

Wellfleet Selectboard
Thursday March 7, 2024; 6:00pm
Virtual Meeting via Zoom
Executive Session
Agenda

The Wellfleet Selectboard will hold a public meeting on **Thursday March 7, 2024**. The Chapter 2 of the Acts of 2023, this meeting will be conducted virtually only.

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

<https://us02web.zoom.us/j/87976013531?pwd=SW11L3ZYUmwxc0VaSCtBSTlOcHVnUT09>

By Phone: +1 929 205 6099 and enter Meeting ID: 879 7601 3531 | Passcode: 987112

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.

I. *Announcements and Public Comments*

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

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

II. *Adjourn Public Comments and open Executive Session*

A. **M.G.L. 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 government's bargaining or litigating position (MacLauchlan v. Town of Wellfleet,) Barnstable Superior Court C.A. No. 2372CV00306).

- The Board will discuss and vote on a potential settlement.

B. **M.G.L. c. 30A, Section 21 - Purpose 1:** To 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.

C. **Ahearn Open Meeting Law Complaint: M.G.L. c. 30A, Section 21 - Purpose 1:** To 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.

- The Board will discuss and vote to submit a response to the Attorney General in response to the Open Meeting Law Complaint by Jude Ahearn dated March 4, 2024.

III. ***Executive session minutes:***

A. **M.G.L. c. 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.

- The Board will review and vote to approve or release, as applicable, executive session minutes dated:

January 2, 2024 – with town counsel recommendations

January 31, 2023 - with town counsel recommendations

March 23, 2023 - with town counsel recommendations

April 25, 2023 - with town counsel recommendations

July 18, 2023 - with town counsel recommendations

August 15, 2023 - with town counsel recommendations

September 19, 2023 - with town counsel recommendations

January 16, 2024 - review and vote to release or send to town counsel.

February 15, 2024 - review and vote to release or send to town counsel.

IV. ***Adjournment***

Speech and Conduct at Public Meetings

The SJC's Barron v. Kolenda case decided in March of 2023 held that "civility cannot be required regarding the content of speech at a public comment session in a public meeting."

Barron v. Kolenda also held that public bodies may impose restraints on the conduct of individuals at a public meeting:

"What can be required is that the public comment session be conducted in an "orderly and peaceable" manner, including designating when public comment shall be allowed in the governmental meeting, the time limits for each person speaking, and rules preventing speakers from disrupting others, and removing those speakers if they do. We have concluded that such time, place, and manner restrictions do not violate either the right to assembly under art. 19 or the right to free speech under art. 16.

In addition to the SJC's instructions in Barron v. Kolenda on a public body's right to require "orderly and peaceable" public comment, the Massachusetts Open Meeting Law contains rules for conduct at public meetings. From Mass. General Laws Chapter 30A, s. 20:

- No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent.
- No person shall disrupt the proceedings of a meeting of a public body.
- If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting
- If the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

Public comment at Selectboard meetings

The Selectboard does not seek to, and will not regulate the content of speech by participants at public comment (with the exception of threats, incitements to violence, or other jeopardy to public safety). However, consistent with the Barron v. Kolenda case, the Chair will enforce the above rules to prevent disruption of meetings and to ensure "orderly and peaceable" public comment. Examples of conduct that disrupts a meeting include:

- Addressing the Board or the public when not recognized by the Chair, whether at the microphone or in the audience.
- Interrupting a speaker recognized by the Chair.
- Interrupting a Board member or Board discussion.
- Continuing to speak when time for comment has expired and the Chair has advised that the speaker is no longer recognized.
- Refusing to cease any of the above or other disruptive conduct when requested by the Chair

The Chair will flag disruptive conduct and issue a verbal warning to the individual engaged in it. If an individual who has received a verbal warning continues to disrupt proceedings (at that time or later in the meeting), the individual will be asked to leave the meeting. If the individual does not leave the meeting, the Chair will authorize his or her removal from the meeting.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: March 7, 2024

I

ANNOUNCEMENTS AND PUBLIC COMMENTS

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



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: March 7, 2024



Adjourn Open Session,

Enter Executive Session, not to return into Open Session

REQUESTED BY:	Selectboard
DESIRED ACTION:	To adjourn and enter executive session
PROPOSED MOTION:	<p>Pursuant to G.L. c. 30A, §21(a) <i>Adjourn Open Session and Enter into Executive Session ~ M.GL. c.30A, Sec. 21</i></p> <p>Purpose 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the government's bargaining or litigation position (<i>Maclauchlan v. Town of Wellfleet</i>)</p> <p>Purpose 1: To discuss the reputation, character, physical condition, or mental health, rather than professional competence, of an individual, or discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual.</p> <p>Purpose 7: To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.</p> <ul style="list-style-type: none">• Executive Session Meeting Minutes 1/2/2024; 1/16/2024; 2/15/2024; 1/31/2023; 3/23/2023; 4/25/2023; 7/18/2023; 8/15/2023; 9/19/2023
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition (s):



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: March 7, 2024

II

EXECUTIVE SESSION

~ C ~

Purpose 1

REQUESTED BY:	Selectboard and Town Counsel
DESIRED ACTION:	To review and discuss the open meeting law complaint filed by Judith Ahern on March 4, 2024
PROPOSED MOTION:	I move to instruct town counsel to send a response to the attorney general's office on behalf of the Wellfleet Selectboard.
SUMMARY:	***Motion subject to Change****
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition (s):
VOTED:	



OPEN MEETING LAW COMPLAINT FORM

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

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Judith Last Name: Ahern

Address: P.O. Box 394

City: South Wellfleet State: MA Zip Code: 02663

Phone Number: 9174881513 Ext. _____

Email: jude@judeahern.com

Organization or Media Affiliation (if any): _____

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): Town of Wellfleet Selectboard

Specific person(s), if any, you allege committed the violation: Fake Chair Barbara Carboni, Town Administrator Rich Waldo

Date of alleged violation: February 6, 2024

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.

On February 6, 2024, four hours into a four and a half hour meeting, the Wellfleet Selectboard had a twenty minute spirited debate about the Town Administrator hiring our new town Planner without informing them. It was not on the agenda but was discussed under "Topics for Future Discussion". Selectboard member Ryan Curley brought it up because it was not on the agenda and the Town Administrator had quit and was leaving in three days.

Two Selectboard members had questions because our Charter states that the Selectboard has 14 days to disapprove of a hire and there was not another meeting scheduled within 14 days. The Fake Chair was extremely supportive of the Town Administrator, stating that this hire was outside of their jurisdiction, and she characterized their questioning the Town Administrator about this new hire as "interrogate" and "grilling". She said "we should just move on". The town Planner is an extremely important position we have been wanting to hire since April 2023 when we appropriated the salary for this new position at Annual Town Meeting. The person who was hired for Planner was hired as our Conservation agent in late October, quit on January 25 effective immediately with no explanation why, and then resurfaced as our new town Planner two weeks later with a contract rather than as a union employee.

When a citizen from the audience came to the microphone to ask a question about this hire, she was told she was not recognized and was disrupting the meeting and told to leave or she would be removed from the room by the Police. There were only three people in the audience at that point at 10:30pm. The Fake Chair reminded her that, "There is no right to comment on any agenda item."

This was not on the agenda but should have been so at least Selectboard members could discuss it openly. It is a clear violation of Open Meeting Law the way it was done instead. The People of Wellfleet no longer have confidence in their Selectboard under the "leadership" of Fake Chair Barbara Carboni who assumed power in an Executive Session coup on June 27, 2023. Town Administrator Rich Waldo knew full well that he needed to inform the Selectboard of this new, extremely important, hire but CHOSE not to put it on the agenda with the intent to circumvent any public process.

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.

For Fake Chair Barbara Carboni to step down as Selectboard Chair since she assumed power in an Executive Session coup. For the hire of the new town Planner to be on the next Selectboard agenda if for no other reason than to meet this person and hear her introduce herself and share with us her approach and experience.

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.

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: 3/4/24

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO:

AGENDA FROM FEBRUARY 6, 2024



Wellfleet Selectboard

Note: Start Time of 6pm

The Wellfleet Selectboard will hold a public meeting on **Tuesday, February 6, 2024, at 6:00 p.m.** located at the Wellfleet Adult Community Center (ACC), 715 Old King's Highway, Wellfleet, MA 02667. Remote participation will be available by Zoom and telephone as provided below, in compliance with 940 CMR 29.10 and the Town's Remote Participation Policy. If technological problems interrupt remote participation, the meeting may be suspended or ended at the discretion of the Chair in consultation with the Board.

Selectboard meetings are broadcast live on Comcast cable (Wellfleet Government TV Channel 18) and are recorded. Recordings of meetings are available at wellfleet-ma.gov

Note: Any individual may record the meeting, but must first notify the Chair, and may not interfere with the meeting to record it. See M.G.L. c. 30A, s. 20(f).

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

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

By Phone: +1 929 205 6099 and enter Meeting ID: 856 8960 4806 | Passcode: 611877

To participate during public comment:

In person: go to closest available microphone.

Zoom: raise hand to be called on to speak.

Phone: dial *9 to raise hand to be called on

All participants must be recognized by the Chair prior to speaking during public comment or at any other time during the meeting. See "Speech and Conduct at Public Meetings" page following Agenda for further information on the law governing public participation.

I. *Announcements and Public Comments*

Note: Public comments are limited to no more than three minutes per speaker. Speakers are allowed to speak once during public comments. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.

II. *Consent Agenda*

- A. Authorize the selectboard chair to sign the contract for the interim town administrator on behalf of the board.
- B. Appointment of Nancy Gralla from alternate to voting member, for the Energy and Climate Action Committee.

III. *Joint Finance Committee & Selectboard*

- A. FY25 Budget Presentation – Operating & Capital Budget ~ Rich Bienvenue

IV. *Residences at Lawrence Hill*

- A. Update on the Lawrence Hill project ~ Jay Coburn & Vita Shklovsky, Community Development Partnership.

V. ***Charter Changes & Town Meeting Date***

- A. Discussion of proposed amendments to Wellfleet Charter ~ Dan Silverman, Moderator
- B. Discussion and possible vote to change the Annual Town Meeting ~ Town Moderator, Dan Silverman

VI. ***Community Preservation Presentation***

- A. The committee will present their recommendations and needs to the board.

VII. ***Public Hearings***

- A. Application received on 1/18/2024 from Robert McClellan (Wellfleet, MA) and Margaret McClellan (Wellfleet, MA) for the transfer of shellfish grant license #s 85-B and 85B-A1 consisting of approximately two acres total on Indian Neck from Robert McClellan and Margaret McClellan to Robert McClellan, Margaret McClellan and Adrien Kmiec (Wellfleet, MA).
- B. Application received on 1/23/2024 from William Young, Jr. (Wellfleet, MA) for the transfer of shellfish grant license #01-04-B consisting of three acres in the deep-water area of Indian Neck from William Young, Jr. to Andrew Young (Wellfleet, MA).
- C. Application received on 1/11/2024 from Paul Lalumiere (Wellfleet, MA), James Clark (Wellfleet, MA) and Brett Morse (Wellfleet, MA) for the renewal of shellfish grant license #741 consisting of approximately 4.8 acres inside the Indian Neck Breakwater in the Inner Harbor area for nine years, eight months, and ten days beginning August 20, 2024, and expiring April 30, 2033.
- D. Application received on 1/11/2024 from Robert LaPointe (Wellfleet, MA) and Lorraine LaPointe (Wellfleet, MA) for the renewal of shellfish grant license #s 2006-01 and 2006-01 Ext. consisting of approximately two acres and 1.41 acres respectively on Indian Neck for four years and 24 days beginning April 6, 2024, and expiring April 30, 2028.
- E. Application received on 1/16/2024 from Justin Lynch (Wellfleet, MA) and Eben Kenny (Wellfleet, MA) for the renewal of shellfish grant license # 01-05-B consisting of approximately three acres in the deep-water area of Indian Neck for nine years, ten months, and 18 days beginning June 12, 2024, and expiring April 30, 2033.
- F. Application received on 1/18/2024 from Zachary Rennert (Wellfleet, MA) and Blake Olson (Wellfleet, MA) for the renewal of shellfish grant license #s 95-23 and 95-24 consisting of approximately two acres total on Egg Island for nine years, six months, and 29 days beginning October 1, 2024, and expiring April 30, 2033.
- G. Application received on 1/22/2024 from Keith Rose (Wellfleet, MA) and Lisa Dexter (Wellfleet, MA) for the renewal of shellfish grant license #s 95-25 and 95-26 consisting of approximately two acres total on Egg Island for nine years and one month beginning March 30, 2024, and expiring April 30, 2033.

VIII. ***Licenses***

- A. **Common Victualler License Renewals**

- Bob's Sub & Cone
- Box Lunch
- Ceraldi
- Endless Coast
- Even Tide Motel
- Maurice's Campground
- Moby Dick's Restaurant
- PB Boulangerie Bistro
- The Wicked Oyster
- Wellfleet Miniature Golf, Dairy Bar & Grill
- Wellfleet Cinemas
- Wellfleet Drive-In & Flea Market
- Wellfleet Motel and Lodge
- The Copper Swan
- Van Rensselaer's

B. Weekday Entertainment License Renewals

- The Wicked Oyster
- Wellfleet Miniature Golf
- Wellfleet Cinemas
- Wellfleet Drive-In & Flea Market
- The Copper Swan
- Van Rensselaer's

IX. *Business*

- A. Amendment #2 to MA Division of Ecological Restoration (MA DER) Grant to Fund Herring River Restoration Project, Phase 1 ~ Carole Ridley
- B. Intermunicipal Agreement between the towns of Eastham and Wellfleet for extension of public water supply
- C. Draft Annual Town Meeting Warrant ~ Town Administrator
- D. Ice Machine ~ Chair Carboni

X. *Selectboard Reports*

XI. *Topics for Future Discussion*

XII. *Minutes*

- A. January 16, 2024
- B. January 30, 2024

XIII. *Adjournment*

APPROVED MINUTES FROM FEBURARY 6, 2024:

Roll Call Vote: 5-0

D. Ice Machine ~ Chair Carboni

Chair Carboni explained she was looking for a volunteer to be a liaison from the selectboard to work with the small working group to move the ice machine project forward.

The board discussed and decided John would be the liaison for the board.

X. *Selectboard Reports*

DeVasto questioned the cable advisory grant for the fiber optics to the beaches.

Waldo gave a brief rundown and Eldridge stated she is working on a meeting with that group and the interim TA.

XI. *Topics for Future Discussion*

Curley spoke to the board about the town planner, asking who the interview committee was for that position. Waldo explained that he, Genoa and The Human Resource director were the three interviewers. Wolf stated that the board needs to have trust in the people that they hire. The board discussed the issues. This position was discussed and the 15-day grace period. It was asked if it was a contract position or a union position. Curley stated his objection to this.

Sayre spoke to the board about a community forum.

Curley spoke to the board about the housing workshop, he would like to discuss how to structure that meeting.

Curley would like a Route 6 resurfacing and the main street project update.

Curley gave suggestions on the capital budget.

XII. *Minutes*

A. January 16, 2024

B. January 30, 2024

Board Member Wolf Moved; Board Member Sayre Seconded; and it was voted to approve the meeting minutes of January 16th as amended and the minutes of January 30, 2024, as printed.

Roll Call Vote: 5-0

XIII. *Adjournment*

Board Member Sayre Moved; Board Member Curley Seconded; and it was voted to adjourn the meeting.

Roll Call Vote: 5-0

Meeting Adjourned: 10:45pm

Public Documents:

Application from Nancy Gralla to move from an alternate member to a voting member on the Energy and Climate action Committee.

Contract for the interim town administrator Thomas Guerino

Budget slideshow presentation

Charter change documents

Community Preservation Committee documents including recommendation.

Shellfish Grant and Transfer Paperwork

Herring River Restoration project documents concerning the #2 Amendment.

Intermunicipal Agreement for the towns of Eastham and Wellfleet for the extension of the Water Supply.

Draft Annual Town Meeting Warrant