancy Reports***

Carboni would like to talk about the rights of Public Access Committee

**XIV. *Minutes***

A. June 20, 2023, ~ **Board Member Bacon Moved; Chair Curley Seconded; and it was voted to approve the meeting minutes of June 20, 2023, in draft.**

B. **Roll Call Vote: 5-0**

**XV. *Adjournment***

**Chair Curley Moved; Board Member Bacon Seconded; and it was voted to adjourn.**

**Roll Call Vote: 5-0**

**Meeting Adjourned: 10:11pm**

**Wellfleet Selectboard  
Hybrid Meeting  
Zoom/715 Old King's Highway  
Thursday July 13, 2023; 6:30pm  
Meeting Minutes**

**Members Present:** Ryan Curley, Chair; Barbara Carboni, Vice Chair; Michael DeVasto, John Wolf

**Members Absent:** Kathleen Bacon

**Finance Committee Members Present:** Kathy Granlund, Chair; Bob Wallace, Stephen Polowczyk, Ira Wood, Jenn Rhodes

**Others Present:** Rich Waldo, Town Administrator; Rebekah Eldridge, Executive Assistant; Catherine Pomeroy, accountant consultant; Nancy Civetta, Shellfish Constable; Jude Ahern; Tim Sayre, Adrien Kmiec, Shellfish Advisory Board applicant; Bradford Morse, Shellfish Advisory Board Applicant; Nemanja Krsmanovic, Shellfish Advisory Board Applicant; Chris Merl, Shellfish Advisory Board Applicant; Alfred Pickard, Ginny Parker, Lisa Dexter, shell fisher woman, Helen Miranda Wilson, Resident, Diane Brunt, resident

Chair Curley called the meeting to order: 6:35pm

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

**Note:** *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

Chief Pauley stood up to the microphone and read a statement to the board and public, stating that town leadership is at an all time low, speaking his full support of the town administrator and the need for this board to reorganize.

DeVasto spoke to the public regarding the motion that was made and voted on at the previous meeting, he was upset that it was not placed on tonight's agenda.

Brad Morse spoke to the board stating that the board was taking up the time this room needs for a meeting.

**II. *Year End Budgetary Transfers***

**A.** The finance committee will approve any transfers that need to be made at this meeting for the end of the year. ~ Finance Committee, Selectboard, Town Administrator

Granlund explained to the board that this is a normal process for the town at the end of every fiscal year. Polowczyk spoke to the boards and public about budgets and how these transfers take place. Sayre asked some questions about the budget, why there was more money in one account verses another account. Sayre continued to go back and forth with the board and finance committee regarding the negative accounts. Chair Curley explained the process.



Pomeroy spoke to the board and public explaining the legal aspect of this vote to transfer.

**Chair Granlund moved; board member Wood seconded; and it was recommending the budgetary transfers listed in the packet for tonight's meeting.**

**Roll Call Vote: 5-0**

**Chair Curley Moved; Board Member Carboni Seconded; and it was voted to approve and recommend the \$5 for the budgetary transfers.**

**Roll Call Vote: 4-0**

**Board Member Wood Moved; Board Member Polowczyk seconded, and it was voted to adjourn the finance committee portion of the meeting.**

**Roll Call Vote: 5-0**

### III. *Deputy Shellfish Constable Appointments ~ Seasonal Positions*

A. Erika Smith

B. Mark Howard

**Chair Curley Moved; Board Member Wolf Seconded and it was voted to appoint Erika Smith and Mark Howard as seasonal Deputy Shellfish Constables for the town of Wellfleet, Starting June 28, 2023, through September 30, 2023, and again May 12<sup>th</sup> through June 30, 2024.**

**Roll Call Vote: 4-0**

**BOARD MEMBER DEVASTO RECUSED HIMSELF FROM THE REST OF THE MEETING AS A BOARD MEMBER.**

### IV. *Shellfish Advisory Board Applicants*

A. **Adrien Kmiec** ~ Voting Member application received June 5<sup>th</sup> to move from alternate member to voting member.

The board questioned Kmiec on his experience with the shellfish community, he stated he has been an alternate for 6 months and would like to be a full-time voting member. Pickard asked about how he feels about bringing corporations coming into the town. He stated he felt he understood both sides. Parker questioned if he would be able to be biased because Nancy Civetta is his sister-in-law. He stated he didn't feel this would be an issue.

B. **Bradford Morse** ~ Application received May 11, 2023, to be on the board in any capacity.

Morse came to the table and was spoken to by the board, he stated there are a lot of issues going on at the ocean, he gave a little bit of information about his background and stated that he knows a lot that is going on throughout the town and to be able to sit on the board and get involved in town matters. He stated his care for Wellfleet and gave some background. It was asked of Morse when he submitted his application. Wolf questioned his feeling for corporations being able to hold a grant. He stated he doesn't like the idea and then explained why he felt this way.

- C. **Nemanja Krsmanovic** ~ Application Received June 1, 2023, to be on the Shellfish Advisory board in any capacity.  
Ahern asked him how many grants he was working. He explained to the board before he makes a decision. He stated he believes in empathy and that people should help each other.
- D. **Helen Miranda Wilson** ~ Application received June 12, 2023, to be on the Shellfish Advisory Board as a Voting Member – **Withdrew her application.**
- E. **Chris Merl**, application received June 28, 2023, to be on the board as a voting member. Chris Merl was unable to be at the meeting but submitted a letter to the board stating that he was fishing but wanted to be a part of the board because he has been a long time shellfisherman and would like to give back to the town of Wellfleet. Board Member Wolf read the letter from Merl.  
Chair Curley spoke about all the applicants and how important it is to have them be a part of the board. DeVasto spoke as a fisherman, stating that if Merl were voted on that would be the 4<sup>th</sup> member of the shellfish advisory board it would be unfair. An argument ensued.  
**Board Member Carboni Moved; Board Member Wolf Seconded; and it was voted to approve Adrien Kmiec as the voting member on the Shellfish Advisory Board. For a term of three years with the term to end June 30, 2026.**  
**Roll Call Vote: 2-1 (Wolf Voted No)**  
**Board Member Wolf Moved; Chair Curley Seconded; and it was voted to appoint Brad Morse as an alternate member to the Shellfish Advisory Board. For a term of three years with the term to end June 3, 2026.**  
**Roll Call Vote: 3-0.**

V. **Business**

- Civetta spoke to the board stating that the two people before them have not obtained commercial shellfish license and she stated that because this is a fairly new policy, so she is requesting that they approve both hardship exemptions.
- A. **Mary Mallory commercial permit hardship exemption**  
Mallory was discussed first, and what her hardship would be if she wasn't able to obtain a commercial permit. Carboni stated she supported the constable and vote in support of this.  
**Chair Curley Moved; Board Member Carboni Seconded; and it was voted to direct the shellfish constable to issue a commercial shellfishing permit to Mary Mallory per section 6.1.5 Hardship Exemption.**  
**Roll Call Vote: 3-0**
- B. **Kathleen Murphy commercial permit hardship exemption**  
Civetta spoke to this exemption, stating that Murphy was going to try to do a corporation and because that was denied she then wanted to be named to the grant and has requested a hardship. Chair Curley stated he felt it doesn't qualify for a hardship. Board Member Wolf spoke to the board disagreeing with Chair Curley. Murphy spoke to the board stating she has a lot of equipment on the grant and if she didn't have a commercial license.

**Board Member Carboni Moved; Board Member Wolf Seconded; and it was voted to direct the shellfish constable to issue a commercial shellfishing permit to Mary Mallory per section 6.1.5 Hardship Exemption.**

**C. Letter to Legislature in support of Bill S261 & H60**

Chair Curley spoke to the board about this letter that has been drafted where legislature is holding meetings that allows universal school meals for all children to receive school lunch programs. Chair Curley stated that Martha Gordon wrote the letter and thanked her for her support.

**Board Member Carboni moved, Chair Curley Seconded, and it was voted to approve the letter drafted to send a letter to the legislature in support of Bill S261 & H600**

**Roll Call Vote: 3-0**

**D. Open Meeting Law Complaint ~ Chad Williams – taken out of order to move after the financial transfers.**

Waldo spoke to the board regarding this complaint and stated that town counsel has written a response to Mr. Williams on behalf of the town.

**Board Member Carboni moved; Board Member Wolf seconded; and it was voted to have town counsel submit the letter as written to the attorney general on behalf of the town.**

**E. Principal Clerk, shellfish job position description**

Chair Curley read the job description of the principal clerk to the board and public. There was a lot of discussion on the changing of job positions. Brunt spoke to the board stating she had issues. Stating that she had to much help.

**Chair Curley Moved; Board Member Bacon Seconded, and it was voted to approve the reorganization of the Principal Clerks job description.**

**Roll Call Vote: 3-0**

**VI. Public Hearings 7PM**

**In accordance with MGL Chapter 130 Sections 52, 57, 58, 60, and 68 and all applicable Town Shellfish Regulations, notice is hereby given that the Wellfleet Selectboard will hold a hybrid public hearing on July 13, 2023, at 7:00 p.m. to consider the following:**

**Chair Curley Opened the public hearings:**

**A. Application received on 4/14/2023 from Brent Valli (Wellfleet, MA) and Sandra Mitchell (Wellfleet, MA) for the renewal of shellfish grant license #s 95-21/22 consisting of approximately two acres on Egg Island for seven years beginning March 1, 2023, and expiring March 1, 2030.**

Civetta spoke to the board and advised the board to approve this renewal for even years. Chair Curley spoke to the board about his renewal.

**Chair Curley Moved; Board Member Wolf Seconded; and it was voted to approve the renewal of Brent Valli and Sandra Mitchell's shellfish grant license #95-21 and #95-22 consisting of approximately two acres on Egg Island for seven years beginning March 1, 2023, and expiring March 1, 2030.**

**Roll Call Vote: 3-0.**

**B. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) for the renewal of shellfish grant license #s 95-13/14 consisting of approximately two**

acres on Egg Island for ten years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.

Civetta spoke to the board about this renewal.

**Chair Curley Moved; Board Member Carboni Seconded; and it was voted to grant a waiver to sections 7.8.6 and 7.8.7 and approve the renewal of Jeremy Storer's shellfish grant licenses #95-13 and #95-14 consisting of approximately two acres in Egg Island for ten years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.**

**Roll Call Vote: 3-0**

- C. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) and Alfred Pickard (Wellfleet, MA) for the renewal of shellfish grant license # 2000-4 consisting of 2.16 acres on Egg Island for ten years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.

**Chair Curley Moved, Board Member Wolf Seconded; and it was voted to grant a waiver to sections 7.8.6 and 7.8.7 and approve the renewal of Jeremy Storer's and Alfred Pickard's shellfish grant license #2000-4 consisting of 2.16 acres on Egg Island for the years, one month and 29 days beginning March 1, 2023, and expiring April 30, 2033.**

**Roll Call Vote: 3-0**

- D. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) for the transfer of shellfish grant license #s 95-13/14 consisting of approximately two acres on Egg Island from Jeremy Storer to Jeremy Storer and Brandon Silva (Wellfleet, MA).

Civetta spoke to the board about this application.

**Chair Curley Moved; Board Member Carboni Seconded and it was voted to approve the transfer of shellfish grant license #s 95-12/14 consisting of approximately two acres on Egg Island from Jeremy Storer (Wellfleet, MA) to Jeremy Storer and Brandon Silva (Wellfleet, MA)**

**Roll Call Vote: 3-0**

- E. Application received on 5/5/2023 from Jeremy Storer (Wellfleet, MA) and Alfred Pickard (Wellfleet, MA) for the transfer of shellfish grant license # 2000-4 consisting of 2.16 acres on Egg Island from Jeremy Storer and Alfred Pickard to Jeremy Storer, Alfred Pickard and Brandon Silva (Wellfleet, MA).

**Chair Curley Moved; Board Member Wolf Seconded, and it was voted to grant a waiver to sections 7.8.6 and 7.8.7 and approve the transfer of shellfish license #2000-4 consisting of 2.16 acres on Egg Island.**

**Roll Call Vote: 3-0**

- F. Application received on 5/30/2023 from Peter Rennert (Wellfleet, MA) and Zach Rennert (Wellfleet, MA) for the transfer of shellfish grant license #s 95-23/24 consisting of approximately two acres on Egg Island from Peter Rennert and Zach Rennert to Zach Rennert.

**Chair Curley Moved; Board Member Wolf Seconded and it was voted to approve the transfer of shellfish grant license #95-23 and #95-24 consisting of a total of approximately two acres on Egg Island from Zach Rennert and Peter Rennert to Zach Rennert.**

**Roll Call Vote: 3-0**

- G. Application received on 6/29/2023 from Michael Ramsdell (Wellfleet, MA) and Michael DeVasto (Wellfleet, MA) for the transfer of shellfish grant license #s 855 and 855B consisting of approximately two acres on Field Point from Michael Ramsdell and Michael DeVasto to Michael DeVasto and Kathleen Murphy (Wellfleet, MA).

**Chair Curley Moved; Board Member Carboni Seconded; and it was voted to approve the transfer of shellfish grant license #s 855 and 855B consisting of approximately two acres on Field Point from Michael Ramsdell and Michael DeVasto to Michael DeVasto and Kathleen Murphy.**

**Roll Call Vote: 3-0**

- H. Application received on 6/29/2023 from Michael DeVasto (Wellfleet, MA) for the transfer of shellfish grant license # 855C consisting of approximately 1.6 acres on Field Point from Michael DeVasto to Michael DeVasto and Kathleen Murphy (Wellfleet, MA).

**Chair Curley Moved, Board Member Wolf Seconded; and it was voted to approve the transfer of shellfish grant license #855C consisting of approximately 1.6 acres on Field Point from Michael DeVasto to Michael DeVasto and Kathleen Murphy.**

**Roll Call Vote: 3-0**

- I. Application received on 6/29/2023 from Rebecca Taylor (Wellfleet, MA) and Myron Taylor (Wellfleet, MA) to transfer shellfish grant license #s 734 and 734A consisting of a total of approximately 3.5 acres on Mayo Beach from Rebecca Taylor and Myron Taylor to Rebecca Taylor.

**Chair Curley Moved; Board Member Carboni Seconded, and it was voted to approve the transfer of shellfish grant license #s 734 and 734A consisting of a total of approximately 3.5 acres on Mayo Beach from Rebecca Taylor and Myron Taylor to Rebecca Taylor.**

**Roll Call Vote: 3-0**

- J. Application received on 6/9/2023 from Rebecca Taylor (Wellfleet, MA) for two extensions to shellfish grant license # 734 (to be called 734B and 734C) on Mayo Beach for approximately 1.4 acres total, reconfigured from an extension approved by the Wellfleet Selectboard at its 3/21/2023 public hearing.

**Chair Curley Moved; Board Member Carboni Seconded; and it was voted to approve two shellfish grant license extensions to be called #734B and 734C to shellfish grant license #s 734 and 734A consisting of a total of approximately 0.61 and 0.79 acres respectively on Mayo Beach for Rebecca Taylor.**

**Roll Call Vote: 3-0**

**CHECK RECORDING FOR REVISED VOTE**

- K. **CONTINUED FROM 6/6/2023** ~ Application received 1/10/2023 for a grant extension (to be numbered #99-1 Ext) to shellfish grant license #99-1 consisting of approximately .43 acres on Mayo Beach from Angela Osowski (Wellfleet, MA), Robert Mallory (Wellfleet, MA) and Mary Mallory (Wellfleet, MA). New configuration of proposed grant extension submitted on 5/26/2023 equal to 0.35 acres.

**Chair Curley Moved; Board Member Carboni Seconded and it was voted to approve Angela Osowski's and Robert and Mary Mallory's request for a**

**grant extension to be called #99-1ext. consisting of approximately 0.35 acres on Mayo Beach.**

**Roll Call Vote: 3-0**

- L. Application received on 5/26/2023 from Stephen Pickard (Wellfleet, MA), Iris Pickard (Wellfleet, MA) and Benjamin Pickard (Wellfleet, MA) for an extension to shellfish grant license # 2000-2 (to be called 2000-2 Ext.) on Egg Island for approximately 1.23 acres.

**Chair Curley Moved; Board Member Wolf Seconded, and it was voted to approve an extension to shellfish grant license #2000-2 (to be called 2000-2 ext.) on Egg Island for approximately 1.23 acres for Stephen Pickard, Iris Pickard, and Benjamin Pickard.**

**Roll Call Vote: 3-0.**

**VII. *Special Town Meeting Warrant ~ continued to July 18<sup>th</sup> meeting.***

**VIII. *Adjournment***

**Chair Curley Moved; Board Member Seconded, and it was voted to adjourn the meeting.**

**Roll Call Vote: 3-0**

**Meeting Adjourned: 9:10pm**

***Public Documents:***

*Spreadsheet for yearend transfers*

*Letter to Massachusetts Division of Marine Fisheries to appoint Ericka Smith and Mark Howard as Seasonal Deputy Shellfish Constables*

*Applications to be on the Shellfish Advisory Board*

*Commercial Permit Hardship exemption for Mary Mallory and Kathleen Murphy*

*Letter to the legislature to support all school free meals.*

*Open meeting law complaint and town counsel's response to the letter*

*Job Description of Principal Clerk with regard to the shellfish department*

*Public hearing documents lettered A through L*

*Special Town Meeting Warrant*

**Wellfleet Selectboard**  
**Tuesday July 18, 2023; 7pm**  
**Hybrid Meeting**  
**Zoom/715 Old King's Highway**  
**Meeting Minutes**

**Board Members Present:** Ryan Curley, Chair; Barbara Carboni, Vice Chair; Kathleen Bacon, John Wolf, Michael DeVasto (virtual)

**Others Present:** Richard Waldo, Town Administrator; Rebekah Eldridge, Executive Assistant (Virtually); Will Sullivan, Harbormaster; Chris Allgeier, Dredging Task Force, Curt Felix, Dredging Task Force, Chris Merl, Shellfisherman; Tim Hughes, Resident; Jude Ahern, resident; Sheila Lyons, Barnstable County Commissioner, Susan Reverby, Resident; Tim Sayre, resident; Josh Yeston, Cable Advisory chair.

Chair Curley called the meeting to order at 7:03pm

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

**Note:** *Public comments are limited to no more than **two minutes per speaker**. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

Merl, spoke to the board thanking the board for the support, he expressed the inaccuracy of the statement from DeVasto at the previous meeting stating that if Merl were elected to the Shellfish Advisory Board, he would be the fifth member of the Shellfish Fisherman's Association. He stated this was untrue, also stating he felt that DeVasto was unfit to be chair of the Selectboard.

Bacon made a statement recognizing the resignation of John Ryerson and thanked him for his service. She also thanked Chris Merl for the outstanding community event of the scallop dinner bringing the community together.

DeVasto explained he is on the meeting but remotely because he has Lymes Disease and wasn't feeling well.

Hughes came to the microphone stating that the town received a complaint from him with regard to the Harbormaster and stated the town also received a cease and desist letter from him and residents regarding the harbor dredging, he continued stating the town could avoid a lawsuit from him if they bring the dredging to town meeting.

Chair Curley thanked him for his comments.

**II. *Consent Agenda***

**A. Collective Bargaining Ratifications**

- WEA

**Chair Curley Moved; Board Member Bacon Seconded; and it was voted to adopt the consent agenda as drafted.**

**Roll call vote: 5-0**

**III. *Board Reorganization***

Chair Curley made a statement about being the chair of the selectboard, and he was looking forward to stepping down and taking some time.

**Wolf nominated Barbara Carboni as chair, Curley seconded.**

Ahern asked if the public was ever going to know what happened to put this item on the agenda. Curley stated that town counsel has put a letter together regarding the charter.

Blair spoke to the board stating that something has happened and as taxpayers they deserve to know, Bacon stated that yes something happened and it would be revealed in time.

Bacon nominated herself to be chair, she stated to the comment made by Blair, and stated that something did happen, and it was bad enough, that the board felt the need to reorganize.

Curley stated that there was a nomination and a second on the chair of Carboni.

**It was voted to approve Barbara Carboni as Chair**

**Roll Call Vote: 5-0**

Carboni thanked Curley and stated that there needs to be a vice chair and clerk. She again stated that leadership is needed to rotate.

**Curley Nominated John Wolf as Vice-Chair, Bacon Seconded the nomination and it was voted to approve John Wolf as vice Chair.**

**Roll Call Vote: 5-0**

**DeVasto Nominated Kathleen Bacon as Vice Chair, Wolf seconded; Bacon stated that she didn't wish to be vice chair.**

**Bacon Nominated John Wolf as Clerk of the board; Chair Carboni seconded the nomination, and it was voted to have John Wolf as Clerk of the Selectboard.**

**Roll Call Vote: 5-0**

#### IV. *Use of Town Property*

A. Baker's Field Pavilion ~ Celebration of Life for Jane Tesson ~ date to be determined based on availability.

Eldridge presented to the board stating that Jane Tesson who was an employee for over 20 years of the town. She explained that Jane's last wishes were to not be sad and to celebrate her life. The date was still to be determined but it would be within the next 2 weeks.

**Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to approve the use of Baker's Field Pavilion for a Celebration of Life for a long-time town employee Jane Tesson at a date to be determined with the Recreation Director for availability, the fee is to be waived do to Jane's many years of service to the town.**

**Roll call Vote: 5-0**

#### V. *Business*

A. Dredging Mitigation ~ **Board Member DeVasto recused himself for this item**

Allgeier came to the microphone to discuss with the board the most recent draft of the mitigation plan made with the Army Corp of Engineers. Wolf questioned the methodology for assessing the baseline oyster parameters, stating he was unclear on how this would work. Allgeier stated that GEI the engineers for the mitigation were on. Wolf had more questions for Allgeier regarding the draft document. Curley stated that he would like to move this to town meeting. There was discussion on the funding of this project.



Reverby questioned what would happen if the dredging was voted down at town meeting and what would the consequences be of that. Curley spoke to that and stated it would establish the will of the people. Sayer, spoke to the board stating his concern is the culching of the grounds giving the square meters. The holding of the bid was questioned, Waldo stated that the town did ask the successful bidder for an extension of time and the town now has until August 23, 2023. It was questioned what would happen if they missed this deadline, Waldo explained that the town would need to rebid the project. Chair Carboni questioned if they did do this, when would the dredging take place? It was explained the dredging would happen in October. Lyons spoke to the board stating that the dredging has been planned for many years and the dredging needs to happen. She stated the opinion of her and the town who originally voted to do this dredging, she explained this is necessary to do this project. She asked the board to please make this decision. Felix came to the microphone and spoke to the point about the permit costs and the mitigation plan. The discussion about the mitigation plan and the dredging project listing the pros and cons of this project. Bacon stated the board has discussed this at numerous meetings and it was time to vote on this tonight. Waldo stated the grant funds are available until December 20, 2024. Curley gave his advice and input on the mitigation plan.

**Board Member Wolf Moved; Board Member Bacon Seconded; and it was voted to accept the most recent mitigation draft agreement as presented at tonight’s meeting, subject to clarification from town counsel about the operating expenses associated, with the mitigation agreement and the funding mechanism.**

There was more discussion on funding, easements, and culching. The Audubon was discussed and the acreage that they oversee and own.

**Roll Call Vote: 4-0-1 (DeVasto was recused)**

**Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to approve the letter prepared by administration requesting participation in the Mass Audubon Sanctuary.**

**Roll Call Vote: 4-0-1**

**Board Member Bacon left the meeting ill (8:15pm)**

**B. Financial Update**

Chair Carboni questioned Waldo about the financial updates for the town, Board Member Curley questioned if the sales tax for the town was ready, and Waldo explained that it wasn’t now, but they have some of the revenues up. Curley asked about the email from the DOR and asked Waldo to speak on the letter and his response. Waldo spoke about the letter that was sent and the status of the fiscal 2022 audit. Discussion of when the auditors would come to meet with the board. Waldo gave some information on the end of the fiscal year. Discussion on free cash and the next steps with the tax recap. He informed the board that the interim town treasurer has a lot of knowledge and will help the town put their money in appropriate accounts to increase interest and make the money that town can make.

C. Town Administrator Development Plan

Waldo spoke to the board per his contract he is required to further his education. He stated the MCPPO training is completed, and he did receive his MCPPO designation. He gave a run down of his upcoming educational goals.

**Board member Curley Moved; Board member Wolf Seconded, and it was voted to approve the town administrator's professional development plan as presented at tonight's meeting.**

**Roll Call Vote: 4-0**

D. Departmental Goals

Administration  
Human Resources  
Police  
Fire  
DPW  
Building Department  
Community Services  
Town Clerk  
Shellfish Department  
Harbor Master

The board spoke to the department head goals. Each Department gave a brief update and goals they wish their departments accomplish.

Selectboard goals were discussed and when they would be due to the town meeting. It was decided that the board would get their goals into the Administration office by August 3, 2023.

E. Special Town Meeting Warrant

Chair Carboni spoke to the board asking how long they wanted to spend on the warrant tonight. It was discussed that the zoning bylaws were set for the most part they could spend some time on the other articles. Waldo began with asking the board to vote on a date for the special town election.

**Board member Curley Moved; Board member Wolf Seconded; and it was voted to approve Wednesday September 27, 2023, from 12 noon to 7pm, to be held at the Wellfleet Adult Community Center.**

**Roll Call Vote: 4-0**

The board moved to the packet with new articles, the Town Planner was mentioned and discussed stating that the town needs a planner this position provides support to the building commissioner, the Planning Board, and the Zoning Board of Appeals. The board discussed this position.

**Board member Curley Moved; Board Member DeVasto seconded; and it was voted to insert a warrant article for a town planner.**

**Roll Call Vote: 4-0**

Waldo continued discussing and reviewing the warrant.

**Board Curley Moved; Board member DeVasto seconded; and it was voted to insert Article 1 prior year invoices into the Special Town Meeting Warrant.**

**Roll Call Vote: 4-0**

**Board member Curley Moved; Board member Wolf Seconded; and it was voted to insert Article 2 FY2024 Budgetary transfers into the Special Town Meeting Warrant.**

**Roll Call Vote: 4-0**

Waldo continued with the next article which was the wastewater article, he gave an explanation and information on the warrant article. The board discussed the funding and the ability to receive a grant.

**Board Member Curley Moved; Board Member DeVasto Seconded; and it was voted to insert Article 3, 95 Lawrence Road Wastewater treatment facility into the Special Town Meeting Warrant.**

**Roll Call Vote: 4-0**

The board moved onto article 4, Waldo discussed with them borrowing and appropriating funds.

**Board Member Curley Moved; Board member DeVasto Seconded, and it was voted to insert an article, Enhanced Innovative & Alternate Septic Program into the Special town meeting Warrant.**

**Roll Call Vote: 4-0**

Felix came to the microphone and explained the financial aspect of the IA systems, coming up with a plan to get this going Felix stated was very important.

Curley questioned Waldo on his sewer and wastewater installation experience. Waldo explained it is a large process and everything takes a long time to work through. He stated there are a lot of issues to work out when it comes to sewer, money, were the sewer system will be.

Curley stated he needed to provide an update on the Maurice's warrant article and will have that for the next meeting. Waldo stated the planning board was to have a meeting the following night on the 19<sup>th</sup> to produce their comments to the selectboard. It was explained by media services that there was no meeting scheduled for the Planning Board.

**VI. *Adjournment of Open Session; Enter into Executive Session; M. GL. c.30A, Sec. 21 This was postponed for a later date to be determined.***

*Purpose 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.*

- Collective Bargaining  
WEA

**VII. *Adjournment***

**Board Member Curley Moved; Board member Wolf Seconded; and it was voted to adjourn,**

**Roll Call Vote: 4-0**

**Meeting adjourned, 9:45pm**

**Wellfleet Selectboard**  
**Hybrid Meeting: 715 Old King's Highway/Zoom**  
**Tuesday July 25, 2023; 7pm**  
**Meeting Minutes**

**Members Present:** Barbara Carboni, Chair; John Wolf, Vice Chair; Kathleen Bacon, Michael DeVasto, Ryan Curley

**Others Present:** Richard Waldo, Town Administrator; Chris Merl, Susan Reverby, Seasonal Resident; Diane Brunt, resident; Jude Ahern, resident; Wes Stinson, Engineer for Herring River; Paul Millett, Carolyn Murray, KP Law; Officer Berrick, Dog Officer for Wellfleet; Brent Harold, resident.

Chair Carboni Called the meeting to order at 7:05pm

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

**Note: Public comments are limited to no more than two minutes per speaker.**

The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.

Curley made a comment on how illegible certain pages of the packet were. He stated this is an issue he has always had. Waldo stated with many meetings and in office issues and lack of staffing it has been difficult to upkeep the schedule and stated he has hopes that with a new chair and more staff this will improve.

**There needed to be a recess due to technical issues with the zoom platform.**

The meeting continued with more open comments, Merl came to the microphone at the front table, stating that he had a letter for them and asked them to have a discussion on corporations on shellfish flats. He questioned why this was still being discussed. He was given his two minutes and then discussed the infractions of the code of conduct from Board Member Michael DeVasto at the next meeting.

Brunt spoke against the dredging mitigation plan and how Civetta and Sullivan are not being held accountable regarding their jobs. She spoke about the town going into receivership.

Ahern spoke to the board about the fact that the people are not against dredging they are more against the mitigation. She read Curt Felix's words back to the board.

**II. *Consent Agenda***

**A.** Application received July 17, 2023, from Bob Dupuis to be appointed as a member of the Commission on Disabilities.

**Board Member Wolf Moved; Board member DeVasto Seconded; and it was voted to approve the consent agenda as written.**

**Roll Call Vote: 5-0**

**III. Public Hearings**

- A. **CONTINUED** from 06/20/2023 - Verizon New England to place approximately eight-hundred feet (800') of new conduit adjacent to 1065 Chequessett Neck Rd. Wellfleet MA  
**Board Member Curley Moved; Board Member DeVasto Seconded; and it was voted to continue this hearing to August 8, 2023, at 7pm.**  
**Roll Call Vote: 5-0**

**IV. Business**

- A. Approval of Agreements with Friends of Herring River to Support Herring River Restoration Project Implementation~ Carole Ridley  
**Chair Carboni recused herself from this agenda item.**  
Waldo explained that there as a request for this agenda item to be moved to August 8, 2023.  
**Board Member Wolf Moved; Board member DeVasto Seconded; and it was voted to move this agenda item to the August 8, 2023. Selectboard Meeting Agenda.**  
**Roll Call Vote: 4-0-1 (Carboni Recused).**

- B. Herring River Restoration Project Update – Wes Stinson (OPM)  
Stinson spoke to the board updating them on the status of the Herring River Project he explained to the board and public the progress that has been made for this project since it began. He explained what has happened and what will be happening in the future, talking about the temporary bridge that will be installed. Board member Bacon questioned where the material that was being excavated material was put, he explained that it is brought to the Duck Pond area to decant and then the Pole Dyke staging area. She asked if the crew for this project were being housed locally, he explained that there are some who make the daily trip from off cape and some who are staying at a local hotel. DeVasto spoke to the board, asking Stinson to speak about the funding for this project? Millett spoke to the board and stated that this project is fully funded through grants. Brunt questioned the amount of staff time questioning the money. The next update will be hopefully given to the board at the next phase, Stinson stated he was thinking October. Curley questioned how the pay for this project works. Stinson gave an update on how the pay requisitions work.  
**No Action was Taken.**

- C. Special Town Meeting Warrant  
Referred Zoning Articles (for Comment)  
**~ Inclusionary Zoning**  
Waldo explained to the board that the Planning Board was unable to meet to provide comments on these bylaws.  
The board decided to go through each article with Murray, Curley stated again that he was displeased with the lack of clean copies sent to the Planning Board. Murray went over the bylaws with amendments. There was a lot of discussion with the amendments and what needed be added and changed. The room rental became a point of conversation, deed restrictions were discussed. Merl spoke to the board about no short-term rentals, maybe having the rentals be six months.

The board came to a decision about units being owner or tenant occupied. Murray will work on that language for the final article.

**Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to refer the Inclusionary Zoning Bylaw to the Planning Board to hold a public hearing within 65 days as amended.**

**Roll Call Vote: 3-2 (Carboni and DeVasto voted no)**

**~ Cottage Colonies**

The board moved to the cottage colonies zoning bylaw. Murray stated she didn't have any substantive changes for this article.

**Board Member Bacon Moved; Board Member DeVasto Seconded; and it was voted to refer the Cottage Colonies Zoning Bylaw to the Planning Board to hold a public hearing within 65 days.**

**Roll Call Vote: 5-0**

**~ Development of Significant Planning Interest and Food Establishment.**

Curley spoke to the board asking them to delay this bylaw and refer it to the Planning Board, so they are able to work on it and give them a deadline.

Board Member Bacon asked to move that the board take this bylaw amendment out of the fall town meeting warrant and allow more time for both boards to work on it.

Curley asked if they could send it to the Planning Board to discuss and work on it and give them a deadline for January, so it could be ready for the annual town meeting, rather than the fall town meeting. The board agreed with this action.

**Board member Curley moved; Board Member Wolf Seconded; and it was voted to reconsider the vote of the Selectboard taken on July 11, 2023, to refer the Development of Significant Planning Interest and Food Establishment to the Planning Board for a Public Hearing.**

**Roll Call Vote: 5-0**

**Board Member Curley Moved; Board member Wolf Seconded; and it was voted to rescind the vote from July 11, 2023, to refer the Development of Significant Planning Interest and Food Establishment to the Planning Board for a Public Hearing.**

**Roll Call Vote: 5-0**

**Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to reconsider and remove the Development of Significant Planning Interest and Food Establishment Bylaw on the special town meeting warrant vote that was taken.**

**Roll Call Vote: 5-0**

**Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to refer the Development of Significant Planning Interest and Food Establishment Bylaw as a working document to the Planning Board to develop their recommended language due back to the Selectboard January 31, 2024.**

**Roll Call Vote: 5-0**

Cutting of Timber was the next Bylaw to be discussed. Murray spoke to the board about some questions she had for this bylaw. She explained that she added a few things to the wording regarding the scenic bylaw. This was referred to the Planning Board for a hearing, but the board wanted to see the comments and amendments from town counsel. Murray explained to the board how these changes can be made as the warrant isn't closed yet. The board discussed the changes and wording.

**Board Member DeVasto Moved; Board Member Wolf Seconded; and it was voted to submit the updated clean copy of the Zoning Bylaw Amendment Cutting of Timber to the Planning Board for their public hearing.**

**Roll Call Vote: 5-0**

Articles that have not been voted to insert or recommend will be voted on at this time. Waldo shared his screen showing town counsel's amendments.

Officer Berrick came to the table to discuss the changes that have been made to the animal control bylaw. Curley stated he didn't think the dogs on the beach should be included in this bylaw as Beach regulations are subject to change and bylaws are harder to change. The board discussed this with Murray and asked for her comments or changes. The board discussed making the bylaw smaller which Waldo stated along with Officer Berrick and Murray they could do that. The board continued to discuss the various working of the animal bylaw.

The board moved on to the Landscape and Tree Bylaw; Murray explained some issues she had with some of the wording and the board worked through those issues.

This bylaw was discussed at great length.

**Board Member DeVasto Moved; Board Member Bacon Seconded; and it was voted to remove the Landscape and Tree Bylaw off the fall town meeting warrant and to address the bylaw in the future.**

**Roll Call Vote: 4-0-1 (Curley abstained)**

Locally notable trees were the next bylaw to be discussed. Murray explained any changes that she made were just "housekeeping." It has already been referred to the Planning Board and there are no changes needed.

The Nip Bottle ban was next to be discussed, the town administrator and the police department would be the enforcing agents. The board questioned if the town administrator was usually an enforcing agent. Murray explained that no this was not a normal procedure. They discussed naming another enforcer. The board discussed this again at great length. The main question came down to who does the town want to be the enforcer of this bylaw? They stated that local law enforcement could be the persons enforcing this ban. They asked Murray her opinion on this matter.

**Board Member Curley Moved; Board Member Wolf Seconded, and it was voted to insert and recommend the Nips Article into the Fall town warrant as amended.**

**Roll Call Vote: 5-0**

The board moved on to the notable trees. Curley noticed there was no need for the article.

**Board Member Curley Moved; Board member Wolf Seconded; and it was voted to not include the article for Notable Trees from the fall town meeting warrant.**

**Roll Call Vote: 5-0**

**Board Member Curley Moved; Chair Carboni Seconded; and it was voted to insert and recommend an article for the reports of officers and committees for the fall special town meeting warrant.**

**Roll Call Vote: 5-0**

**Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to insert and recommend other business articles into the special town meeting warrant.**

**Roll Call Vote: 5-0**

- D. **Illegal Parking and safety Concerns at Long Pond ~ Discussion on how to improve the safety of the area around Long Pond ~ Brent Harold. This item was moved ahead of the zoning bylaws.**

The board asked Harold to come to the table. He stated he was in front of the board a few years ago and wanted to discuss the safety of the roads. He discussed the share the road signs and stated he felt there needed to be more signs on the road to help with the safety of pedestrians. The board discussed how this process can work and what he can do. Curley asked Harold to have a map and submit it to the town, so they can work with the DPW and signage company to work on safer roads.

- E. **Special Election Warrant – Election of Town Officer (Selectboard - partial term)**  
Waldo introduced the election warrant, he stated because there was a resignation of as selectboard member there needed to be a special election and the board would need to vote to approve this election.

**Board Member DeVasto Moved; Board Member Bacon Seconded; and it was voted to approve the special town election warrant as presented with question 2 subject to revision if the board hears from Bond Counsel.**

**Roll Call Vote: 5-0**

V. ***Selectboard Reports***

VI. ***Topics for Future Discussion***

VII. ***Vacancy Reports***

VIII. ***Minutes ~ Board will vote on these minutes at the next meeting.***

A. July 11, 2023

B. July 13, 2023

C. July 18, 2023

IX. ***Adjournment of Open Session***

**Board Member Curley moved; Board Member DeVasto Seconded, and it was voted to adjourn open session and to enter executive session, not to return to open session per MGL Chapter 30; Section 21.**

**Roll Call Vote: 5-0**

**Meeting adjourned 10:40pm**



**DRAFT** \*\*\*A full recording of this meeting can be found on the town's website\*\*\*

X. ***Executive Session; M.G.L. Ch. 30A; Section 21.***

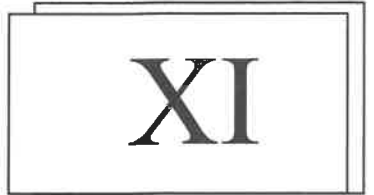
***Purpose 7:*** To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.

- Executive Session Meeting Minutes of June 27, 2023.



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: August 8, 2023



### ADJOURNMENT

<b>REQUESTED BY:</b>	<b>Selectboard Chair Barbara Carboni</b>
<b>DESIRED ACTION:</b>	<b>To Adjourn the meeting</b>
<b>PROPOSED MOTION:</b>	<b>I move to adjourn</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____