



Wellfleet Selectboard

Note: Start Time of 7pm

The Wellfleet Selectboard will hold a public meeting on **Tuesday, May 12, 2020, at 7:00 p.m.** This meeting will be held via **Zoom Video Conference** in accordance with the temporary suspension and enhancement of the Open Meeting Law requirements by Governor Baker. Instructions for a Zoom video conference meeting which also allows phone dial-in are given below:

1. Watch a livestream on Wellfleet's YouTube Channel located at the following link:
<https://www.youtube.com/channel/UC7dZD8ESTbloqm-GJm1EyMw>
2. Join the meeting hosted in Zoom by using the following link: <https://us02web.zoom.us/j/83462944056>
3. Audio, video, chat, and screen sharing functions will be disabled during the public session. Request to participate by using the "raise hand" function. **Meeting ID: 834 6294 4056**
 - a. Please make sure you properly identify yourself, use the "rename" button.
 - b. Please join the meeting on time.
4. You may also listen to the meeting by calling in on a phone to +1 929 205 6099 and enter **the meeting ID 834 6294 4056**. Smart phone callers may be able to participate by using the "raise hand" function, landline callers can participate by dialing *9 to raise their hand.
5. You may submit questions and comments to the Town using the following email:
executive.assistant@wellfleet-ma.gov This email will be monitored by a moderator who will alert the Board Chair of relevant comments.
6. Meeting materials are attached to this agenda, available online at Wellfleet-ma.gov and will be displayed at the online meeting. It is recommended that phone participants access materials in advance of the meeting.
7. Please follow the following general instructions:
 - a. Keep your phone muted at all times when not talking;
 - b. Do not use speakerphone;
 - c. Do not use Bluetooth devices;
 - d. Mute all background noise;
 - e. Please do not speak until the Chair or the meeting moderator asks for public comments or questions.
8. It is anticipated that the meeting will be recorded by the Town. Anyone else desiring to record the meeting may do so only after notifying the chair and may not interfere with the conduct of the meeting in doing so.

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

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

II. **Public Hearing**

A. **Proposed amendments to the Beach Rules and Regulations:**

- 1) That the required date for Beach stickers be moved up from the third Saturday in June to May 20, 2020, for this year
- 2) That only Resident Beach Stickers and Combination stickers be allowed to enter the parking areas starting May 20th

III. **Promotion of Detective Geraldine LaPense to the Position of Sergeant**

IV. **COVID-19 Updates and Discussions**

A. **Rentals, short-term, and other [DeVasto and Wilson]**

- 1) Send a letter to Governor Baker requesting extension of short-term rental restrictions to June 15th

- B. Other Recommendations and Updates**
- V. Business**
 - A. Selectboard review and response to Open Meeting Law determination (complaint filed on 10/8/19 by Jude Ahern)**
 - B. Release of executive session minutes related to 3 Kendrick Avenue [Town Administrator]**
 - C. Discussion of Selectboard's use of community social media pages [Wilson]**
- VI. Selectboard Reports**
- VII. Town Administrator's Report**
- VIII. Topics for Future Discussion**
- IX. Correspondence Report**
- X. Minutes**
 - A. April 28, 2020**
 - B. May 5, 2020 – work meeting**
- XI. Adjournment**



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020

II

PUBLIC HEARING

REQUESTED BY:	Principal Clerk
DESIRED ACTION:	Proposed Amendments to the Beach Rules and Regulations
PROPOSED MOTION:	<ol style="list-style-type: none">1) I move that the required date for Beach stickers be moved up from the third Saturday in June to May 20, 2020, for this year.2) I move that only Resident Beach Stickers and Combination stickers be allowed to enter the parking areas starting May 20th.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

To: Selectboard

cc: Dan Hoort, Town Administrator

From: Suzanne Grout Thomas, Director of Community Services

Date: April 22, 2020

In light of the increasing number of people in town for the duration of the COVID19 crisis and the increasing number of vehicles at the ponds and beaches, I recommend:

- 1) That the required date for Beach stickers be moved up from the third Saturday in June to May 20, 2020, for this year
- 2) That only Resident Beach Stickers and Resident Combination stickers be allowed to enter the parking areas starting May 20th

This will give us a “soft opening” and a way to get ahead of the curve on increasing beach usage. The following will need to be adjusted to the amended date:

- 1) A hearing before the SB to amend the Beach Rules and Regulations at your next meeting
- 2) The portable toilet bids will need adjusted dates for placement at the beach locations
- 3) The DPW will make signage indicating the new dates
- 4) Notices will go up on the Town website and on social media

The following are as yet undecided:

- 1) Will we offer Visitor stickers at all?
- 2) Will we have Lifeguards (safety concerns for the Lifeguards) i.e., it's hard to wear a mask while doing a rescue
- 3) What protective equipment will the gate guards need?



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020

III

PROMOTION OF DETECTIVE GERALDINE LAPNSE TO THE POSITION OF SERGEANT

REQUESTED BY:	Police Chief
DESIRED ACTION:	Promotion of Detective Geraldine LaPense to the Position of Sergeant
PROPOSED MOTION:	I move to promote Detective Geraldine LaPense to the position of Sergeant effective May 13, 2020.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Town of Wellfleet
Police Department

May 5, 2020

To: Wellfleet Select Board
From: Chief Michael P. Hurley

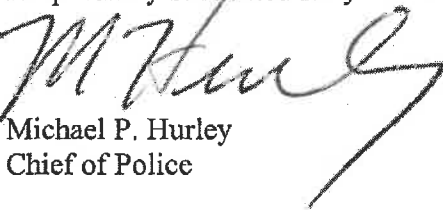
Subject: PROMOTION OF DETECTIVE GERADLINE LAPENSE TO THE
POSITION OF SERGEANT

I request Detective Geraldine Lapense be promoted to the position of Sergeant within the Wellfleet Police Department. Over the past few months, I conducted a promotional process involving the department's Patrol Officers. The first phase was to request a letter of interest as to why the Patrol Officer feels he/she should be selected and promoted. Due to our current Covid-19 situation, the interview panel scheduled with the Lieutenant and various town department heads was cancelled. Finally, I conducted a one on one interview and a review of their personnel records along with their career accomplishments. After undertaking this process, I feel that Detective Geraldine Lapense is the best candidate and would proudly serve the residents and visitors to the Town of Wellfleet and the Wellfleet Police Department (attached is his letter of interest).

Det. Lapense's summary of information:

May 2003	Hired as a Summer Police Officer
September 2004	Hired as full time Police Officer
February 2007	Appointed Department Court Prosecutor/Detective
March 2009	Developed & Implemented Department's Evidence Process
March 2016	Community Police & Recovery 349 Liaison

Respectfully submitted for your information and consideration.



Michael P. Hurley
Chief of Police

cc: Dan Hoort, Town Administrator
Jennifer Congel, Assistant Town Clerk

March 18, 2020

Chief Michael P. Hurley
Wellfleet Police Department
36 Gross Hill Road
Wellfleet, MA 02667

Dear Chief Hurley,

Please accept this letter of interest and resume as my application for promotion to Sergeant.

My seventeen years of service to the Wellfleet Police Department have given me both the skills and experience to be successful in a position of leadership. I am effective at resolving conflicts and diffusing hostility in difficult situations, can remain calm and decisive in high pressure surroundings, am trustworthy in handling sensitive and confidential information and am exceptional at working independently, while adhering to department policies.

Throughout my years of service, I have continuously taken on challenges to enhance productivity within my areas of responsibility which include; Detective, Police Prosecutor, Evidence Manager, Office of Alcohol Testing (OAT) Representative, Public Records Access Officer, Booking Room Compliance Officer, Community Resource Liaison and Patrol Officer. A synopsis of my assignments are as follows:

- I was designated to serve as the department's Detective in 2012. I participated in a multi-agency Drug Task Force to identify and apprehend illegal drug activity and received a citation for superior performance of duty in 2015. In my role as Detective, I have become accomplished in the preparation and execution of search and arrest warrants resulting in the successful prosecution of numerous cases involving drug trafficking, sexual assault, domestic violence and burglary.
- Since 2007 I have served as Police Prosecutor for the Town of Wellfleet litigating and processing criminal cases in District Court. In the past thirteen years I have developed and implemented procedures which have increased the organization of the position. I represent the department in all matters pertaining to the judicial process including case negotiation and management. My assignment as Evidence Manager involves maintaining and organizing the inventory, tracking, forfeiture and destruction of all evidence and items turned in for disposal.

- I became the Officer in Charge (OIC) of the department's breathalyzers and portable breath test (PBT) machines in November 2010. As OIC I am responsible for ensuring that all breath test devices are in operating order and maintained to the standards of the Massachusetts State Police Office of Alcohol Testing. I am also the designated Keeper of the Records, retaining the breath test records for use as testimony at court, should the district attorney's office request them.
- As Public Records Access Officer I process public records requests for the Wellfleet Police Department ensuring that the dissemination of information complies with the Massachusetts Public Records Law. Additionally, I assist in streamlining the department's records management system by periodically reviewing department archives to determine those records eligible for destruction, thus enabling storage space for future records.
- I also collaborate with the Massachusetts Department of Public Health to assure the maintenance of our lockup facility and booking area. This requires participating in recurring inspections, addressing and correcting any noted violations, and submitting a plan of correction to the environmental health inspector. This process makes certain that the Wellfleet Police Department remains in compliance with the standards set forth by the Bureau of Environmental Health as regards the handling of prisoners.
- As a Patrol Officer, I execute all duties involved with local law enforcement in the jurisdiction of the Town of Wellfleet and act as shift supervisor on a regular basis. I am also qualified as a Public Safety Dispatcher having worked full-time for the Town of Brewster and part-time for the Town of Wellfleet in that capacity. I have the training and ability to cover the dispatch console when needed.

Prior to becoming a Police Officer I gained extensive experience in business and financial administration. I have held several positions which required both the implementation and preparation of budgets as well as supervision of personnel. My skills include Bookkeeping (accounts receivable, accounts payable, bank reconciliation), monitoring expenditures, organizing and reporting financial statements, and the ability to utilize accounting software.

My participation in various local groups and events has enabled me to form many personal relationships throughout the community. I became involved in Recovery 349, a group formed to battle the opioid crisis, from its inception and continue to participate with Community Resource Navigators and outside agencies to assist those struggling with mental health and addiction issues. I am also actively involved in the 246 Community Kitchen which serves weekly dinners, free of charge, to residents throughout the winter months. My commitment to the needs of citizens and to the community, has bolstered a positive reputation for both the department and me personally.

I have made it my duty to complete and follow through with all tasks assigned to me as well as taken on new ones when needed. I strive to maintain an even disposition regardless of

environmental factors and am respectful towards fellow employees. My attendance record demonstrates my motivation and commitment to both the department and police profession.

For all the above reasons and qualifications, I feel confident that you will find me to be the best candidate to become the next Sergeant at the Wellfleet Police Department.

Moving forward, I envision the members of the Wellfleet Police Department continuing to strive towards the development and implementation of policies which will strengthen the organization's professional structure. As a first line supervisor I would consider myself instrumental in this process, as a key element to its success is an open line of communication between patrol staff and department leaders. As Sergeant, I would act as a conduit between patrol officers and administration making certain that all pertinent information regarding changes in personnel, policies, procedures and training be conveyed to those assigned to my shift. I think effective communication between supervisor and shift personnel is an important component of leadership. As a supervisor, I would strive to create an optimistic work environment by remaining approachable and emphasizing the positive qualities of both the department and each employee. My efforts would forge a motivated and productive work force which benefits not only the department, but the community as well.

Although I have enjoyed my current position, I would look forward to participating in the instruction and guidance of our newest officers to assist the department in reaching its organizational goals. My resume, detailing my experience, is attached. I look forward to meeting with you to discuss my qualifications and I thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Geraldine LaPense". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Geraldine LaPense

Geraldine E. LaPense

SUMMARY:

Professional Police Officer with versatile law enforcement qualifications and strong work ethic looking to be promoted to Sergeant.

- Disciplined leader with the ability to remain calm and decisive in high-pressure surroundings.
- Exceptional at working independently while adhering to department policies and leadership.
- Trustworthy in handling sensitive and confidential information.
- Effective at resolving conflicts and diffusing hostility in difficult situations.

ACHIEVEMENTS:

- Participated in a multi-agency drug task force to identify and apprehend illegal drug activity receiving a citation for superior performance of duty.
- Collaborate with community groups to create awareness of the continuing opioid and substance abuse crisis successfully establishing resources for social services to help navigate the recovery process.
- Organize an annual fund drive as President of the Wellfleet Police Relief Association raising over \$80,000 which is donated to community causes and events in Wellfleet.

EXPERIENCE:

Wellfleet Police Department, Wellfleet, MA
Detective/Police Prosecutor

Supervisory

- Developed, implemented and supervise administrative systems to insure department compliance with all state regulations regarding:
 - The inventory and destruction of drugs, evidence and firearms.
 - Maintenance and certification of breath test machines and operators.
 - Upkeep of the department's lockup facility and booking area.
 - Maintenance and inventory of department radios.
 - Dissemination of Public Records.
- Supervise shift personnel as Officer in Charge (OIC) when appropriate.
- Contribute to the interviewing and training of new personnel.

Resume of
Geraldine E. LaPense
Page Two

Investigative

- Conduct interviews, surveillance and interrogations.
- Compose police reports.
- Follow chain of custody mandates to send evidence for laboratory analysis and DNA Testing.
- Collect evidence, examine records and gather facts for cases.
- Prepare and execute search and arrest warrants.

Judiciary

- Represent the Town of Wellfleet as Police Prosecutor litigating criminal cases in District Court.
- Process all arrests and criminal complaints for court.
- Manage case negotiation and disposition.
- Maintain court schedule.
- Prepare and distribute witness, victim and defendant summons for service.

Patrol

- Execute all duties involved with upholding local law enforcement in the jurisdiction of Wellfleet.
- Serve the general public by attending community functions, public meetings and resolving conflicts.

Brewster Police Department, Brewster, MA
Reserve Police Officer/Dispatcher

- Answered and transmitted all requests for emergency police, fire and ambulance service.
- Assisted public in processing requests for law enforcement services.
- Reserve police officer.

EDUCATION:

Curry College, Milton, Massachusetts
Master of Arts, Criminal Justice

University of Massachusetts, Amherst
Bachelor of Arts, Communication Studies

MCJTC Police Academy
Certificate, Full Time Police Officer

Resume of
Geraldine E. LaPense
Page Three

PROFESSIONAL COMPUTER SKILLS:

- Massachusetts Trial Court –
Electronic Application for Criminal Complaint (EACC)
- FBI National Crime Information Center (NCIC)
- Criminal Justice Information Services (CJIS)
- Massachusetts Warrant Management System (WMS)
- Massachusetts Registry of Motor Vehicles (RMV)
- Audio Recording System for Public Safety Agencies (NICE)
- TriTech Software Systems (IMC)
- Galaxy Integrated Technologies Camera Systems
- Microsoft Office Software (Word, Excel, PowerPoint)

PROFESSIONAL CERTIFICATIONS:

- National Alliance on Mental Illness (NAMI)
- Field Training and Evaluation
- Tactical Interviewing and Detecting Deception
- Sexual Assault Investigation
- Eyewitness Identification
- Date Rape and Sexual Assault Drug Recognition
- Massachusetts Public Records Law
- Property and Evidence Room Management
- Buccal Swab Collection
- In Service Training Instructor



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020

IV

COVID-19 UPDATES AND DISCUSSIONS – A

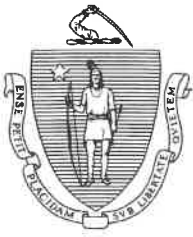
REQUESTED BY:	Chair
DESIRED ACTION:	Discussion of Rentals – Short-term and other
PROPOSED MOTION:	I move that the Selectboard send a letter to Governor Baker requesting that he extend the short-term rental restrictions (COVID-19 Order No. 21) until June 15th.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

The Honorable Governor Charlie Baker
State House, Room 360
Boston, MA 02133
May 12, 2020

Dear Governor Baker:

As we approach our summer season in Wellfleet and on the Outer Cape, we are deeply concerned with the inundation of leisure tourism in the midst of a pandemic. The Wellfleet Selectboard does not believe that we are in a position to handle the influx and turnover of guests coming from various regions and potential hotspots. As I'm sure you are aware the virus has remained active despite stringent stay at home orders and has the potential to spread rapidly if unrestricted tourism begins to occur.

Being that Wellfleet and the Outer Cape as a whole has a large high risk population, and being that short-term rentals have a high rate of turnover with large numbers of visitors over a short timeframe; the Selectboard believes that it is in the towns best interest to extend the current restrictions on short term rentals (COVID-19 Order No. 21) set to expire on the 18th of May 2020. We believe a date of expiration no sooner than June 15th 2020 will allow us the necessary time to assess our options as to how to regulate and safely permit short term rentals to be conducted.



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

**GUIDANCE IMPLEMENTING THE ORDER BY THE GOVERNOR
EXTENDING THE CLOSING OF CERTAIN WORKPLACES
AND THE PROHIBITION ON GATHERINGS OF MORE THAN 10 PEOPLE**

ISSUED MARCH 31, 2020

This guidance implements the terms of COVID-19 Order No. 13, updated as of March 31, 2020, COVID-19 Order No. 21, as the Order applies to hotels, motels, inns, bed and breakfasts, and short-term residential rentals including those arranged through on-line hosting platforms such as Airbnb or VRBO (collectively, as defined below, “lodgings”).

1. Limited Purposes and Uses for which Lodging is an Essential Service

The provision of lodging shall be defined as a COVID-19 Essential Service for purposes of COVID-19 Order No. 13 only when offered and employed for the following uses:

- a. Housing and accommodation for health care workers, first responders, and other workers constituting the COVID-19 Essential Workforce as specified in Exhibit A of COVID-19 Order No. 13 (as amended)
- b. To the extent not already included in (a), housing and accommodation for out-of-state workers engaged in transportation of materials, logistics, and construction associated with the delivery of health-related services, such as the development of COVID-19 alternative care sites
- c. Housing and accommodation for members of vulnerable populations, for instance when serving as emergency shelter for homeless individuals and families
- d. Housing and accommodation for Massachusetts residents (i) who are isolating or self-quarantining; and (ii) families or roommates of individuals who are isolating or self-quarantining; but (iii) in each case, for no longer than the period required to complete the necessary period of self-isolation or self-quarantining
- e. Housing and accommodation for individuals receiving long-term, specialized medical care from a physician located in the Commonwealth, and for accompanying family members
- f. Housing, accommodation, and shelter when required by extenuating circumstances such as fire or casualty to ensure the care and safety of Massachusetts residents and to accommodate other persons unable to return to their own homes due to flight cancellations, border closures, or other direct and material constraints on travel.

Workers engaged in providing or servicing or maintaining lodging for any of the purposes above shall be included within the COVID-19 Essential Workforce in order to support the continuing operation of lodging facilities for those purposes.

2. Other Purposes and Uses for Lodging Are Not Essential

Lodging offered, operated, or employed for purposes other than those listed in section 1 above does not constitute a COVID-19 Essential Service. Accordingly, the provision and occupancy of lodging for leisure, vacation, and other purposes may not continue. Operators of lodging may, however, continue to provide other, lodging-related services through remote means that do not require workers, customers, or the public to enter or appear at any brick-and-mortar lodging premises.

3. Existing and Future Booked Lodging Guests

Persons occupying lodging as of March 31, 2020 may remain in their current lodgings through the end of their originally scheduled stay but may not extend their originally scheduled stay except for one of the purposes listed in section 1 above.

During the effective period of COVID-19 Order No. 13

- (a) persons with future reservations or bookings or agreements to occupy lodgings may not exercise those agreements and may not occupy those lodgings; and
- (b) operators of lodgings may not provide lodging to persons with future reservations or bookings or agreements to occupy lodgings

unless in each case the lodgings are provided and occupied for one of the purposes listed in section 1 above.

4. Lodging Definition

For the purposes of this Order, “lodging” shall mean the provision of overnight accommodations by commercial transaction in any of the following categories, each as defined or identified where specified below in the Massachusetts General Laws:

Section 1 of Chapter 64G

- a. Bed and breakfast establishments
- b. Bed and breakfast homes
- c. Hotels
- d. Motels
- e. Lodging houses rented for a period of 31 days or fewer
- f. Professionally-managed units rented for a period of 31 days or fewer
- g. Short-term rentals (including Airbnb, VRBO and similar rental properties) rented for a period of 31 days or fewer

Section 12A of Chapter 140

- h. Resorts
- i. Inns

Section 2 of Chapter 183B

j. Time-shares

A handwritten signature in black ink, appearing to read "mBharel", written in a cursive style.

Monica Bharel, MD, MPH
Commissioner, Massachusetts Department of
Public Health

March 31, 2020



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020

IV

COVID-19 UPDATES AND DISCUSSIONS – B

REQUESTED BY:	Chair
DESIRED ACTION:	Other Recommendations and Updates
PROPOSED MOTION:	TBD
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



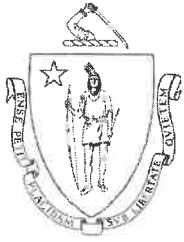
SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020

V

BUSINESS – A

REQUESTED BY:	Town Administrator
DESIRED ACTION:	Selectboard review and response to Open Meeting Law determination (complaint filed on 10/8/19 by Jude Ahern)
PROPOSED MOTION:	I move to include the Selectboard comments from the July 16th Presentation of 208 plan meeting in the Selectboard minutes of this meeting.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

April 29, 2020

OML 2020 – 54

VIA EMAIL

Daniel Hoort
Wellfleet Town Administrator
300 Main Street
Wellfleet, MA 02667
Dan.Hoort@wellfleet-ma.gov

RE: Open Meeting Law Complaint

Dear Mr. Hoort:

This office received a complaint from Judith Ahern on October 8, 2019, alleging that the Wellfleet Select Board (the “Board”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally received by the Board on August 16, and you responded on behalf of the Board by letter dated August 27.¹ In her complaint, Ms. Ahern alleges that the Board deliberated at a meeting on July 16 for which no notice was posted.²

Following our review, we find that the Board violated the Open Meeting Law by deliberating outside of a properly noticed meeting. In reaching this determination, we reviewed the original complaint, the Board’s response to the complaint, and the complainant’s request for further review. Included in our review were a video of the July 16 meeting, numerous emails relating to the planning of the July 16 meeting, a social media post by a member of the public alerting other members of the public about the July 16 meeting, and a transcript prepared by Ms. Ahern of the Board’s questions at the July 16 meeting. We also reviewed the Board’s May 23 and August 27 meeting minutes and the Wellfleet town website for the “Presentation of 208 Plan” notice.

¹ Unless otherwise specified, all dates refer to 2019.

² We decline to review any additional allegations contained in the request for further review that were not included in the original complaints filed with the public body. Our office does not conduct broad audits of public bodies and will address only specific allegations made in an Open Meeting Law complaint. See OML 2020-2; OML Declination 4-22-15 (Natick Economic Development Committee).

FACTS

We find the facts as follows. The Board is a five-member public body, thus three members constitute a quorum. At the Board's May 23 meeting, the Town's Health and Conservation Agent (the "Health Agent") spoke to the Board regarding the Town's 208 Plan and the Comprehensive Wastewater Management Plan. After some discussion, the Board asked the Health Agent to coordinate a meeting between relevant town officials, town boards and state officials from the Department of Environmental Protection and the Cape Code Commission. After sending several emails to coordinate a time, the Health Agent scheduled the meeting to discuss the status of the 208 Plan for Tuesday, July 16, at noon.

The Board did not post notice for the meeting as the Board believed that, since the Health Agent organized the meeting, the meeting was not a Board meeting. On Saturday, July 13, at 5:40 p.m., Board member Helen Wilson emailed the general Board email account and the Health Agent regarding the lack of notice. Copying the Town Administrator and many other town and personal email accounts, Ms. Wilson informed the Board that no notice was posted for the meeting on either the Town's website or the Town's physical notice posting board. Wellfleet's official notice posting location is the Town's website. Ms. Wilson stated that the meeting was important and could be held on Wednesday at the earliest, due to the lack of notice.

After Ms. Wilson's email, a notice for a "Presentation of 208 Plan" was posted to the Town's website giving the date, time and place of the meeting. The Board's August 27 meeting minutes make clear that this notice was posted less than 48 hours before the July 16 meeting took place and did not specify that the meeting was a meeting of the Board.

On July 16, all Board members attended the meeting with the Department of Environmental Protection and Cape Cod Commission officials. Despite some confusion regarding the time of the meeting, approximately fifty members of the public attended. The officials from the Department of Environmental Protection and Cape Cod Commission were seated as a panel at a table at the front of the room along with the Town's Health Agent and a member of the Comprehensive Wastewater Management Planning Committee. Members of the Select Board sat together in the first row of the audience. Board members were informed that they could not deliberate at the meeting, since the meeting was not posted as a Board meeting. After approximately forty minutes of presentation by members of the panel, the meeting was opened for questions. Board members were the first to ask questions and each Board member asked at least one question.

DISCUSSION

I. The Board Violated the Open Meeting Law by Deliberating Outside of a Properly Noticed Meeting.

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). Thus, the Law requires that meetings of a public body be properly noticed and open to members of the public, unless an executive session is convened. See G.L. c. 30A, §§ 20(a)-(b), 21. 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). The Open Meeting Law defines a “meeting” as “a deliberation by a public body with respect to any matter within the body’s jurisdiction.” G.L. c. 30A, § 18. The Law defines “deliberation” broadly as “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.” Id. For the purposes of the Open Meeting Law, a quorum is generally a simple majority of the members of the public body. Id.

Here, the Board does not dispute that more than a quorum of the Board attended the July 16 meeting and that Board members asked questions during the question and answer portion of the meeting. These questions included Board members’ opinions on the topics of contingency planning, data collection, and funding, all of which were topics within the Board’s jurisdiction. For example, one Board member commented “I feel it would be irresponsible for the town not to have a contingency plan ... why aren’t we looking for a plan to regionalize this [wastewater] situation with Eastham and possibly Truro? I know each town is different and has its separate needs ... but I look at the situation as more of the three towns together.” Another Board member recommended that a state official talk to the Town’s Shellfish Constable for access to a large and “awesome” database that might be useful in the planning process. Yet another Board member commented on the need to secure funding in order to pursue some of the possible next steps in the Plan. We find that these questions and comments constitute deliberation under the Open Meeting Law. See OML 2019-84 (holding that a public body’s “workshop” constituted a meeting under the Open Meeting Law, although it was not called a “meeting”). See also OML 2020-18; OML 2019-103 (a quorum of a public body may attend the meeting of another public body without posting notice so long as the visiting public body members listen and participate as members of the audience and do not deliberate).³

The Board acknowledges that the meeting was not posted “as a Selectboard meeting” and that the only notice posted to the Town website was posted within 48 hours of the meeting. Therefore, we find that the Board failed to post notice 48 hours in advance of the meeting and deliberated outside of a properly noticed meeting, in violation of the Law.

II. We Decline to Find that the Board’s Violation was Intentional.

We must determine whether the violation was, as the complainant urges, intentional. See G.L. c. 30A, § 23(c). An intentional violation is an “act or omission by a public body or a member thereof, in knowing violation of [the Open Meeting Law].” 940 CMR 29.02. An intentional violation may be found where the public body acted with deliberate ignorance of the Law’s requirement or has previously been advised that certain conduct violates the Open Meeting Law. Id.

Here, the Board was twice informed that no notice had been timely posted for the July 16 meeting. First, the Board was notified by one of its members on Saturday July 13 that no notice was posted on the Town’s website. Ms. Wilson’s email, sent to the Board’s email address amongst others, specifically stated that the “[notice will] have to be posted and the earliest we could have [the meeting] is on Wednesday.” Second, Board members were informed that during the July 16 meeting they could not deliberate, since the meeting was not posted as a Board

³ All previous determinations issued by the Division can be found on the Attorney General’s website: <https://www.mass.gov/the-open-meeting-law>.

meeting. Although the Board was clearly aware that timely notice was not posted for the July 16 meeting, we find that the Board members sincerely, albeit incorrectly, believed that the manner in which they participated at the July 16 meeting, by asking questions of and making comments to the panel rather than speaking directly to each other, did not constitute deliberation. Therefore, we decline to find the violation to be intentional.

CONCLUSION

For the reasons stated above, the Board violated the Open Meeting Law by deliberating outside of a properly noticed meeting. We order the Board's immediate and future compliance with the Open Meeting Law and caution the Board that a determination by our office of a similar violation in the future may be considered evidence of intent to violate the Open Meeting Law.

We also order the Board, in open session at its next meeting after the receipt of this determination, to review the comments that Board members made during the July 16 presentation and to include those comments in the meeting minutes of the new meeting.

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Board. Please feel free to contact the Division at (617) 963 - 2540 if you have any questions.

Sincerely,



Sarah Chase
Assistant Attorney General
Division of Open Government

cc: Judith Ahern (via e-mail: jude@judeahern.com)

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

Discussion of 208 Plan

July 16, 2019

Wellfleet Fire Station Basement Conference Room

Selectboard comments:

Reinhart: I would like to hear from everyone on the panel where we are at now and where we need to go. You know, where we are with permits and monitoring and what do we need?

Bacon: Thank you Hillary, my question is for Scott, there are two questions in this. Should you look at another alternative approach what would be the timeframe you'd need to quantify the data and the results to the town? We've looked at the oyster mitigation, we've seen that data, another approach, an alternative approach in your mind what would the time frame be? And I'm just looking, I'm asking this question in the event we have to fast-track something, going into another alternative I just want to know that time frame. Then I have another question.

Bacon: OK, so the second part is I'm just speaking for myself personally I feel it would be irresponsible of the Town not to have a contingency plan. Having said that, you as our consultant I'm asking why we are not looking at regionalizing this situation with the towns of Eastham and possibly Truro. I know each town is different and has its own separate needs and so on and so forth, I look at this situation as more the three towns together.

Bacon: . . .But still (in response to Horsley comment)

Wilson: I have a question, I'm sorry, I've had my hand up. I'm sorry to be so impatient, but my question is, it has to do with earlier, and it's germane to what we are talking about now, so as you know, as some of us know the Town has many, many different parts to it, and what's happening in the central district or certain areas around the ponds which are in the park, have real concerns about watershed pollution, right? You used the phrase entire Town, what I'd like to have is a little more clarification about our contingency plan because piping the entire Town, specifically if it goes to only one site is also a liability given the proximity of where a lot of those lines would be laid out to wetlands and other areas, so we have to have a contingency plan, right? There are areas of the Town that really need to have some kind of contingency plan, a sewer treatment, but the entire Town including areas of South Wellfleet which have fully compliant Title V systems and are a lot of distance from them and are far from any body of surface water? When you said entire Town, please in terms of our contingency plan, please be a little more specific.

Carlson: I have a question for Curt and then Brian if you have comments. Where is the detailed sewer plan that Environmental Partners, it is my understanding that did for the Town, has that been put in to the contingency plan, is it not usable or, don't we have a fairly detailed.

Carlson: Has Brian seen that plan?

Carlson: So, it may or may not fit in to the contingency plan?

Carlson: It didn't have specificity?

Carlson: Thank you

Reinhart: So, I think we have to out of here, is that right, we have to be out of here?

Reinhart: So, can I get some specifics on, I like steps, so what do we need to do this afternoon, what do we need to do in a month, in six to eight months, where is the follow through, maybe Hillary can lead it off. We also have to make sure we have money, so before we get funding, yes that's one reason why we're here today too.

Reinhart: Will that be with?

So who?

When are we looking for?

Devasto: A point of clarity to make sure that I have this right. It sounds to me, like before we can be approved for any watershed permit, that we have to have a detailed contingency plan that will traditionally proven technology that's all detailed and engineered with a treatment site, not, obviously set up, but in the engineering for us to be approved for any comprehensive treatment plan, yes for the permit?

Devasto: The DEP would not issue a watershed permit without that contingency plan in writing, detailed and engineered?

Devasto: May I just ask one more question, real quickly? I was wondering if the DEP has approved as an alternative method any, sort of non-traditional, sewer collection treatment facilities? I know in Falmouth they have, also in Burlington they've done some ecological treatment facilities. I'm wondering if that's been applied for, or looked into?

Wilson: Yes, so I just want to be clear, at what do we within this process with consultants being contracted and other boards and committees already working on this, at what point can we start asking for funds from the state for this, does the plan have to be accepted already before we can start asking for funds from these two sources?

Wilson: Which is what we are doing now?

Wilson: So, another point, which is important. We have Nancy Civetta here, who is our Shellfish Constable who has an enormous amount of data of what's in the harbor now, what's being harvested, and there would be a good way to get a really decent ballpark as to what's going on right now, in other words, shellfish is not (inaudible), but certainly, I'm introducing her to Mr. Horsley if they haven't met already, and her database is awesome.

Wilson: Yes, so I agree with you, the Selectboard wanted this kind of meeting to happen and this is the first of many, there was some confusion about the time, by the way it was addressed as soon as we were aware, but I'm hoping as a member of the Selectboard that we will have further discussion about the information that we've gotten and it's important that there was outreach to people in the community, within the shellfish community. But what's important is that the information we got from this panel of people who are not from Town and managed to come today and this is thanks to our health and conservation agent who was able to organize it at the request of the Selectboard some meetings ago as she stated previously, but go back to what I already said in my opinion this is one of many communication information sharing meetings where a lot more questions will be answered. I'm not making nice here, this is what I think we need and one of the things that was really cool about today was that Mia Baumgarten, who tapes a lot of videos of our meetings, was able to show up and this is going to be on the Town web site and I think we should all do outreach and let people know that so they can watch it and get back to the Selectboard and ramp up communication between different groups about this process. Does that seem? (gestured to Hillary)



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020



BUSINESS – B

REQUESTED BY:	Town Administrator
DESIRED ACTION:	Release of executive session minutes related to 3 Kendrick Avenue
PROPOSED MOTION:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020



BUSINESS – C

REQUESTED BY:	Wilson
DESIRED ACTION:	Discussion of Selectboard's use of community social media pages
PROPOSED MOTION:	Discussion
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020

VI

SELECTBOARD REPORTS

Reported by:	Topic:



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020

VII

TOWN ADMINISTRATOR'S REPORT

This report is for the period April 24, 2020 through May 08, 2020.

1. General

- Town buildings have been closed as precaution to the COVID-19 virus. Police station remains open.
- Staff has been directed to work from home whenever possible.
- Staff members sharing an office alternate their time in the office

2. Fiscal Matters

- FY 21 Budget and CIP requests are under review.

3. Meetings – All meetings are via conference call

- April 28 – Selectboard/Emergency Management Team (EMT) public forum
- April 28 – Selectboard meeting
- April 29 – Emergency Management Team meeting
- April 30 – Cape Cod Commission public hearing on Herring River DRI application
- May 4 – Town Hall Administration meeting
- May 5 - Selectboard/Emergency Management Team (EMT) public forum
- May 7 – Dredging Task Force meeting
- May 7 – Outer Cape TA/TMs and Seashore Superintendent
- May 7 - Outer Cape TA/TMs and Health Agents
- May 8 – Wellfleet Needs task force
- May 8 - Outer Cape TA/TMs and Selectboard Chairs

4. Complaints.

- None, other than usual

5. Personnel Matters:

- Community Paradigm Associates and Town Administrator Screening Committee are now working on search for new Administrator



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: May 12, 2020

IX

CORRESPONDENCE REPORT

Friday, April 24 to Friday, May 8

Letters (emails):

4/24	Courtney Butler	4/28 Packet
4/24	David Weintraub	Right to Farm bylaw proposal
4/24	Jude Ahern	Fwd: South Wellfleet General store leases paperwork
4/25	David Ricketts	Select Board Discussion of "Right to Farm"
4/25	Courtney Butler	Tuesday's Zoom PSA
4/26	Dan Hoort	FW: Closing town buildings
4/26	Dan Hoort	FW: HCA FORM - Nature's Alternative, Inc.
4/26	Courtney Butler	Fwd: letter to select board for upcoming meeting
4/27	Stephen Roehm	Your Meeting on April 28 th
4/27	Courtney Butler	4/14 Minutes with HMW Amendments
4/27	MA Division of Marine Fisheries	DMF Extends Seasonal Speed Limit Rules in Cape Cod Bay Through May 7
4/27	MA Division of Marine Fisheries	DMF Extends Seasonal Fixed Gear Closure Through May 7
4/28	Stephen Roehm	Tonight's Meeting and Proposals
4/28	Nancy Civetta	Shellfish Crier: Chipman's and Duck Creek closing, dragging inner harbor extension and Shellfish Advisory Board meeting
4/28	Dennis Cunningham	Fw: covid public service marquee use
4/28	Janet Reinhart	Please look at before meeting – Zoom instructions
4/28	Dan Hoort	Update to Towns: Guidance to Seasonal Residents, Extended governor's Orders, and Pending Legislation
4/28	Courtney Butler	Candidates
4/28	Peter G. Newman	Parking
4/28	Jude Ahern	thoughts on residential exemptions
4/29	Courtney Butler	4/28 Zoom Chat
4/29	Courtney Butler	Making Motions
4/29	Robert Magher	Beach permit
4/29	Courtney Butler	FW: Resignation from the Planning Board
4/29	Dennis Cunningham	Beaches
4/29	Nancy Civetta	Recreational Shellfish Crier: Chipman's Cove Closes Tomorrow
4/29	Dave Delcegno	Recent Covid -19 closure decision
4/30	Courtney Butler	MMA Selectmen's Handbook
4/30	Courtney Butler	FW: This Month in the Division of Open Government



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: May 12, 2020

4/30	Courtney Butler	Fwd: Work mtg - 95 Lawrence RFP
4/30	Dorothy Caesar	RE: Library Book Sale question
4/30	MA Division of Marine Fisheries	Seasonal Small Vessel Speed Limit Rescinded on May 1
4/30	MA Division of Marine Fisheries	Seasonal Fixed Gear Closure Extension Rescinded Effective May 1
4/30	Simone Wright - DMF	Shellfish Notice for Wellfleet
4/30	Dan Hoort	FW: SAB Minutes Feb and April
4/30	Helen Miranda Wilson	Re: Wellfleet Covid-19 suggestion
4/30	Susie Neilsen	Wellfleet
4/30	Courtney Butler	New Tab on COVID Page
4/30	Dan Hoort	Fwd: Comments
4/30	Courtney Butler	Community Needs Call 5/1 @ 10AM
5/1	Falmouth EMF	Falmouth Ma. Ocean Wind Turbine Substation EMF at 350,000 Volts Effects On Residents
5/1	Ed McManus	Virtual CCISCA Meeting- May 8 at 7:30 A.M. (make your own breakfast)
5/1	MA Municipal Association	Register for 2nd COVID-19 Municipal Elected Leaders Briefing - 5.8.20
5/1	Courtney Butler	95 Lawrence Road RFP Work Meeting 5/5 at 1PM
5/1	Wellfleet Chamber of Commerce	Reopening Toolkit, Restaurant Guidance, and more
5/1	Dan Hoort	Update
5/2	Dan Hoort	Tuesday, 05/05 agenda packet
5/2	Ryan Curley	Nov 11th, 2019 CWPC meeting with DEP Transcript
5/3	Corrupt MassDEP	Fwd: MassDEP Must Stop Horrific Wind Turbine Experiments
5/4	Janet Reinhart	Tomorrow's Meeting
5/4	Kathleen Bacon	Tomorrow's Meeting
5/4	MMA	Register for MSA Leadership Conference Webinar May 20
5/4	MA Division of Marine Fisheries	Supporting and Preserving our Seafood Industry during COVID-19
5/5	Courtney Butler	FW: Revised design guidelines for meeting
5/5	Dan Hoort	Election warrant
5/5	MA Division of Marine Fisheries	Recreational Haddock Fishing Maps Available for Download
5/5	Courtney Butler	FW: CPA Update: DOR's CPA Trust Fund Announcement
5/5	Courtney Butler	FW: FY 2020 Income Limits Documentation System --



SELECTBOARD

AGENDA ACTION REQUEST

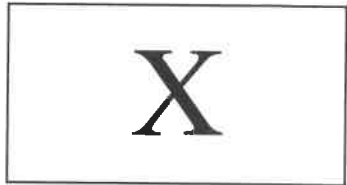
Meeting Date: May 12, 2020

5/5	Courtney Butler	Summary for Barnstable Town city, Massachusetts
5/6	MMA	5/12 Agenda Items
		Register for 2nd COVID-19 Municipal Elected Leaders Briefing - 5.8.20
5/6	Heather Draz	Connectivity
5/6	Nick and Elena Delbanco	Right to Farm
5/6	Kathleen Nagle	Agenda
5/7	Heather Draz	More words
5/7	Courtney Butler	Helpful Guide
5/7	Josh Yeston	Next Selectboard meeting day and time
5/7	Courtney Butler	Fwd: please include this in Selectboard correspondence
5/7	Dan Hoort	Fwd: NYTimes: Travel From New York City Seeded Wave of U.S. Outbreaks
5/7	Joel Perwin	Proposal for 31-Day Rental Period in Wellfleet
5/7	Dan Hoort	Additional meeting recommendation
5/7	Ken Eldridge	Possible restriction on Wellfleet Rentals
5/7	Jennifer Simoniello	Wellfleet Short-Term Rental Situation
5/7	Christian Hartman	Short Term Rentals
5/7	Sandra Erickson	Upset about proposed mandatory 31-day
5/8	Michael Franck	Wellfleet Summer Rentals / Select Board
5/8	Dan Hoort	FW: Town meeting
5/8	Dan Hoort	FW: devastating 31 day rental period
5/8	David Beebee	31 day rentals devastating to economy
Applications:		
5/8	Nancy Bierhans	Taxation Aid Committee
Board & Committee Minutes:		
4/30	Zack Dixon	SAB Minutes Feb and April
Internal Memos:		
4/28	Janet Hymowitz	Please do not renew appointment to Cultural Council
4/28	Rhonda Fowler	Resignation from Cultural Council
Legal:		
4/29	Office of the AG	OML Complaint Response of Findings with regard to a complaint filed on 10/8/19 by Jude Ahern



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020



MINUTES

REQUESTED BY:	Executive Assistant
DESIRED ACTION:	Approval of meeting minutes
PROPOSED MOTION:	I move to approve the minutes of April 28, 2020 as amended. I move to approve the minutes of the May 5, 2020 work meeting as amended.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

DRAFT – A full audio recording of this virtual meeting can be found on the Town’s website under Wellfleet Town Media.

**Wellfleet Selectboard Meeting
Tuesday, April 28, 2020 at 6pm
Zoom Virtual Meeting**

Selectboard Members Present: Chair Janet Reinhart; Kathleen Bacon; Helen Miranda Wilson; Michael DeVasto; Justina Carlson

Also Present: Town Administrator Dan Hoort; Executive Assistant Courtney Butler

Chair Reinhart called the meeting to order at 6:00 p.m. This meeting was held via Zoom and the recording is available on the Town website.

ANNOUNCEMENTS, OPEN SESSION AND PUBLIC COMMENT

- Bacon reminded the audience that the May 12 meeting will begin at 7PM
- Wilson thanked Manny Smith for his work on the Taxation Aid Committee
- Wilson shared information again about ticks and getting them tested, this information is on the Town website
- Hoort said that Amnesty Day will be postponed to the Fall
- Hoort said that the Transfer Station staff are working to accept recycling again and then again to accept yard waste after that
- Wilson noted that the Town Board and Recording meetings are available on the Town website; under the COVID-19 Page

COVID-19 UPDATE

Recommendations from Emergency Management Team

Hoort said this is a very fluid situation and Governor Baker extended the stay-at-home order until May 18th and has appointed a Task Force to work to reopen the economy. He said the Emergency Management Team is also looking at what will work for Wellfleet.

Recommend the Selectboard vote to close the main White Crest Beach parking lot for the summer of 2020 in order to limit visitors to Town beaches during this Town emergency.

Hoort said this recommendation was made to limit the number of day-trippers to Wellfleet. The main lot is the non-ocean side lot which is used for day parking and overflow resident parking.

Reinhart noted that AirBnB announced a mandatory 24-hour period between rentals. Suzanne Grout Thomas, Beach Director, said the recommendation about White Crest is the start of the conversation, not the end. Wilson expressed concern with closing beaches, saying she was not in favor of this. There was further discussion.

Audience Member Daniel Murray asked if every beach parking lot will be filled to capacity, with the exception of White Crest; he asked where the other people will park. He asked why all beaches were not closed to day-trippers, including Mayo. Audience Member Steven Gazzano said there needs to be a cohesive front with the Park Service and suggested a brochure for visitors who come to Town and are turned away. Audience member Bruce Bierhans suggested letting this decision be a moving target, as suggested by Chief Hurley. There was further discussion.

- **Bacon moved that the main, day-pass, parking lot at White Crest Beach be closed for the 2020 summer season in order to limit visitors to Town beaches as recommended by the Beach Administrator.**

DRAFT – A full audio recording of this virtual meeting can be found on the Town’s website under Wellfleet Town Media.

- DeVasto seconded and asked for further discussion. He suggested that the motion be not for the 2020 season, but on a month-by-month basis. This amendment did not pass.
- Wilson asked that the motion read “to not sell day passes”
- Wilson seconded (Bacon’s original motion), and the motion carried 4-1, with Wilson opposed. (approved motion in bold)

Recommend the Selectboard vote to cancel the 4th of July parade for 2020.

- Bacon moved that the July 4th parade is canceled for 2020.
- Wilson seconded, and the motion carried 5-0.

Other recommendations and updates

Hoort asked the Board if they wanted to vote on keeping Town buildings closed through May 17. This does not include the Police Station. DeVasto suggested the date be May 18, since that was the date of the Governor’s order.

- Bacon moved that all Town buildings be closed through May 18.
- Wilson seconded, and the motion carried 5-0.

USE OF TOWN PROPERTY

Discussion on future events for 2020

Bacon said nothing should be taking place until there is a vaccine. There was further discussion. Chief Hurley recommended that any previously approved events be rescinded, through the March 24th motion, and that events can come back with a revised event plan and be looked at then. Audience members shared concerns about having large, and small, events take place in Town. This cancellation will include OysterFest. These applications can be revisited.

- **Bacon moved, in accordance with the Board vote on March 24th, that no future applications for events requesting the use of Town property be accepted for the remainder of the 2020 calendar year and that all previously approved events cannot occur.**
 - Wilson seconded and DeVasto asked that this be “until further notice” not “for the remainder of 2020.” Wilson said that people need to plan and a decision needs to be made now. Reinhart seconded DeVasto’s amendment, and the motion failed 2-3, with Carlson, Bacon, and Wilson opposed.
- Wilson seconded, and the motion carried 3-2, with Reinhart and DeVasto opposed. (approved motion in bold)

BOARD/COMMITTEE APPOINTMENTS

Zoning Board of Appeals – Wilson Sullivan (regular) and Andrew Freeman (alternate)

- Bacon moved to appoint Wilson Sullivan as a regular member of the Zoning Board of Appeals, to fill a term ending June 30, 2022.
- Carlson seconded, and the motion carried 5-0.

- Bacon moved to appoint Andrew Freeman as an alternate member of the Zoning Board of Appeals for a term ending June 30, 2021, and that he resigns immediately removed from his Planning Board membership upon this approval.
- Wilson seconded, and the motion carried 5-0.

BUSINESS

Transfer of Rights for Nature’s Alternative (Selectboard approval required for new ownership per the Host Community Agreement)

Ben Zehnder, attorney for Nature’s Alternative, was on the call as well as 3 members of the organization – Patrick Casey, CEO; Nicholas Salvador, Treasurer; and Matthew Wilkes, Operator for Wellfleet. Zehnder noted that he was requesting that the Board approve the change in ownership of Nature’s Alternative to Aspen Blue, LLC. Zehnder noted that this change in ownership is due to a change in underlying stock ownership. This approval is necessary for the group to submit their full application to the Cannabis Control Commission.

Audience member Timothy Sayre asked Zehnder a few questions regarding the Medeiros Trust, and if it was set up in California; Casey (Nature’s Alternative) said this was a Trust for a family in Truro that was set up by a Boston firm. Sayre asked other questions regarding the location of members of Nature’s Alternative; Reinhart said that the Cannabis Control Commission is the one who vets all members of the Host Community Agreement (HCA).

DeVasto asked if the Board had to, or had the right to, approve the transfer of the rights. The company name will remain Nature’s Alternative. Zehnder said his group was not seeking to transfer the rights of the HCA, only approve the actual acknowledgement that

- Bacon moved to approve the transfer of rights for Nature’s Alternative to Aspen Blue, LLC.
 - DeVasto seconded and made the amendment to say “approve the transfer of ownership to Aspen Blue, LLC.” Zehnder agreed.
 - Bacon seconded, and the motion carried 4-0, with Carlson abstained.
 - **Passed motion: approve the transfer of ownership for Nature’s Alternative Aspen Blue, LLC.**

Annual Town Meeting and Town Election

Request to postpone annual town meeting until a later date (currently scheduled for June 1st)

Wilson said she has heard the Town Administrator and Town Moderator’s concerns. She asked to address any time-sensitive articles, such as the Water System Upgrade, High Toss Road, and the Operating Budget; she suggested doing this sooner rather than later noting concern for large gatherings in the fall. Hoort proposed the following articles be addressed: 1 (Operating Budget), 4 (Marina Enterprise Fund), 5 (Water Enterprise Fund), 6 (Wellfleet Employee Association Contract), 16 (Water System Upgrade), 18 (Community Preservation Rental Assistance Program), and 37 (Clarification of High Toss Road). Hoort’s recommendations are outlined in his memo to the Board which is public record and available in the packet for this meeting on the Town website.

Moderator Dan Silverman said that, currently, mail-in ballots are not legal for Town Meeting. He expressed concerns with disadvantaging those who are not technologically savvy should the meeting be held in some sort of a virtual setting. He noted that the quorum for Town Meeting is 175. He recommended setting a date in early fall, September 15. Audience member Harry Terkanian also noted the importance of building consensus and “taking ownership” of decisions made at Town Meeting when held in person. He opposed mail-in votes as well. There was further discussion.

DRAFT – A full audio recording of this virtual meeting can be found on the Town’s website under Wellfleet Town Media.

Bacon asked if the later date affected things with the water system for 95 Lawrence Road; Assistant Town Administrator Mike Trovato said it just moves the timeline back.

- In accordance with Section 2-6-1 of the Wellfleet Charter and in light of the Selectboard’s March 17th emergency declaration regarding the COVID-19 virus, Bacon moved to rescind the vote of March 24, 2020 which set June 1st, 2020 as the date of the Wellfleet Annual Town Meeting and schedule the Wellfleet Annual Town Meeting for October 5, 2020 at 6PM.
- Wilson seconded, and the motion carried 5-0.

Request to postpone the annual town election to a Monday in June.

Wilson asked which articles would be voted on in June, since the Town Meeting is happening in October. Hoort said overrides and debt exclusions could wait until the Fall, but petitioned ballot questions must be voted on in June. Wilson suggested mail-in voting; Hoort noted that there is not a provision yet for mail-in only and said the Town will ask everyone to do absentee ballot when possible to eliminate crowding at the polls.

Hoort noted the State election is happening on September 1st and other ballot questions could be voted on then. Wilson asked then if the Town would be having three election – regular election in June; and 2 special elections, one in September and one in October – after Town Meeting) and suggested waiting to have only one special election until after Town Meeting. Wilson was concerned about people voting at the polls without hearing discussions on the Town Meeting floor; Silverman noted that, historically, people show up at the polls to vote without going to Town Meeting and that having the election after Town Meeting will likely not change the outcome.

- In accordance with Chapter 45 of the Acts 2020 for the State of Massachusetts, Bacon moved to postpone the Wellfleet town election to June 15, 2020.
- Wilson seconded, and the motion carried 5-0.

Tax Exemptions and Due Date Extensions

Request the Selectboard approve extending the deadline for applications for the residential tax exemption to May 1st.

Reinhart suggested moving this to a later date. There was no further comment.

- Bacon moved to approve extending the deadline for applications for residential tax exemption to May 1.
- Wilson seconded, and the motion carried 5-0.

Request the Selectboard approve extending the deadline for property tax payments from May 1st to June 1st.

There was no discussion.

- Bacon moved to approve extending the deadline for property tax payments from May 1 to June 1.
- DeVasto seconded, and the motion carried 5-0.

SELECTBOARD REPORTS

- Carlson: met with Michele Insley, of SPAT, to hear about the efforts they are making for the Shellfish Community

TOWN ADMINISTRATOR’S REPORT

DRAFT – A full audio recording of this virtual meeting can be found on the Town’s website under Wellfleet Town Media.

- Hoort: conference calls regarding the COVID situation

TOPICS FOR FUTURE DISCUSSION

- Bacon: Work Meeting with 95 Lawrence Road and the Board for review of final draft of RFP; Tuesday, May 5th at 2PM.
- Bacon: Work Meeting for Tuesday, May 12 at 1PM, to work on Town Warrant
- DeVasto: short-term rentals under COVID-19 Update

CORRESPONDENCE REPORT

No comments.

MINUTES

April 14, 2020

- Wilson moved to approve the minutes of April 14, 2020 as amended.
- Bacon seconded, and the motion carried 5-0.

ADJOURNMENT

- Bacon moved to adjourn.
- Wilson seconded, and the motion carried 5-0.

The meeting adjourned at 9:04 pm.

Respectfully submitted,

Courtney Butler,
Secretary

Public Records Documents available as of 4/28/2020:

1. Request for Grant Renewal: Aaron Francis, #752; Brent Valli and Sandra Mitchell 781-A, 781-B, and 781-C
2. Memos from Shellfish Constable to the Selectboard, re: Grant Renewals - Aaron Francis, #752; Brent Valli and Sandra Mitchell 781-A, 781-B, and 781-C
3. Appointment papers for Sheryl Jaffe, David Agger, Deborah Freeman, Beth Singer, Benjamin Fairbank, Danielle MacGregor, and Merrill Mead-Fox
4. Disclosure of Appearance of Conflict of Interest filed by Lydia Vivante and Dated March 9, 2020
5. Letter from Parking Task Force to the Selectboard, re: sign-off and disbanding of PTF
6. Draft thank you letter to SPAT
7. Memo from Shellfish Constable to the Selectboard, re: Use of WSD Revolving Fund for Propagation FY20 Monies
8. Email from Shellfish Constable to Dan Hoort and staff, re: Use of WSD Revolving Fund for Propagation FY20 Monies
9. Email from Shellfish Constable to Dan Hoort and staff, re: return of overwintering monies
10. Memo from Shellfish Constable to the Selectboard, re: Chuck Reaves grants #861 (one acre) and #861-A (.5 acre) and Clint Austin
11. Draft Right to Farm Bylaw as proposed by Michael DeVasto
12. Email from Janet Reinhart to Dan Hoort and staff, re: Committee vote on videotaping

DRAFT – A full audio recording of this virtual meeting can be found on the Town’s website under Wellfleet Town Media.

13. Town Administrator’s report
14. Correspondence report
15. Draft minutes of the March 24 and April 1, 2020 meetings
16. Letter from Robert Paine regarding Wesley Swamp drainage issues on his property at 131 Main Street.
17. Emails between Dan Hoort and the Moderator, Dan Silverman copied to the Selectboard, regarding when and how to have Town Meeting, and related issues.

DRAFT – A full audio recording of this virtual meeting can be found on the Town’s website under Wellfleet Town Media.

**Wellfleet Selectboard Work Meeting (with 95 Lawrence Road Task Force)
Tuesday, May 5, 2020 at 1pm
Zoom Virtual Meeting**

Selectboard Members Present: Vice Chair Kathleen Bacon; Helen Miranda Wilson; Michael DeVasto; Justina Carlson

Regrets: Chair Janet Reinhart

95 Lawrence Road Task Force Members Present: Andrew Freeman, Planning Board; Elaine McIlroy, Housing Authority; Gary Sorkin, Local Housing Partnership; Jan Plaue, Elementary School Committee; Jim Hood, Board of Water Commissioners; Jay Horowitz, Building Needs and Assessment Committee; Carl Sussman, Wellfleet Seasonal Residents Association; Mike Trovato, Ex-Officio and Assistant Town Administrator

Also Present: Town Administrator Dan Hoort; Executive Assistant Courtney Butler;

Vice Chair Bacon called the meeting to order at 1:03 p.m. This meeting was held via Zoom and the recording is available on the Town website.

ANNOUNCEMENTS, OPEN SESSION AND PUBLIC COMMENT

- There were no announcements or public comments

REVIEW AND DISCUSSION OF THE DRAFT FINAL REQUEST FOR PROPOSALS FOR THE 95 LAWRENCE ROAD HOUSING PROJECT.

McIlroy introduced the Task Force members and presented the Request for Proposals (RFP) the group has worked on in collaboration with the MA Housing Partnership (MHP) for the past 10 months. McIlroy noted that this is a Town project, on Town-owned land, and will require Selectboard approval. The draft RFP is available on the Town website in the packet for this meeting on the Selectboard page

The RFP seeks a developer to build up to 46 units, on 6 acres of the 9.6-acre site. McIlroy indicated that a minimum there shall be at least 50% of the units affordable to households at or below 80% AMI; the Town prefers that 85% be affordable below this level and that affordability ranges between 30% to 120% AMI, assuming 120% AMI is below the market rate. DeVasto asked if McIlroy knew the current AMI – Area Median Income – at 80% was; (***please note that the on the audio/video recordings of this meeting, the initial response to this question was cut out due to technical difficulties with the Zoom platform, the response was answered again later and input here*): Sorkin said it was \$77,000 for a family of 4, \$54,000 for a 2-person household. McIlroy said more figures will be put out to the public and the Selectboard.

McIlroy discussed the requests for an energy efficient design. Sorkin discussed the septic system, which will reduce nitrogen to a level below 10mg/L, and that the group prefer it be a so-called “Enhanced Innovative Alternative System”. There is Town water at the site and the Town is looking to expand the system to meet the needs of the Project. There was further presentation of the proposal.

DeVasto asked if the RFP was set in stone once put out for proposals or if negotiations could happen; Trovato said that there were certain procurement laws in place that must be followed, and negotiations cannot happen once the process of procurement begins.

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DeVasto asked how rent was decided and who would manage that; McIlroy said that rent was decided based upon the HUD (Housing and Urban Development) guidelines. McIlroy said renters are required to recertify their income annually and will get further information from the MHP and provide that to the Board.

Carlson asked about the AMI and determination of the affordability of the units; McIlroy said a lot of this is based upon developer funding and that a lot of funding available right now is at 60% and below. Bacon said the Task Force had knowledge on the demographics of what was applied for in Eastham at Nauset Green and asked Sorkin to explain that. Sorkin said the State only allowed them to have up to a maximum of 90%, and this was for a small number of units; again, he said that funding for developers drives the rent. He noted that the vast majority of people who applied are at the 30% level of AMI. Carlson clarified that in Eastham’s total pool of applicants was for at or below 30%; Sorkin said that was correct. There was further discussion.

Sussman noted the Low-Income Housing Tax Credit which helps determine the affordability. Audience member Olga Kahn asked if rents would be based on the size of the unit or the AMI; McIlroy said there will be a chart for applicants, which has the AMI percentage in the top axis, and the unit size in the side axis, and you can easily match up the AMI and size of unit to determine the cost to you

REVIEW AND DISCUSSION OF DESIGN GUIDELINES FOR 95 LAWRENCE ROAD DEVELOPMENT.

Wilson noted that it would be important to keep a similar look for the Housing Project with the Elementary School, since they will be across from each other. DeVasto said he liked the guidelines and expressed that he would like the development to be a neighborhood that people wish to live in. There was further discussion.

Carlson asked about modular builders; Trovato said he knows of at least 1 developer, who may or may not apply, who does modular building. McIlroy said they expect one more draft from the MHP and will present that and answers to questions asked here shortly. Bacon asked Hoort and Trovato for their thoughts on next steps; Trovato said he and Hoort will discuss taking it to Town Counsel and ensuring it meets procurement regulations. Sorkin noted that the funding rounds happen once per year, around August/September, and he said getting it out sooner would be better so that developers could present and ask to the State. Bacon asked about waiting until Town Meeting to make sure the article seeking expansion of the water system is passed; Trovato suggested waiting until after Town Meeting. There was further discussion on next steps.

Carlson asked about density and there was discussion about how 46 units would look on 6 acres; McIlroy said that the maximum allotment is 10 units per acre, such as in Provincetown, and that having 46 units on 6 acres would be less than that. It was also noted that there will be 2 egresses.

ADJOURNMENT

- Carlson moved to adjourn.
- Wilson seconded, and the motion carried 4-0.

The meeting adjourned at 3:00pm.

DRAFT – A full audio recording of this virtual meeting can be found on the Town’s website under Wellfleet Town Media.

Respectfully submitted,

Courtney Butler,
Secretary

Public Records Documents available as of 5/5/2020:

1. Draft Request for Proposals
2. Design Guidelines



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: May 12, 2020

XI

ADJOURNMENT

REQUESTED BY:	Chair
DESIRED ACTION:	Adjournment
PROPOSED MOTION:	I move to adjourn
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

