

**SELECTMEN'S MEETING AGENDA\***

*Griffin Room, Town Hall*

*Executive Session 6:15 P.M.*

*Regular Meeting 6:30 P.M.*

*Monday, July 25, 2016*

**I. CALL TO ORDER**

**II. EXECUTIVE SESSION** - Pursuant to M.G.L. c. 30A, § 21(a)(3), to discuss strategy with respect to collective bargaining if an open meeting may have a detrimental effect on the bargaining position of the Board and the Chair declares so – HEA

**III. PLEDGE OF ALLEGIANCE**

**IV. WEEKLY BRIEFING**

**V. PUBLIC COMMENT/ANNOUNCEMENTS**

**VI. CONSENT AGENDA**

- A. Approve Minutes –
  - 1. June 5, 2016 Wastewater Subcommittee/Board of Selectmen Regular Session
  - 2. June 6, 2016 Regular Session
  - 3. June 13, 2016 Regular Session
- B. Approve application for Fair at Pilgrim Congregational Church for August 5 & 6, 2016
- C. Approve Election Officers as recommended by the Democratic and Republican Town Committees
- D. Accept resignation of Mayla Secola from the Harwich Housing Committee
- E. Award contract for Catch Basin Replacement and Installation to GFM Enterprises Inc. in the amount of \$281,300
- F. Award contract for replacement of the DPW building siding to Architectural Consulting Group in the amount of \$97,500
- G. Approve Caleb Chase Fund Request in the amount of \$614.82
- H. Vote to sign a letter of support for the CWMP for the Cape Cod Commission Hearing

**VII. PUBLIC HEARINGS/PRESENTATIONS (Not earlier than 6:30 P.M.)**

**OLD BUSINESS**

- A. License Recognition Program at Landfill update – *Lincoln Hooper*
- B. Status report on Saquatucket Harbor Waterside RFP Process – *John Rendon*
- C. OPEB Investment Policy Statement Amendment – *discussion and possible vote*
- D. Transfer Station & Beach Sticker Sales update – *discussion*
- E. Library Exterior Preservation Project – *discussion and possible vote*

**VIII. NEW BUSINESS**

- A. Letter from Sandra Hall regarding Harwich Home Rule Charter – *discussion and possible vote*
- B. Board of Selectmen FY17 Goals and Objectives – *discussion and possible vote*

**IX. TOWN ADMINISTRATOR'S REPORT**

- A. Upcoming CCMHG Updated Agreement
- B. Update on new Public Records Law
- C. Modular buildings behind the Middle School
- D. FEMA - Letter of Map Revision
- E. KP – Prevailing Wage Law for Volunteers and Inmates
- F. Non Resident Taxpayers meeting – August 8, 2016

**X. SELECTMEN'S REPORT**

- A. Chatham/Harwich Wastewater Subcommittee Meeting – *update*
- B. Committee vacancy advertising – *discussion and possible vote*
- C. General discussion on Committees – *discussion and possible vote*
  - 1. Vacancies
  - 2. Charge updates
  - 3. Members being sworn in

**XI. ADJOURNMENT**

*\*Per the Attorney General's Office: The Board of Selectmen may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following "New Business." If you are deaf or hard of hearing or a person with a disability who requires an accommodation contact the Selectmen's Office at 508-430-7513.*

Authorized Posting Officer:

Posted by: \_\_\_\_\_  
Town Clerk

Date: \_\_\_\_\_  
July 21, 2016

\_\_\_\_\_  
Sandra Robinson, Admin. Secretary

**MINUTES**  
**HARWICH SELECTMEN WASTEWATER SUBCOMMITTEE/**  
**BOARD OF SELECTMEN**  
**Town Hall**  
**Selectmen's Office**  
**732 Main Street, Harwich**  
**Regular Meeting 9:00 A.M.**  
**Tuesday, July 5, 2016**

**PRESENT:** Selectmen Hughes, LaMantia; Town Administrator Chris Clark, Assistant Town Administrator Charleen Greenhalgh.

**MEETING CALLED TO ORDER** at 9:00 a.m.

**NEW BUSINESS**

Preparation for Meeting with Chatham regarding Wastewater Inter-Municipal Agreement – *discussion and possible vote*

The Committee discussed the attached draft Inter-Municipal Agreement with Chatham in anticipation of meeting with the Chatham Wastewater Committee. No action was taken.

Respectfully submitted,

Ann Steidel  
Recording Secretary

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, JUNE 6, 2016  
6:30 P.M.**

**SELECTMEN PRESENT:** Brown, Hughes, Kavanagh, LaMantia, MacAskill

**OTHERS PRESENT:** Town Administrator Christopher Clark, Chief Guillemette, Amy Usowski, Leo Cakounes, Carole Ridley, Mr. Fitzpatrick, and others.

**MEETING CALLED TO ORDER** at 6:30 p.m. by Chairman MacAskill.

**PUBLIC COMMENT/ANNOUNCEMENTS**

Mr. Clark reported that due to an error, the Cumberland Farms hearing to amend their gas tank permit did not make it on the agenda. He asked if the Board would be willing to hold the hearing on June 20, 2016 and the Board agreed to do so.

Eileen Brady, President of the Harwich Historical Society, introduced their new Executive Director Janet Cassidy who announced upcoming events.

Chief Guillemette announced that this Thursday at Bentley University the Municipal Police Training Committee is recognizing a number of public officials for their CPR and First Responder capabilities including Fire Chief Norm Clarke, Deputy Police Chief Tom Gagnon, and Officer Derek Dutra for saving a woman's life on the bike trail last year when she suffered a cardiac arrest. He congratulated them and thanked them for their service.

**CONSENT AGENDA**

Chairman MacAskill noted that the date in Item D should be June 25, 2016 rather than June 28, 2016.

- A. Approve Minutes
  - 1. May 23, 2016 – Regular Session
  - 2. May 23, 2016 – Executive Session
  - 3. May 31, 2016 – Executive Session
- B. Accept donations amounting to \$6,158 received from the “Rockin’ for the Reef” event to be deposited in the Reef Account
- C. Approve application for Change of Manager on liquor license for Allen Harbor Yacht Club
- D. Approve application for a “Special Permit” for relief from the town Noise By-Law (Section G) for an event to be held on June 28, 2016 by the Cakounes Family
- E. Approve and sign Muddy Creek Change Orders
- F. Confirm the appointment of Katie Varley as Executive Assistant to the Police Chief effective on July 1, 2016

- G. Confirm the appointment of Josh Majka as Laborer for the Water Department effective on June 13, 2016
- H. Approve the applications for the Chamber of Commerce parade on September 18th and Road Race on June 25th.

Ms. Kavanagh moved approval of the Consent Agenda. Mr. Hughes seconded the motion and the motion carried by a unanimous vote. Chief Guillemette introduced Ms. Varley to the Board.

## **NEW BUSINESS**

- A. Authorize the Town Administrator and the Conservation Commission to prepare and submit applications for a state LAND grant of up to \$400,000 to acquire the Marini property – *discussion and possible vote*

At Mr. Clark's recommendation, Mr. Hughes moved to authorize the Town Administrator and the Conservation Commission to prepare and submit applications for a state LAND grant of up to \$400,000 to acquire the Marini property. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

- B. Beach Road Easement Issues – *discussion and possible vote*

Mr. Clark explained that in March of 1972, Annual Town Meeting approved for the Town to take an easement in Beach Road and he noted that the people that have a right to the property are the Fitzpatricks. He stated that some litigation ensued and the Settlement Agreement was reached on May 6, 2013. He highlighted components of the agreement including signage, trimming vegetation, beach nourishment, erosion control and sending a letter to Fitzpatricks that we do not intend to extend the groin. He noted that eminent domain was taken only to acquire the easement.

Ms. Usowski stated that Mr. Fitzpatrick applied this spring through her office to remove the invasive plants on the side of the easement and replant native and she thought removal of invasive plants from the buffer zone to the coastal dune was a positive thing but at the time she was not privy to the settlement agreement. She explained that the work has been done and the plan shows a split rail fence at the toe of a dune which she considers a protective resource. She reported that over the years, the Fitzpatricks have had numerous renditions of fencing down there to protect the toe of the dune and she saw this as no different. She stated that from a Conservation standpoint, she thought this was a good thing to keep people off the dune which is a protected resource. She noted that she received a number of emails that were above her purview about whether this meets the conditions of the agreement so she brought it to the Board of Selectmen. She noted that she did this under Administrative Review Permit which does not require abutter notification. She took questions from the Board. Mr. Clark took questions as well with regard to the Kopelman and Paige legal opinion.

The Board took comments from the public as follows:

Nathan Scherr asked Ms. Usowski to explain how a split rail fence protects a dune.

Gerard Elias commented about the toe of the dune, which he said appears to have been extended. He said the split rail fence abuts the boardwalk and asked the Board to take another look at it as it appears to be a land grab. He said he doesn't believe that what is in the submitted drawings is what has been erected.

Mark McGowan agreed that it is a land grab and said we should have full easement 184 feet going down to those parcels and that Mr. Fitzpatrick is continuing to put in obstacles and he needs to be stopped.

Kevin O'Shea said he fails to see how the split rail fence does anything to protect those dunes and it is substantially different than the drawings.

Ruth Stevenson said the split rail fence will not prevent erosion and it is unrealistic to say that it is to keep people out. She said it is not a natural dune and may have contaminants in it and it was created by Mr. Fitzpatrick. She also had concerns about injuries from the snow fencing.

Audrey Ely said this cuts into the beach, it's a huge triangle and it screams land grab. She commented that it contradicts the spirit of the agreement.

Ms. Usowski offered to bring the Board down to the site and said she would get them copies of all the letters and what she permitted. Mr. Hughes noted that the fence is a combination of split rail and snow fence.

Trudy DeLory provided a chronology of photos starting 40 years ago to show the drastic change. She asked the Board to reconsider the fence and the importance of that easement.

Ms. Kavanagh questioned if it would be an improvement to have beach grass as a natural fence rather than the fence. Ms. Usowski noted that without the fence there has been damage to the natural vegetation. Mr. Hughes questioned the Town's right to remove sand as it closes in and encroaches on the boardwalk on the 40 foot easement. Ms. Usowski responded that since the area has been allowed to naturalize over 30 years it starts to become protected by the state as well as the Harwich Local Wetlands bylaw. She stated that once vegetation takes hold on the land form it would have to go to Conservation for any alteration to the land form.

Mr. Clark stated that he doesn't think a lot of people were aware of this 2013 Settlement Agreement and they should be given fair opportunity to look at that. He stated that Ms. Usowski should look at what was submitted and what was constructed to see that it is in compliance and to accumulate the letters for the Board and then if the Board would like to hold a public hearing they can and if it comes back as being pursuant to the agreement then the Board needs to decide if they want to provide information to the community to that affect. Mr. LaMantia suggested asking Kopelman & Paige what power we actually have based on this. Mr. Clark said he would like to get a better legal history and see if there is anything we missed and Mr. LaMantia said we should explain what is going on now and see what options we have.

Mr. Sadowski, of Recreation and Youth Commission expressed concerns about the height of the fence and said he would like to take this back to his Board and have their Director look at it. He said to keep people out you would need a higher fence and it is dangerous if someone trips on it.

Chairman MacAskill said they are going to review all the documents. He encouraged the public to read the legal opinion and said they will revisit this.

The Board took comments from Mr. Fitzpatrick regarding the fence. He stated that the land grab comments were offensive as they own it and the Town has a right of passage over it.

C. Submission of Watershed Compliance Reports – David Young – *discussion and possible vote*

Mr. Young noted that the Board has the drafts prepared for the Herring River, Allen Harbor, Wychmere Harbor and Saquatucket Harbor watersheds and it is required by EPA in the 208 update, as prepared by the Cape Cod Commission, to submit an update for each watershed by the Wastewater Treatment Plant Management Authority which designated to be the Board of Selectmen. He noted that they are due this month. He further noted that he also drafted a letter authorizing the Town Administrator to submit to the Cape Cod Commission on the Board's behalf. Mr. Clark was concerned that the Pleasant Bay area was not part of the overall submission and questioned if that was the only one that was excluded. Mr. Young said it was discussed and Mr. Proft indicated that the Pleasant Bay Alliance was doing that on the Board's behalf. Mr. Hughes said the numbers that are in here are consistent with the CWMP with regard to those four watersheds. Mr. Clark stated that it is important that this be a Town submission of all the different areas and certainly an acknowledgement that we do have this agreement and we are working with the Alliance, but he thinks it needs to be a Selectmen's submission as the Wastewater Treatment Authority. Mr. Hughes disagreed and said we need to agree with these numbers first and then discuss with Ms. Ridley. Mr. Hughes moved to approve the Watershed reports for Allen Harbor, Wychmere Harbor, Saquatucket Harbor and the Herring River as prepared and submitted to us by CDM Smith and authorize Mr. Clark to file on their behalf. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

D. Draft letter from Pleasant Bay Alliance to Cape Cod Commission regarding Watershed Plan and update on Watershed Report – Carol Ridley – *discussion and possible vote*

After a lengthy discussion with Ms. Ridley and Mr. Young regarding the composition and submittal of the watershed report as it pertains to Pleasant Bay, Mr. Hughes moved that we direct David Young at CDM Smith to revise his watershed report that he has done so far to include the Harwich portion of the Pleasant Bay watershed, make sure the numbers are consistent with what we have in our CWMP and bring it back to the Board for our approval for submission to the Cape Cod Commission. Ms. Brown seconded the motion and the motion carried by a unanimous vote.

E. Amend the Personnel By-Law Plan for FY 2017 in keeping with union increases – *discussion and possible vote*

At Mr. Clark's recommendation, Mr. Hughes moved that we approve the non-union compensation plan as presented by the Town Administrator. Ms. Brown seconded the motion and the motion carried by a unanimous vote.

## **TOWN ADMINISTRATOR'S REPORT**

Mr. Clark reported that some improvements had been made to the Route 39 and Pleasant Bay Road intersection and the Police Department has indicated that the number of accidents has been significantly reduced. He said they will be taking out some shrubs to improve site distance and once the road safety audit is final it will be presented to the Board.

He stated that we need to address that we don't have hot water at Middle School and he is going to see if we have money available for that. He stated that Mr. Libby noted to him that there are 2 portable trailers in the back of the school and they are well beyond their useful life. He said we will see if there is any value and if not we should have them removed as they are an impediment in the operation of the building. Chairman MacAskill said he will put on the agenda and Mr. Hughes said we should discuss use of the building as well.

## **SELECTMEN'S REPORT**

- A. Selectmen Liaisons for 2016-2017 – *discussion*
- B. Committee interview process - *discussion*
- C. Selectmen Goals and Objectives – *discussion*

Chairman MacAskill asked the Board to review and provide input for Items A and C. With regard to Item B, Mr. LaMantia said he met with Ms. Brown and discussed the process. He stated there is concern about how long some people have been on committees and there was discussion about how to encourage residents to join committees.

## **ADJOURNMENT**

Mr. Hughes asked that the Board be provided with an explanation of the new Request for Information regulations sometime this summer.

Chairman MacAskill adjourned the meeting at 8:48 p.m.

Respectfully submitted,

Ann Steidel  
Recording Secretary

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, JUNE 13, 2016  
6:30 P.M.**

**SELECTMEN PRESENT:** Brown, Hughes, Kavanagh, LaMantia, MacAskill

**OTHERS PRESENT:** Town Administrator Christopher Clark, Assistant Town Administrator Charleen Greenhalgh, Carolyn Carey, Chief Guillemette, Chief Clarke, Barbara-Anne Foley, Matt Hart, Charles Helliwell, Richard Gunderson, and others.

**MEETING CALLED TO ORDER** at 6:30 p.m. by Chairman MacAskill.

**WEEKLY BRIEFING**

Chief introduced new Police Officer Ryan Fazzino to the Board.

**CONSENT AGENDA**

- A. Approve Minutes - May 31, 2016 – Regular Session
- B. Approve FY17 Committee Re-appointments
- C. Approve FY17 Miscellaneous Appointments
- D. Approve FY17 Annual Police Appointments
- E. Approve the appointment of Ryan Fazzino as a Full-time Regular Police Officer effective July 1, 2016 with an annual salary of \$46,020.21 (P-3, Step 1)
- F. Approve and authorize Chair to sign Cooperative Agreement with Barnstable County for dredging program
- G. Approve the Application for Weekday Entertainment License for the Mad Minnow Bar & Kitchen at 554 Main St. (Rt. 28) in Harwich Port

Ms. Kavanagh moved approval of the Consent Agenda. Mr. Hughes seconded the motion. Chairman MacAskill noted that Items B and G will be taken out of order. The motion carried by a unanimous vote. Ms. Kavanagh moved approval of Item B FY17 Committee Re-appointments. Ms. Brown seconded the motion. Mr. Hughes expressed concern about issues of attendance on the Historic District Commission. He stated that the Town Engineer brought forward the concept of fiberglass reinforced columns at the Library and the Commission said they don't want them. He noted that Town Counsel said that the only recourse is through power of appointment or to go to the State Judicial Supreme Court which is very expensive and time consuming. He said that as a minimum the individuals put forward for reappointment should be interviewed to determine attendance and any other issues involved. He amended the motion to include "with the exception of the Historic District Commission." Mr. LaMantia seconded the motion. Ms. Brown commented that she doesn't know that they can interview based on a member not agreeing to plastic columns. Mr. MacAskill stated that it was an attendance issue. Mr. Hughes noted that the Board also got "stood up" for their annual report. Mr. McManus stated that he doesn't know the reasons for their vote but Harwich Center is a nationally registered historic district and they should follow the Secretary of Interior's guidelines on rehabilitation of historic structures which state that



you need to reuse existing materials to the greatest extent possible and only replace when it is beyond repair which is not the case, and if you do replace it, it should be replaced with materials in kind. He further noted that it is a Community Preservation Act requirement to follow the Secretary of Interior's guidelines. Chief Clarke commented that in certain areas you have to look at common sense and use current technology and he added that there is a time to listen to professionals and Mr. Cafarelli is a professional. Ms. Brown said she is not comfortable with this as she hasn't received any correspondence on attendance and it is not right to single out one committee. The motion failed on a 2-3-0 vote with Ms. Brown, Mr. LaMantia and Ms. Kavanagh in opposition. Mr. LaMantia moved to approve the committee appointments as presented. Ms. Brown seconded the motion and the motion carried by a 3-2-0 vote with Mr. Hughes and Mr. MacAskill in opposition. Ms. Kavanagh moved approval of Item G, approve the application for Weekday Entertainment License for the Mad Minnow Bar & Kitchen at 554 Main St. (Rt. 28) in Harwich Port. Ms. Brown seconded the motion. Mr. Hughes stated that the application is incomplete as they did not tell us when they want to have entertainment or if it is inside or outside. Ms. Greenhalgh said the hours on the license are consistent with other establishments. Mr. McManus noted that the previous establishment was limited to indoor because of the residential use next to their patio. Mr. Hughes moved to approve the application by Mad Minnow for Weekday Entertainment License for indoor application at this time with hours of entertainment consistent with other establishments in the area. Ms. Brown seconded the motion. Ms. Kavanagh withdrew the original motion and Ms. Brown withdrew her second. Mr. Hughes' motion carried by a unanimous vote.

#### **PUBLIC HEARINGS/PRESENTATIONS** *(Not earlier than 6:30 P.M.)*

- A. Saquatucket Development Committee request for Selectmen's public review and approval of the Saquatucket Landside Concept plans – Matt Hart

Matt Hart of the Saquatucket Development Committee, thanked all departments and staff involved in this cooperative effort. Harbormaster John Rendon provided the details of the plan (see attached Power Point presentation). Mr. Cafarelli stated that he is comfortable with site plan but would have to go out to bid for architectural services for the buildings and the architect would be doing the construction supervision. He added that he might go out to bid for the hydro-geologic services as there some things he doesn't feel comfortable with. Mr. Rendon said he expects the project to be in the \$2.5 to \$3 million dollar range. Mr. Hughes asked if they would seek a liquor license for the café and Mr. Rendon responded that they would. Mr. Hughes stated that the lease payments over time should cover building and septic costs. He added that they should be prepared with an alternative use should the café not work out. Mr. Rendon said they can put bid a package together within a couple of months after approval of what they are proposing. The Board and Mr. Rendon took questions and comments from Mr. Helliwell and Mr. Gunderson. Mr. LaMantia moved to accept the preliminary site plan for the land side portion of Saquatucket Harbor as presented and support moving forward towards the construction phase. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

#### **OLD BUSINESS**

- A. Middle School Interim Use – *discussion and possible vote*

Mr. Clark outlined the following memo to the Board regarding continued use of the Middle School dated June 9, 2016:

During my time as Town Administrator, I have been attempting to minimize costs to the Middle School as the Town deliberates its re-use. Once the building was officially turned over to the Town from the Monomoy Regional School District, I set up a process in which Sean Libby, Facility Maintenance Director was responsible for maintenance of the building and grounds; Carolyn Carey, Community Center Director was given the task of seeking various parties to utilize overflow space from the Community Center; and Eric Beebe, Recreation Director, was encouraged to also make use of the building for recreation programs. The primary intent of these actions was to retain some level of use in the building to be able to minimize insurance costs, and having a presence in the building would allow for better observation of its status. I believe this initial Administration effort has been successful but is not permanently sustainable.

The Board was initially inclined to utilize the building for housing purposes and then last year requested a non-binding ballot question be put forth for the voters to consider the re-use at the May 2016 Annual Town Election. The ballot question results came in as follows:

- |                 |   |           |
|-----------------|---|-----------|
| 1. Option three | sale of building for affordable or senior housing           | Votes 653 |
| 2. Option four  | retention as private self-sustaining cultural center        | Votes 393 |
| 3. Option one   | retention as a relocated Town hall and community activities | Votes 295 |
| 4. Option two   | demolition and retention of land for future general use     | Votes 156 |

**I believe that a key policy decision needs to be made by the Board of Selectmen in regards to which direction should the re-use of the Middle School be made.**

In my previous experiences, I have seen such questions emerge for elected officials. One consideration to be made is that without a clear definitive direction being achieved by the elected officials, then perhaps Administration should put together a more formal Interim Use Plan for the Middle School.

The Interim Use Plan that I would propose would be to pursue modest maintenance only with a more intensive use of the building. Options 4 and 1 call for use of the building as a cultural center or for other community activities. During this last two year, Administration, working with the above department heads, has only allowed for very short term use of the building. I would suggest that an Interim Use Plan would be for a period of five years with the intention of doing license agreements or rentals throughout the building and also establish a revolving account for the deposit of revenues to offset the increased costs to operate. This interim period of time could provide the Board with valuable information regarding the actual viability of operating the Middle School as a cultural center. The Town already has a very heavily utilized Community Center and Administration does not believe that a duplication of services is warranted. I have had initial discussions with Sean, Carolyn and Eric regarding giving them the opportunity to see if the concept of a cultural and recreation center has viability at that site. We have attached some materials regarding its current utilization and costs for the Board to consider.

The FY 16 budget included the line item of \$125,000 for the operation of the Middle School. It appears based upon current spending, that approximately \$50,000 will remain from this allocation and if not utilized will fall to so-called free cash at the close out of the budget. I have had preliminary conversation with Sean Libby about what recommendations he would have regarding minimal maintenance requirements for the school that could be done. First, he recommended that the portable classrooms at the rear of the building should be detached and sold or demolished. Second, if there is a desire for greater utilization of the building then the domestic hot water system will need to be repaired. These are two preliminary recommendations that will have to be followed up prior to June 30, 2016

If the majority of the Board of Selectmen vote consistent with option 3 to sell the building for affordable or senior housing, Administration will update the previous RFP making the necessary adjustments to limit any housing proposals to the strict footprint of the existing building. Any RFP process will need to include a formal town warrant article and Town Meeting action for the disposition of the property to a private party. The current status could be retained until such time as Town Meeting deliberations are concluded.

Mr. LaMantia and Mr. Hughes asked that operating costs be provided and Mr. Hughes said the building should be self-sustaining. The Board took questions and comments from Mr. Gunderson and Ms. Pflieger.

Mr. Hughes moved that with funds that are currently available through the end of this year, that we approve restoring minimal hot water service to the school in those areas that are being used at the moment primarily the bathrooms around the gym. Ms. Brown seconded the motion and the motion carried by a 4-1-0 vote with Mr. LaMantia in opposition.

Mr. Hughes moved that assuming the funds are available, first and foremost we see if we can't sell, we get somebody interested in paying to take away those two portable classrooms and short of that, if that doesn't work out, that we get them demolished or removed somehow someday once we know the cost though. Mr. LaMantia seconded the motion. Mr. Clark said he would like authorization to do the demolition if we don't get anyone to take them. Mr. Hughes amended his motion to including encumbering the funds to knock them down and dispose of them. Ms. Brown expressed concerns about getting rid of space that could be utilized especially as we don't know what we are doing with the building yet. Mr. Clark stated that Mr. Libby has indicated that the structures are ancillary to it and expensive to operate. He said they are well past their useful life. Ms. Kavanagh suggested offering it to Town departments and Mr. Clark said we could offer to other governmental agencies such as the Tech School. The motion carried by a 4-1-0 vote with Ms. Brown in opposition.

Ms. Brown moved to charge Administration with the task of developing a 2 year interim use plan of operation of the former Harwich Middle School including Town use and possible lease agreements with interested non-profit organizations. Ms. Kavanagh seconded the motion. Mr. Hughes said he would rather wait to see what the potential uses are. Mr. Clark should we should at least see what the marketplace has. After a lengthy discussion, Ms. Brown moved to amend her motion to say "possible license agreements" instead of "lease agreements." Ms. Kavanagh felt that it might discourage those who are interested in a longer term. Mr. Clark noted that right now it is only zoned for single family and any change would have to go to Town Meeting. He added

that the licensees would probably be looking at a license agreement of at least a year and they would have lead time should they need to get out. Ms. Kavanagh seconded the amended motion made by Ms. Brown. Mr. LaMantia amended the motion that they do not go over the budget that is already approved for this year and next year. Ms. Brown seconded the amendment made by Mr. LaMantia. Mr. Hughes asked for clarification on the amendment and it was agreed that they would not go over the FY17 budget. Mr. Hughes recommended they wait the three weeks when they have the financial numbers in front of them. At the request of the Chair, Ms. Brown restated her amended motion as follows: to charge Administration with the task of developing a 2 year interim use plan of operation of the former Harwich Middle School including Town use and possible license agreements with interested non-profit organizations. Mr. LaMantia restated his amendment as follows: and that this be handled within the FY17 budget. Mr. LaMantia's amendment failed on a 2-3-0 vote with Ms. Kavanagh, Mr. Hughes and Chairman MacAskill in opposition. Ms. Brown's amended motion carried on a 3-2-0 vote with Mr. LaMantia and Mr. Hughes in opposition.

B. Selectmen Liaison assignments for the 2016-2017 year

Ms. Brown moved to accept and adopt the Selectmen Liaison assignments for FY2017. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

C. Selection of McGinley, Kalsow & Associates, Inc. for the Library Painting Restoration Project Funded through CPC

Mr. Hughes moved to authorize Sean Libby's recommendation on McGinley, Kalsow & Associates for library painting restoration design work provided that the cost does not exceed \$25,000, if it does exceed \$25,000 that we would go out to bid. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

**TOWN ADMINISTRATOR'S REPORT**

A. Letter of Appreciation/Recognition to Community Development Departments

Mr. Clark noted that a letter was received from a builder recognizing the outstanding service provided by particular employees.

**SELECTMEN'S REPORT**

Mr. LaMantia noted that there was an article in the Cape Cod Times about the Pleasant Bay Alliance joining an organization that is dealing with climate change. He said he would like to write a note to the Pleasant Bay Alliance asking them if they have support of the other towns and will they be using Town funds to pursue this activity. He commented that they only deal with a quarter of the Town so he would think they would have people from other areas of Town. Chairman MacAskill asked Mr. LaMantia to send any questions to him and he will request the Alliance to come in.

Chairman MacAskill asked Mr. Hughes if he would serve on the negotiating team with Mr. LaMantia for the Chatham IMA and Mr. Hughes agreed to serve in this role.

## **ADJOURNMENT**

Chairman MacAskill adjourned the meeting at 9:23 p.m.

Respectfully submitted,

Ann Steidel  
Recording Secretary



OFFICE OF THE SELECTMEN  
732 MAIN STREET  
HARWICH, MA 02645  
Telephone: (508) 430-7513



APPLICATION FOR LICENSE/PERMIT

PLEASE CHECK

ROAD RACE

CRAFT FAIR

OTHER

IN ACCORDANCE WITH THE PROVISIONS OF THE STATUTES RELATING THERETO, APPLICATION AS STATED ABOVE IS HEREBY MADE BY:

NAME OF BUSINESS

Pilgrim Congregational

774-237-0035

PHONE

BUSINESS ADDRESS

533 Route 28

MAILING ADDRESS

same

PLEASE STATE THE PURPOSE FOR WHICH LICENSE/PERMIT IS REQUESTED

Church Fair August 5 and 6

DESCRIPTION OF ROAD RACE/CRAFT FAIR/OTHER EVENT TO BE LICENSED, PLEASE LIST DATE, TIME, LOCATION/ROUTE, ETC.

DATE

August 5 and 6

TIME

10AM to 3PM

ROUTE/LOCATION

533 Route 28

(please use reverse side if necessary)

X John Preston

Signature of Applicant

Treasurer

Title

~~Social Security Number~~ of Federal Identification Number

X Pilgrim Congregational Church  
Signature of Individual or Corporate Name

Tax Exempt ID (for non-profit organizations)

John Preston  
By Corporate Officer (if applicable)

\*\*\*REGULATORY COMPLIANCE FORM\*\*\*

THE EVENT(S) TO BE LICENSED AS DESCRIBED HEREIN HAVE BEEN REVIEWED AND APPROVED BY:

[Signature] 7/12/16  
Police Department Date

[Signature] <sup>one trent</sup> 7-12-16  
Building Commissioner Date

Recreation & Youth Commission Date

[Signature] 7-12-16  
Board of Health Date

[Signature] 8/12/16  
Fire Department Date

\*\*\*Required signatures are to be obtained by the Applicant prior to submission of application with the Selectmen's Office.

---

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For Office Use Only

FEE \_\_\_\_\_ CASH \_\_\_\_\_ CHECK \_\_\_\_\_

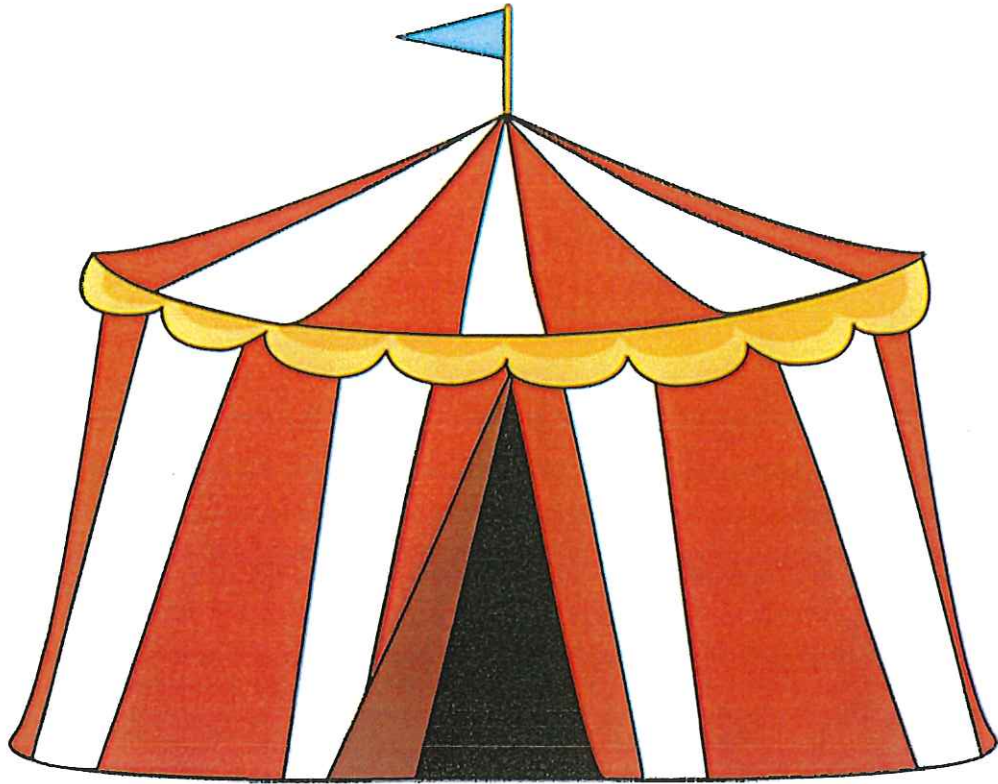
FOR \_\_\_\_\_

REVIEWED BY \_\_\_\_\_

DATE LICENSE ISSUED \_\_\_\_\_

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SAVE THE DATES:

JUMBO PILGRIM CHURCH FAIR

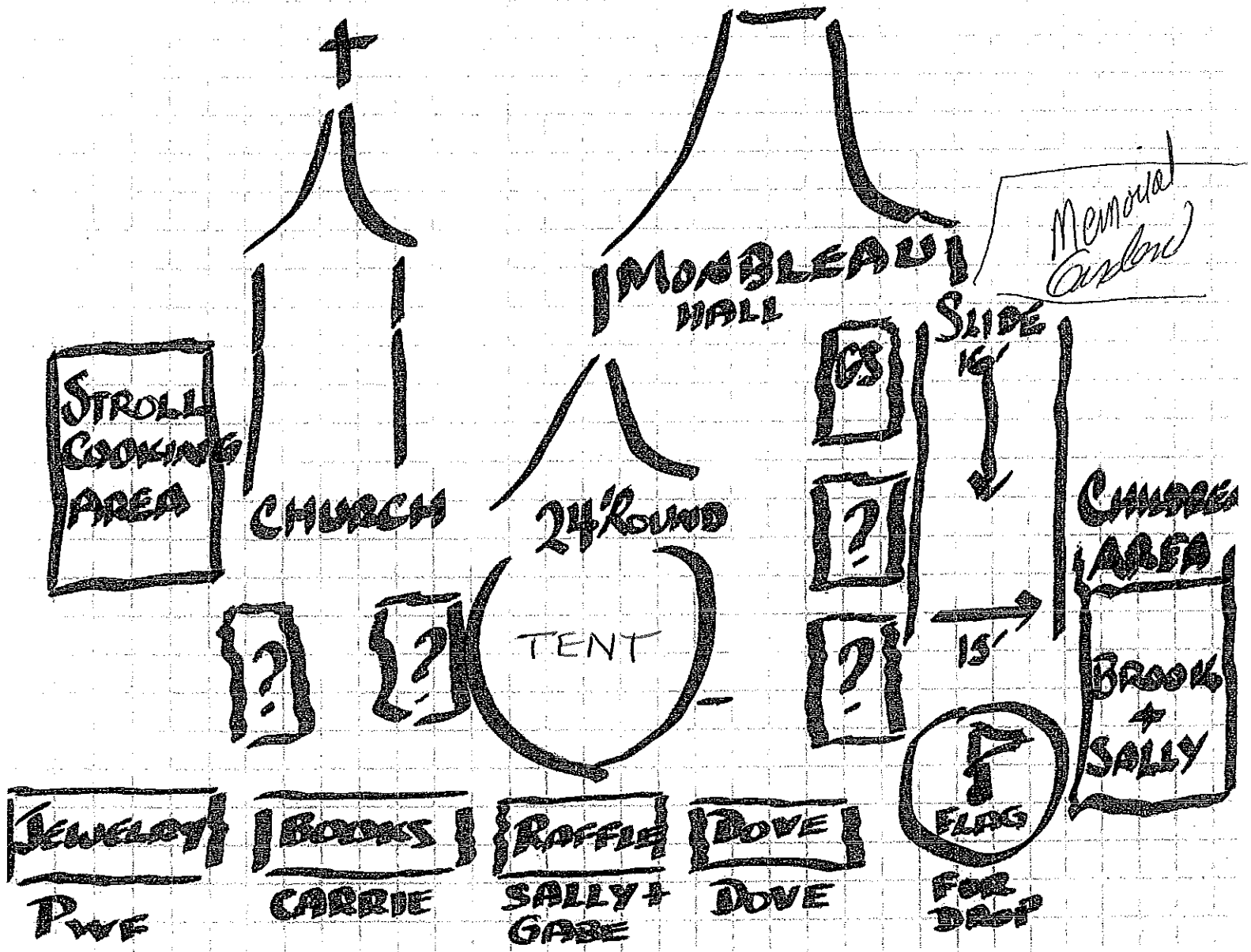
WHEN: FRIDAY AND SATURDAY

AUGUST 5<sup>TH</sup> AND 6<sup>TH</sup>

FROM 10 AM TO 3 PM

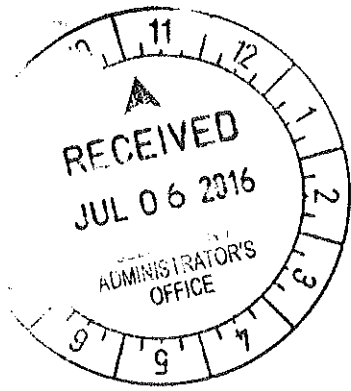
WHERE: ON OUR LAWN AT THE PILGRIM CHURCH,  
533 MAIN STREET, ROUTE 28.





SIDEWALK

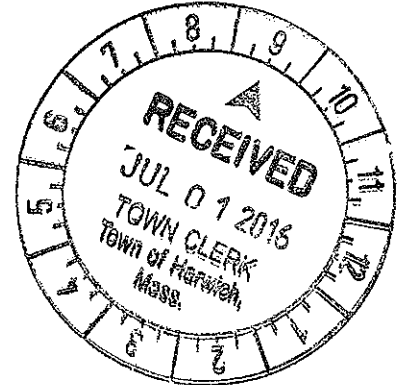
ROUTE 28



Raymond Gottwald, Chairman  
 Democratic Town Committee  
 38 Huckleberry Path  
 Harwich, MA 02645

June 30, 2016

The Honorable Board of Selectmen  
 Harwich Town Offices  
 732 Main Street  
 Harwich, MA 02645



To The Honorable Board of Selectmen:

As requested, and in accordance with Massachusetts General Laws, Chapter 54, Section 12, the Harwich Democratic Town Committee submits the following names of enrolled Democrats who desire to be Election Officers for a one-year period beginning September 1, 2016.

It is our understanding that the Board of Selectmen shall, not earlier than July 14, 2016, not later than August 11, 2016, appoint Election Officers for each precinct from this filed list, which has also been submitted to the Town Clerk and Board of Registrars.

<b>Johanne M. Arnemann</b>	<b>89 Pleasant Bay Rd</b>	<b>Harwich</b>	<b>432-3655</b>
<b>Joyce E. Bearse</b>	<b>19 Sequattom Road</b>	<b>Harwich</b>	<b>432-1892</b>
<b>Sheila Bowen</b>	<b>64 West Tupelo</b>	<b>Harwich</b>	<b>432-7956</b>
<b>Virginia Burke</b>	<b>16 Harwood Avenue</b>	<b>Harwich</b>	<b>432-9710</b>
<b>Charles Callahan</b>	<b>4 Woodbine Road,</b>	<b>Harwich Port</b>	<b>432-3740</b>
<b>Mary Clarke</b>	<b>3 Fairways Drive</b>	<b>Harwich</b>	<b>432-4762</b>
<b>Joan Callahan</b>	<b>4 Woodbine Road,</b>	<b>Harwich Port</b>	<b>432-3740</b>
<b>Ursula Corbett</b>	<b>2 Baddeck Street P.O. Box 1642</b>	<b>Harwich</b>	<b>432-3272</b>
<b>Mary Eagan</b>	<b>EchoWoods Road, Box 191</b>	<b>South Harwich</b>	<b>432-8452</b>
<b>Donna W. Eaton</b>	<b>159 Long Pond Dr</b>	<b>Harwich</b>	<b>430-4372</b>
<b>Carolyn Flahive</b>	<b>3 Johns Way,</b>	<b>Harwich</b>	<b>432-9207</b>
<b>Leslie Flynn</b>	<b>54 Oak Street</b>	<b>Harwich</b>	<b>432-2576</b>
<b>William Flynn, Jr</b>	<b>54 Oak Street</b>	<b>Harwich</b>	<b>432-2576</b>
<b>Dorothy M. Harrington</b>	<b>19 Village Green</b>	<b>Harwich Port</b>	<b>432-9150</b>
<b>Laurel Johnson</b>	<b>Wilmas Way,</b>	<b>Harwich</b>	
<b>Larry D. Knight</b>	<b>34 Uncle Venies Road</b>	<b>Harwich</b>	<b>432-0341</b>

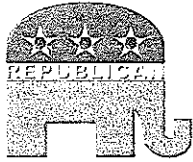
Shirley Knowles	62 Oak Street	Harwich	432-1048
Valerie M. Knight	34 Uncle Venies Road	Harwich	432-0341
Mary Larkin	312 Bank Street	Harwich Port	432-7541
Kathleen M. Teahan	3 Pleasant Avenue	Harwich Port	430-1369
Wilfrid Remillard	642 Queen Anne Road	Harwich	432-6249
Catherine A. Sacramone	43 Division Street	West Harwich	432-4718
Janet Silverio	7 Harvest Hollow Dr	Harwich	430-1712
Arkaline Silverio	7 Harvest Hollow Dr	Harwich	430-1712
Sandra Shelton	42 John Nelson Way,	Harwich	430-5389
Jacqueline Stiles	65 John Nelson Way,	Harwich	432-0968
Susan Weinstein	21 Lake Street	Harwich	432-1165
Joyce Phillips	18 John Nelson Way	Harwich	430-1888
Pessolano, Alyssia	89 Pleasant Bay Road	Harwich	
Maddyline Hastings	30 Kendrick Road	Harwich	
Tina Games Evans	1 Panorama Point Dr	Harwich	
Simon Evans	1 Panorama Point Dr	Harwich	

I will contact you if there are any additional names to be added to this list.  
Thank you for your consideration in this matter.

Respectfully,

*Raymond C. Gottwald*

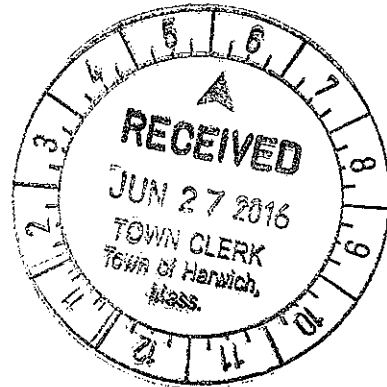
Raymond Gottwald, Chairman  
Harwich Democratic Town Committee



Harwich Republican Town Committee  
P O Box 1374  
Harwich, MA 02645

June 16, 2016

Board of Registrars  
Town of Harwich  
732 Main Street  
Harwich, MA 02645



**Subject: List of Election Workers**

**Attached please find the List of Harwich Republican Town Committee Workers for 2016.**

**Best regards,**

**Peter Hughes, Chairman  
Harwich Republican Town Committee**

**Attachment**

## 2016 Republican Election Workers

Ruth Barnett	18 Rainbow Way, Harwich	432-3648
David Bassett	8 Moody Road, Harwich Port	237-1514
Emily Brutti	28 Hillcrest Drive, Harwich	
Dorothy Hemmings-Bassett	8 Moody Road, Harwich Port	237-1514
Janet Bowers	142 Kendrick Rd, Harwich	432-8895
Richard Bowers	P O Box 244, Harwich	432-8895
Eric Carroll	434 Lower County Road, Harwich Port	432-9316
Gayle Carroll	434 Lower County Road, Harwich Port	432-9316
Lee Chase	2 Robbins Road, Harwich Port	432-2236
Judy Davis	170 Gorham Rd, Harwich Port	432-9312
John Eldredge	9 Forsythia Rd, Harwich	432-0965
Marjorie Frith	231 Route 28 23, West Harwich	430-1104
Richard Gomes	15 Ridgevale Rd, South Harwich	432-1431
Jeffrey Hadley	29 Scotlin Way, Harwich	432-3124
Sandra Hall	24 Intervale Ln, Box 426, South Harwich	432-1963
Donald Howell	14 Haskell Lane, Harwich	430-1672
Linda Hughes	41 Martha Ln, Box 54, South Harwich	432-7512
Janet Kaiser	4 Spring Tide Lane, Harwich	432-3277
Ann Kaplan	154 Clearwater Dr, Harwich	432-9886
Barbara Madson	247 Church St, Harwich	432-2945
Beverly Millar	11 Carriage Lane, Harwich	432-3142
MaryAnn Pina	3 Frances Road, Harwich	432-8455
Deborah Sementa	1 Captain Bearse Rd, Harwich	432-6147
Judith Sullivan	4 Paddock Road, Harwich	432-5526
Pat Switchenko	3 Riley Road, Harwich	432-2458
Lou Urbano	152 Riverside Drive, West Harwich	858-922-4212
Sally Urbano	152 Riverside Drive, West Harwich	425-583-8494

July 6, 2016

Board of Selectman  
Harwich Town Hall  
732 Main St.  
Harwich, Mass 02645



Dear Board of Selectman,

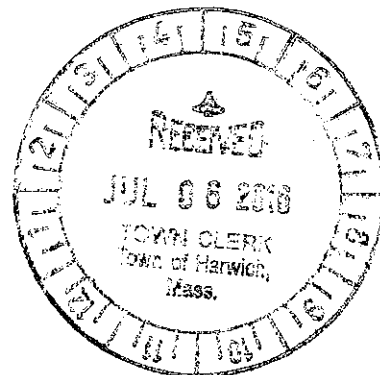
This letter is in reference to the Harwich Housing Committee (HHC). I recently moved to Ocean Edge in Brewster after completing my MSW. As a result of this recent move, I no longer qualify to sit as Chair of the Harwich Housing Committee. My last HHC meeting as Chair will be Monday, July 11<sup>th</sup> at 5pm. I want to thank each and every one of you whom I have met and have had the pleasure of working with. I thoroughly enjoyed being on the HHC and honestly, I learned a great deal. It is my hope after I complete my PhD in Psychology, I will be available to return to sitting on Board or Committee in my community.

I was first appointed to the HHC in 2011 by former BOS Ed McManus. During my five years on the Board I was very fortunate to work with some great members. Former HHC members Gerry Loftus and David Purdy were a wealth of knowledge as was David Spitz who was very significant in leading the direction of the HHC. All these individuals, like myself have a strong passion for Affordable Housing. This passion is something that does not dissipate over time. It is my hope the current and new members of the HHC will continue to work towards building additional Affordable Housing in the Harwich Community.

Best Regards,

Mayla Secola, LSW, MSW

cc: David Spitz, Town Planner  
Harwich Housing Authority Board Members  
Harwich Housing Committee Board Members





# TOWN OF HARWICH

## DEPARTMENT OF PUBLIC WORKS


273 Queen Anne Road • P.O. Box 1543 • Harwich, MA 02645

Telephone (508) 430-7555

Fax (508) 430-7598

### MEMORANDUM

**TO:** Board of Selectmen

**FROM:** Lincoln S. Hooper, Director 

**DATE:** July 13, 2016

**RE:** Recommendation for Drainage Contract Award



---

On June 2, 2016, we conducted a public bid opening for the installation of drainage structures within the Town of Harwich and opened four bids, ranging in price from \$281,300 to \$441,800. Based upon my review of the submitted bids and reference checks, I am recommending that you award the low bidder, GFM Enterprises Inc., the contract in the amount of \$281,300.

GFM Enterprises is relatively new to municipal sector work with only one dredging job for the Town of Barnstable completed to date. Roger Parsons, Barnstable Town Engineer, "found their communications skills to be good and their attention to detail positive aspects of their performance" and recommended hiring them.

GFM Enterprises did not have their MassDOT Prequalification Certificate when they bid this contract, but recently acquired it knowing it was an important component to performing municipal work. That is, municipalities are prohibited from utilizing Chapter 90 funds with contractors that do not have their MassDOT Prequalification Certification.

Although we have reservations about awarding this contract to a company unknown to us, I would be remiss in my duties to ignore the extremely favorable pricing that beat the Robert B. Our Co. (the previous contract recipient and second low bidder on this contract) by \$43,250. Given our reservations, Chris Nickerson and I met with GFM Enterprises to discuss our concerns, stated our expectations regarding this contract and opened lines of communication. The meeting went well and provided us confidence that GFM Enterprises is capable of meeting the standards in our drainage contract.

Thank you for your consideration in this matter.

Attachments: Drainage Bid Opening Minutes  
Drainage Contract

**Bid Opening Minutes**  
*Thursday, June 2, 2016*

Replace and Install Catch Basins for the Division of Highways and Maintenance

At 2:00 P.M., in the presence of Chris Nickerson, Paul Sweetser, and representatives from bidders, Robert Cafarelli received and opened sealed bids to replace and install catch basins for the Division of Highways and Maintenance.

Results of the bid opening were as follows:

<b>Company Name</b>	<b>Bid Price</b>
GFM Enterprises	\$281,300
Robert B. Our Co., Inc.	\$324,550.10
Dig It Construction	\$327,955
J.W. Dubuis & Sons	\$441,800

The bids were taken under advisement for recommendation from the Highway Department to the Board of Selectmen for award of contract at a later date.

The bid opening was adjourned at 2:15 pm

Notes by: Bob Cafarelli



Town of Harwich  
Contract Agreement  
Catch Basin Replacement & Installation  
(Unit Price Work)

**THIS AGREEMENT**, made this 25th day of July, 2016, by and between the Town of Harwich, Massachusetts, hereinafter called (“OWNER”), acting by and through its Board of Selectmen, and, GFM Enterprises, Inc., hereinafter called (“CONTRACTOR”) with a business address of 2 George Holbrook Way, Harwich, MA 02645.

**WITNESSETH:** That for and in consideration of payments and agreements hereinafter mentioned:

1. The CONTRACTOR will execute the Contract and provide Performance and Payment Bonds within five (5) working days of Notice of Award for Catch Basin Replacement and Installation (Unit Price Work).
2. The CONTRACTOR will furnish all of the materials, supplies, tools, equipment, labor and other services necessary for the construction and completion of the Project described herein. The Town of Harwich reserves the right to extend the Contract under the same terms, conditions, and estimated quantities for a period of one (1) year from the date of expiration. The Contract may be extended for a second one (1) year period under the same terms, conditions, and estimated quantities by mutual agreement between the OWNER and CONTRACTOR from the date of expiration.
3. The CONTRACTOR will commence the work required by the Contract Documents beginning August 4, 2016 or within ten (10) calendar days after a date to be specified in the Notice to Proceed.
4. The CONTRACTOR agrees to perform all of the Work described in the Contract Documents and to comply with the terms therein for the sums shown in the Form for General Bid, from commencement to completion.
5. The following, together with the Agreement, form the Contract, and all are as fully a part of the Contract as if attached to this agreement or repeated herein: the Advertisement, Invitation for Bids, Contract Documents (Instructions to Bidders, General Conditions, Special Provisions, Form of General Bid and Measurement and Payment) and all appendixes, Addenda, and Modifications issued after execution of the Contract. Terms used in this Agreement, which are defined in the Conditions of the Contract, shall have the meaning designated in those Conditions. The term “Contract Documents” shall also mean and include the following:
  - Bid Bonds (5%)
  - Notice of Award

- Performance Bond (100%)
- Payment Bond (100%)
- Change Orders (if any)
- Certificate of Substantial Completion
- Certificate of Final Payment and Completion of Work
- Addenda (if any)

6. The OWNER will pay to the CONTRACTOR, in the manner and at such times as set forth in the Contract Conditions, such amounts as required by the Contract Documents.
7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
8. Change Orders – The Harwich Board of Selectmen, as OWNER, is the only authority which may authorize, in writing, change orders.

**IN WITNESS WHEREOF**, the parties hereto have caused this instrument to be executed by their authorized officials, the Agreement in three (3) copies, each of which shall be deemed an original on the date first written above.

FOR Contractor

FOR the Town of Harwich

\_\_\_\_\_  
Authorized signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
**COPY**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Sandy Robinson

---

**From:** Robert Cafarelli  
**Sent:** Tuesday, July 19, 2016 3:37 PM  
**To:** Christopher Clark  
**Cc:** Sandy Robinson; Sean Libby  
**Subject:** FW: Bid Opening.doc DPW Building siding  
**Attachments:** Contract.doc; Bid Opening.doc

Sean and I agree that the contract for the siding of the DPW building should be awarded to the low bidder, Architectural Consulting Group, for \$97,500.

Attached is a proposed Contract.

Bob

*Robert Cafarelli, P.E.*

**Town Engineer**  
Town of Harwich  
732 Main Street  
Harwich, MA 02645  
Tel: 508-430-7508  
email: [rcafarelli@town.harwich.ma.us](mailto:rcafarelli@town.harwich.ma.us)

---

**From:** Sean Libby  
**Sent:** Tuesday, July 19, 2016 1:15 PM  
**To:** Robert Cafarelli  
**Subject:** RE: Bid Opening.doc DPW Building siding

Bob,  
I have reviewed the proposal provided by Architectural Consulting Group and I have contacted the listed references. I feel that they are qualified bidders and should be awarded the contract. Please begin the process so we can get the project completed before the weather changes this fall. If you need anything from me let me know - Thanks

Regards,  
Sean Libby  
Town of Harwich DPW  
Facilities Maintenance Manager  
Phone (508) 430-7555  
Cell (228) 365-3434

---

**From:** Robert Cafarelli  
**Sent:** Thursday, July 07, 2016 2:59 PM  
**To:** Sean Libby <[slibby@townofharwich.us](mailto:slibby@townofharwich.us)>; Christopher Clark <[cclark@town.harwich.ma.us](mailto:cclark@town.harwich.ma.us)>; Sandy Robinson <[srobinson@town.harwich.ma.us](mailto:srobinson@town.harwich.ma.us)>  
**Subject:** Bid Opening.doc DPW Building siding

**Bid Opening Minutes**  
*Thursday, July 7, 2016*  
**DPW BUILDING SIDING**

At 2:00 P.M., July 7, 2016, in the presence of Sean Libby, Bob Cafarelli received and opened sealed bids for the siding of the DPW Building. A representative from ACG was also present.

Two bids were submitted:

<b>Company Name</b>	<b>Bid Price</b>
ACG	\$97,500
Boston Insulation Corp.	\$98,300

The bids were taken under advisement for review and recommendation by the Highway Department to the Board of Selectmen for award of contract at a later date.

The bid opening was adjourned at 2:10 pm

Notes by: Bob Cafarelli, Town Engineer

## OWNER-CONTRACTOR AGREEMENT

THIS AGREEMENT is made this 25 day of July, 2016 by the Town of Harwich, Massachusetts, hereinafter called the "Owner" and Architectural Consulting Group hereinafter called the "Contractor."

WITNESSETH, that the Owner and the Contractor for the consideration hereinafter named, agree as follows:

### ARTICLE 1. SCOPE OF WORK:

The Contractor shall perform all the work required to remove and replace the siding, gutters and trim on the DPW garage at 273 Queen Anne Road, Harwich, Ma. in accordance with the Invitation for Bids, Instructions to Bidders, Bid Specifications and any other related documents, prepared by the Town of Harwich.

### ARTICLE 2. TIME OF COMPLETION:

The contractor shall commence work under this Contract on the date specified in the written "Notice to Proceed" from the Owner and shall bring the work to substantial completion before September 2, 2016.

### ARTICLE 3. THE CONTRACT SUM:

The Owner shall pay the Contractor for the performance of the work, subject to additions and deductions by Change Order the Contract Sum of Ninety Seven Thousand Five Hundred Dollars (\$97,500)

### ARTICLE 4. THE CONTRACT DOCUMENTS:

The following together with this Agreement form the Contract and all are as fully a part of the contract as if attached to this agreement or repeated herein: Invitation for Bids, Bidding Documents, Instructions to Bidders, Scope of Work, amendments, change orders, or other changes mutually agreed upon in writing; all applicable State laws, including but not limited to MGL Chapter 30, § 39M as amended, and MGL Chapter 149, §§ 26 and 27 (prevailing wages), municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the construction of the project; and the Contractor's Form of General Bid as accepted by the Town (including requirements of M.G.L. Chapter 149, sections 26-27 -- Prevailing Wage Rates).

### ARTICLE 5. BONDS AND INSURANCE:

The contractor shall furnish insurance certificates, satisfactory to the Town, as proof of having met the requirements of Section 15, Instructions to Bidders.

ARTICLE 6. CONTRACT TERMINATION:

The Town may suspend or terminate this Contract by providing the Contractor with ten (10) days written notice for the reasons outlined as follows:

1. Failure of the contractor, for any reason, to fulfill in a timely and proper manner its obligations under this Agreement;
2. Violation of the provisions of this Agreement by the Contractor;
3. A determination by the Town that the Contractor has engaged in fraud, waste, mismanagement, misuse of funds, or criminal activity with any funds provided by this contract.

ARTICLE 7. ASSIGNMENT:

The Contractor shall not make any assignment of this Contract without prior written approval of the Town.

ARTICLE 8. AMENDMENTS:

All amendments, change orders or any changes to the provisions specified in this Contract can only occur when mutually agreed upon by the Town and the Contractor. Further, such amendments, change orders, or changes shall be in writing and signed by officials with authority to bind the awarding authority. Additionally, all amendments, change orders and changes shall be approved by the Town Accountant prior to execution by the awarding authority. No amendment, change order, or change to the contract provisions shall be made until after the written execution of the amendment, change order, or change to the Contract by both parties. All amendments, change orders and changes to this Agreement shall be in accordance with M.G.L. 30B, section 13.

ARTICLE 9. INDEMNIFICATION:

The Contractor hereby agrees to indemnify and hold harmless the Town from any and all claims, damages, losses and expenses (including attorney's fees) arising out of the performance of this Contract, when such claims, damages, losses and expenses are caused by the negligent acts, errors or omissions of the Contractor.

ARTICLE 10. APPROPRIATION:

This Agreement is subject to appropriation.

ARTICLE 11. DISCRIMINATION:

No person shall, on the grounds of race, color, national origin, sex or sexual preference, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any form.

The undersigned, Andrew Gould, in compliance with the Commonwealth of Massachusetts General Laws (Ter. Ed) Chapter 44, Section 31C, certifies that an appropriation in the amount required for this contract is available out of Account Number

\_\_\_\_\_.

\_\_\_\_\_  
Andrew Gould, Finance Director/Town Accountant

**CONTRACTOR:**

**THE TOWN:**

Company Name:

Harwich Board of Selectmen

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

\_\_\_\_\_  
Title:

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

\_\_\_\_\_  
**COPY**  
\_\_\_\_\_  
\_\_\_\_\_

**ATTEST:**

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

Title: \_\_\_\_\_



July 25, 2016

COPY

Cape Cod Commission  
3225 Main Street  
P.O. Box 226  
Barnstable, MA 02630

Re: Development of Regional Impact (DRI) Hearing (CCC No. 13004)  
Harwich Comprehensive Wastewater Management Plan

Dear Cape Cod Commission Members:

Please know that the Harwich Board of Selectmen strongly supports the Harwich Comprehensive Wastewater Management Plan (CWMP). The Town of Harwich has supported the efforts of the Wastewater Implementation Committee and the preparation of the CWMP over the years through various funding appropriations. The Board of Selectmen understands the importance of the CWMP and the work ahead of the Town of Harwich. We are committed to moving forward.

The Board of Selectmen looks forward to the support and approval of the Cape Cod Commission Sub-Committee for the Harwich CWMP at the DRI hearing on July 28, 2016 and the full Cape Cod Commission support and approval tentatively scheduled for August 18, 2016.

Respectfully,

\_\_\_\_\_  
Michael MacAskill, Chair

\_\_\_\_\_  
Peter Hughes, Vice-Chair

\_\_\_\_\_  
Julie Kavanagh, Clerk

\_\_\_\_\_  
Jannell Brown, Member

\_\_\_\_\_  
Angelo LaMantia, Member



## **Ann Steidel**

---

**From:** Charleen Greenhalgh  
**Sent:** Wednesday, July 13, 2016 3:31 PM  
**To:** Link Hooper; 'Link Hooper'  
**Cc:** Ann Steidel; Sandy Robinson  
**Subject:** Transfer Station

Hi Link –

Michael has requested that you appear before the Board of Selectmen at the July 26<sup>th</sup> meeting to provide the Board with both an update/status report on how the license plate reader system is working and also a reminder for people on how the system works and how they still need to sign-up to use the transfer station. Apparently there is still confusion as to the actual need to purchase “permission” to use the facility.

If you have any questions, please let me know.

Thanks,  
Charleen

Charleen L. Greenhalgh  
Assistant Town Administrator  
Town of Harwich  
732 Main Street  
Harwich, MA 02645  
508-430-7513  
508-432-5039 (Fax)  
[cgreenhalgh@town.harwich.ma.us](mailto:cgreenhalgh@town.harwich.ma.us)

## Sandy Robinson

---

**From:** John Rendon  
**Sent:** Thursday, July 14, 2016 2:50 PM  
**To:** Christopher Clark; Charleen Greenhalgh  
**Cc:** Ann Steidel; Sandy Robinson; William Neiser  
**Subject:** SAQ Municipal Marina Reconstruction Project

Chris, Charleen,

A quick update on the status of the project. We are still waiting for permit approval from the Army Corps of Engineers (ACOE) for the proposed dredging and reconfiguration of the harbor. The application from Bourne Engineering was submitted to ACOE and applicable state agencies back in March. Dredge samples of the harbor have been taken and chemistry testing has been completed and passed on to ACOE for review. We are waiting for a Suitability Determination on disposal of the material, we are hoping that results of the chemistry testing are sufficient, and approval is granted for offshore disposal at the Cape Cod Bay disposal site. If the ACOE determines that additional biological testing is required, this will cause a significant delay, and may prohibit us from dredging this coming winter. We should have a decision from ACOE within a week or so. We are also waiting for the combined Chapter 91 License / 401 Water Quality permit from the state (DEP). Approval from Coastal Zone Management (CZM) also is pending.

The engineering design of the new docks and services is in its final review phase. Bourne Engineering is prepared to go out to bid as soon as we have approval/permit from ACOE. They do not recommend going out to bid prior to ACOE approval, as there may be conditions that are placed on the permit, or worst case the permit is not approved. We really need to go out to bid no later than mid-August in order to give sufficient time for the docks to be constructed and a dredge contractor selected and scheduled. We are in regular engagement with the ACOE project manager and state officials, stressing the need to get permits approved as soon as possible.

I will plan to attend 25 Jul BOS meeting to answer questions or concerns. v/r,

**John C. Rendon**  
Harbormaster  
Town of Harwich  
774 212-6193 (c)





## TOWN OF HARWICH

OFFICE OF THE TREASURER/COLLECTOR

732 MAIN STREET, HARWICH, MA 02645

TEL: 508-430-7501 FAX: 508-430-7504

Amy Bullock  
Treasurer / Collector

Nancy Knepper  
Assistant Treasurer/Collector

July 19, 2016

Harwich Board of Selectmen  
Michael MacAskill, Chair  
732 Main Street  
Harwich, MA 2645



RE: Investment Policy Statement

To the Board of Selectmen;

It has been brought to my attention by the Investment Management Group at Rockland Trust, that the Investment Policy Statement signed in January of 2015 has a slight conflict regarding the investment of OPEB funds. While the current long term investment wording limits investments to the MA legal list, OPEB investments are by statute allowed to follow the Prudent Man standard.

Therefore, it is advised we amend the current Investment Policy Statement to exclude OPEB funds.

Attached is said amendment. I've also submitted a sample IPS pertaining to OPEB funds for your review.

Respectfully,

  
Amy Bullock



# TOWN OF HARWICH

OFFICE OF THE TREASURER/COLLECTOR

732 MAIN STREET, HARWICH, MA 02645

TEL: 508-430-7501 FAX: 508-430-7504

Amy Bullock  
Treasurer / Collector

Nancy Knepper  
Assistant Treasurer/Collector

Harwich Board of Selectmen  
732 Main Street  
Harwich, MA 2645

RE: Investment Policy Amendment

The Investment Policy Statement endorsed January 20, 2015 by the Board of Selectmen is hereby amended to exclude OPEB funds.

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

COPY

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

**TOWN OF HARWICH**  
**OPEB Liability Trust**  
**Investment Policy Statement**

The primary purpose of this Investment Policy Statement (IPS) is to provide a clear understanding between the Town of Harwich and Rockland Trust Company (Investment Manager) regarding the objectives, goals, risk tolerance, and investment guidelines established for the OPEB (Other Post-Employment Benefits) Liability Trust Fund. The secondary purpose is to describe the underlying logic and philosophy supporting this Statement.

**I. The Investment of OPEB Trust funds**

**A. Scope**

This IPS applies to all funds that are separately designated as long-term OPEB funds. The account will be established as a pooled investment portfolio unless otherwise stated. Any additional contributions to the account will be maintained in the same manner.

**B. Authority**

Massachusetts General Law Chapter 32B, section 20 allows a city, town, district, county or municipal lighting plant to set up a special trust fund, the Other Post Employment Benefits (OPEB) Liability Trust Fund. The governmental unit's treasurer is the custodian of the fund or in the case of a light plant, an officer designated by the board. Investment of fund monies by the custodian must be consistent with the prudent person standard set forth in Massachusetts General Law Chapter 203C for private trust funds. Interest earned on the investment of fund monies belongs to the fund.

**C. Introduction**

Creating an investment policy is the most critical phase of the entire investment process. The effects of a properly drafted vs. ineffective investment policy statement can be more important than the effects of good or poor investment management. To be successful, an investment policy needs to be appropriate for its setting and intended purpose. The policy needs to match the needs of the anticipated requests or periodic disbursements from the financial assets most likely to meet those cash flow needs.

The best way to minimize investment risk is to match, as closely as possible, the timing of future liabilities with the timing of future cash flows from the portfolio assets. Furthermore, with regards to OPEB liabilities, the policy needs to stipulate those permitted investments most likely able, over the long-term, to approximate the rate of return, or discount rate, targeted by the Town's/City's actuarial study.

Under GASB 45, the discount rate should be the long-term expected yield on the investments to be used to pay benefits as they come due. These would be plan investments for a funded plan or a weighted average of expected plan and employer investments for a plan that is partially funded. Investments within an OPEB Trust will closely approximate pension fund-type investment securities.

The policy statement is also designed to withstand "trustee risk" - the possibility that, at some stress point (most frequently an extreme decline in the stock or bond markets), those who oversee the funds may react in a manner detrimental to the long-term health of the Trust Fund.

## **D. Objective**

OPEB funds are long-term investments. Given a stated discount rate target, this long-term approach enables the town/city to purchase long-term assets, such as equities, which tend to have high returns over many years but whose price volatility precludes their use by those with shorter time horizons. By keeping a long-term focus in mind at all times, we hope to weather the periodic bad times.

We expect this long-term view to provide better results than will be earned by those who pick short-term investments or who liquidate securities during turbulent times. We also expect that equities will serve as a hedge against eroding trust fund values due to long-term inflationary trends.

We expect the stock market to provide greater total returns than the bond market. We make this statement in a long-term sense, knowing that both economies and markets suffer periodic (but normally brief) declines, and knowing that there have been periods when cash and bonds outperform stocks.

We expect the relationship between the economy, the stock market, and inflation to continue. We expect the American economy to show modest real growth over full business cycles after allowance for occasional recessions. We expect stock prices to grow slightly faster than inflation, although the naturally volatile nature of the stock market will make such growth invisible except when observed over longer periods of time. We expect cash dividends from stocks to also grow slightly faster than inflation and to fluctuate much less than stock prices do.

We expect continued inflation. Its timing and severity we cannot predict, but we believe it will be of sufficient magnitude that to ignore it would threaten our ability to meet our long-term objectives.

Our definition of risk is not always the common one. Most investors define investment risk in terms of the volatility of short-term total returns. This definition is appropriate for funds with a very short-term time horizon, but inappropriate for quasi-perpetual funds such as this OPEB Liability Trust Fund. Our managed funds bear three potential kinds of risk. One comes from any mismatch between the natural cash flows out of the Trust (the amount requisitioned from the Trust) and the cash flows coming in (from contributions, dividends and interest). A second source of risk is the possibility that the assets in the funds do not perform the way the investment manager(s) or we expect. The third form of risk is that of reacting inappropriately during a volatile period - most likely after a severe market decline. We hope to minimize these risks to as great a degree as possible without harming the trust fund's long-term objectives. Market value fluctuations are of secondary importance unless individual assets have permanently impaired values and must be liquidated to preserve any remaining value.

## **E. Strategy**

The Investment Manager(s) will utilize the following investment guidelines in terms of asset allocation. This policy is subject to review and amendment at any time.

0 - 10%

Cash and cash equivalents - normalized at 2%. Cash will be maintained to provide periodic cash distributions. Cash will not normally be held as a strategic investment asset, although the Investment Manager may seek to allow cash to build to the maximum level in times of market uncertainty.

35 - 55%

Fixed Income - normalized at 43%. To ensure appropriate diversification and to minimize default risk, the trust fund will be invested primarily in high-quality taxable bonds, notes, and other credits through mutual funds, exchange-traded funds (ETFs) or individual bonds. Lower-quality bonds may be held through mutual fund or ETF ownership. The overall goal of the fixed-income portion of the portfolio is to provide returns competitive with, and price volatility similar to, the Barclays Aggregate Bond Index. The fixed income allocation exists to provide income and to dampen the volatility from the fund's equity holdings.

40 - 65%

Equities - normalized at 55%. To ensure appropriate diversification, the fund will be invested in high-quality domestic stocks, growth stocks of emerging companies and foreign issues. Investments also include the following strategies: market-neutral, absolute return, global macro, long/short, commodities and managed futures. The equity portion of the portfolio should consist of a diversified mix of investments (individual equities, mutual funds and exchange-traded funds) suitable to achieve the objective of capital appreciation and downside protection. Individual equity holdings in any one company should not exceed 5% of the market value of the portfolio

Adequate diversification and risk controls must be maintained within each sub-category. An appropriate benchmark for the overall asset class of equities, as well as each sub-strategy, will be determined and agreed upon between the Client and the Investment Manager(s).

## **F. Investment Instruments**

M.G.L. Chapter 203C: Section 1 known as the Massachusetts Prudent Investor Act, states that a trustee shall invest and manage trust assets as a prudent investor would, considering the purposes, terms, and other circumstances of the trust, including those set forth in subsection c. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution. A trustee's investment and management decisions respecting individual assets shall be considered in the context of the trust portfolio as a part of an overall investment strategy reasonably suited to the trust.

Section 3:

Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries: 1) general economic conditions; 2) the possible effect of inflation or deflation; 3) the expected tax consequences of investment decisions or strategies; 4) the role that each investment or course of action plays within the overall trust portfolio; 5) the expected total return from income and appreciation of capital; 6) other resources of the beneficiaries; 7) needs for liquidity, regularity of income, and preservation or appreciation of capital; and 8) an asset's special relationship or special value, if any, to the purposes of the trust or to one of the beneficiaries.

A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets. A trustee may invest in any kind of property or type of investment consistent with the standards of this chapter. A trustee, who has special skills or expertise, shall have a duty to use such special skills or expertise.

Section 4:

A trustee shall reasonably diversify the investments of the trust unless, under the circumstances, it is prudent not to do so.

## **The Treasurer/Custodian may invest in the following instruments:**

- U. S. Treasuries that may be sold prior to maturity: **Unlimited amounts (With no limit to the length of maturity from date of purchase)**
- U.S. Agency obligations that may be sold prior to maturity: **Unlimited amounts (With no limit to the length of maturity from date of purchase)**
- Bank accounts or Certificates of Deposit ("CDs"): **Unlimited amounts (With no limit to the length of maturity from date of purchase)**, which is fully collateralized through a third party agreement.
- Bank accounts and CDs: **(With no limit to the length of maturity from date of purchase)** fully insured by F.D.I.C. and in some cases also Depository Insurance Fund of Massachusetts (D.I.F.); All bank accounts and CDs in one institution are considered in the aggregate to receive the insurance coverage limit.
- Corporate Bonds rated investment grade by Moody's or S&P (with no limit to length of maturity)
- Money market mutual funds.
- Fixed-income mutual funds and exchange-traded funds (ETFs).
- Preferred stock: securities must be investment grade at the time of purchase.
- Common stock
- Equity mutual funds and exchange-traded funds (ETFs).
- Alternative investment-oriented mutual funds. Leveraged (i.e. 2x or 3x) investment strategies are not permitted.

## **G. Specific Risks**

- **Credit Risk**

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations.

The Treasurer/Custodian will manage credit risk several ways. There will be no limit to the amount of United States Treasury and United States Government Agency obligations.

In regards to fixed-income investments, the Treasurer/Custodian will only purchase investment grade securities with a high concentration in securities rated A or better. Lower-quality investments may only be held through diversified vehicles, such as mutual funds or exchange-traded funds. Investments in fixed income securities will be made primarily for income and capital preservation. The Treasurer/Custodian may invest in the Massachusetts Municipal Depository Trust (MMDT) with no limit to the amount of funds placed in the fund.



- **Custodial Risk**

The custodial credit risk for deposits is the risk that, in the event of the failure of a depository financial institution, a government will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party.

The Treasurer/Custodian will review the financial institution's financial statements and the background of the sales representative. The intent of this qualification is to limit the Fund's exposure to only those institutions with a proven financial strength, capital adequacy, and overall affirmative reputation in the municipal industry.

Further, all securities not held directly by the Treasurer/Custodian, will be held in the Town's/City's name and tax identification number by a third party custodian approved by the Treasurer/Custodian and evidenced by statements showing individual CUSIP numbers for each security.

- **Concentration of Credit Risk**

Concentration of credit risk is the risk of loss attributed to the magnitude of a government's investment in a single issuer.

The Treasurer/Custodian will minimize Concentration of Credit Risk by diversifying the investment portfolio so that the impact of potential losses from any one type of security or issuer will be minimized. As stated above, securities of a single corporate issuer (with the exception of the United States Government and its Agencies) will not exceed 5% of the portfolio value.

- **Interest Rate Risk**

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The Treasurer/Custodian will manage interest rate risk by managing duration in the account.

## **H. Standards of Care**

The standard of prudence to be used by the Treasurer/Custodian shall be the "Prudent Person" standard and shall be applied in the context of managing an overall portfolio. The Treasurer/Custodian acting in accordance with written procedures and this IPS, and exercising reasonable due diligence, shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided the purchase and sale of securities is carried out in accordance with the terms of this IPS.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs; not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived.

In addition, this section would also apply to M.G.L., Chapter 44 Section 55A which refers to the liability of the Treasurer/Custodian for losses due to bankruptcy.

## **I. Diversification**

### **Equity**

The equity portion of the portfolio should consist of a diversified mix of investments (individual equities, mutual funds and exchange-traded funds) suitable to achieve the objective of capital appreciation. Individual equity holdings in any one company should not exceed 5% of the market value of the portfolio.

Equity holdings may be selected from the New York and American Stock Exchange or the NASDAQ markets. Securities may be in U.S. companies or foreign companies purchased as American Depository Receipts (ADR's). Funds may be invested in securities convertible into equities or preferred stock.

No funds may be invested in real estate, private placements or letter stock. The Investment Manager shall not engage in margin transactions, short sales or any other such specialized investment vehicles. The manager of a specific mutual fund and exchange-traded fund, however, may engage in short sales as part of an overall investment strategy.

The selection of individual equities will be at the discretion of the Investment Manager.

### **Fixed Income**

Investments in fixed income securities will be made principally for income and capital preservation. Selection should be made from liquid, investment grade corporate debt, convertible debt and obligations of the United States Government and its agencies. Lower-quality investments may only be held through diversified vehicles such as mutual funds or exchange-traded funds.

Securities of a single corporate issuer (excluding the United States Government and its Agencies) will not exceed 5% of the portfolio market value. Investments in U.S. Government debt will not include agencies that are not permitted under Massachusetts General Laws (i.e. Sallie Mae (SLMA) or Ginnie Mae (GNMA) obligations).

No more than 20% of the portfolio's total market value will be invested in convertible securities.

Individual corporate debt and preferred stock issues must be rated BBB or better, as defined by Moody's and/or Standard & Poor's Rating Agency.

There shall be no investments in real estate, private placements, fixed income or interest rate futures, and no engagement in any other specialized fixed income ventures. The manager of a specific mutual fund and exchange-traded fund, however, may engage in fixed income and interest rate futures as part of an overall investment strategy.

Diversification should be interpreted in two ways: in terms of maturity as well as instrument type and issuer. The diversification concept should include prohibition against over concentration of maturities, as well as concentration in a specific institution with the exception of U.S. Treasury obligations or investments fully collateralized by U.S. Treasuries or agencies.

The selection of individual fixed income securities shall be at the discretion of the Investment Manager.

## **J. Ethics**

The Treasurer/Custodian shall refrain from any personal activity that may conflict with the proper execution of the investment program or which could impair or appear to impair ability to make impartial investment decisions. The Treasurer/Custodian shall disclose to the Town Manager/Council any material financial interest in financial institutions that do business with the town/city. They shall also disclose any large personal financial investment positions or loans that could be related to the performance of the trust funds.

## **K. Relationship with Financial Institutions**

Financial institutions should be selected first and foremost with regard to their financial soundness and stability. Brokers should be recognized, reputable dealers. All cash and securities shall be held in either a bank that is allowable for the deposit of public funds, provided funds on deposit are insured by the Federal Deposit Insurance Corporation (FDIC), or in an Investment Brokerage Account that is insured by the Securities Investor Protection Corporation (SIPC).

The Treasurer/Custodian shall require any brokerage houses and broker/dealers, wishing to do business with the Town/City, to supply the following information to the Treasurer:

- Audited financial statements
- If acting as a Registered Investment Adviser, Form ADV Part II report
- Proof of FINRA membership
- Errors & Omissions insurance amounting to, at a minimum, the total fair market value of the trust fund's portfolio.
- A statement that the Investment Manager has read the municipality's IPS and will comply with it on an annual basis

## **L. Reporting Requirements**

On a quarterly basis, a report containing the following information will be prepared by the Treasurer/Custodian distributed to the Finance Director and/or his/her designee as appropriate. The quarterly report will include the following information, as a minimum requirement:

- A listing of the individual accounts and individual securities held at the end of the reporting period.
- A listing of the short-term investment portfolio by security type and maturity to ensure compliance with the diversification and maturity guidelines established in the "Diversification" section of this IPS.
- A summary of the income earned on a monthly basis and year-to-date basis shall be reported.
- The Treasurer/Custodian shall include in the report a brief statement of general market and economic conditions and other factors that may affect the trust fund's cash position.
- The report should demonstrate the degree of compliance with the tenets set forth in the IPS.

## **M. Performance Measurement and Evaluation**

- The Fund's performance will be measured by comparison with the stated objectives in comparison to the respective benchmarks.
- To monitor the intermediate term performance of the Fund, the Treasurer/Custodian will compare the Investment Manager's results to a blended benchmark, to be determined in conjunction with the Investment Manager(s).
- Rebalancing of the portfolios should happen at least annually or more frequently if appropriate.
- It is expected that the performance figures of the trust fund, and any sub-strategy, will outperform the respective benchmarks, net of fees, on a long-term (business cycle) basis.

## **N. Supervision**

- The Treasurer/Custodian will meet with the Investment Manager(s) as frequently as semi-annually to monitor the performance of the Fund and the investment manager(s) compliance with these guidelines. The Treasurer/Custodian will receive and review portfolio management reports quarterly.
- The Treasurer/Custodian will review this Investment Policy Statement at least once a year to ensure that it remains appropriate and complete
- The Treasurer/Custodian has the option to put the management of funds out for bid periodically, and shall consider such option not less frequently than every five years, through a request for information, request for proposal, or similar process as required by law or Town/City policy.

## **O. Legal References**

- Massachusetts General Law Chapter 32B, Section 20
- Massachusetts General Law Chapter 203C, Section 1 through 11

I, Amy Bullock, Treasurer of the Town of Harwich, have reviewed this IPS and will manage the Town of Harwich OPEB Liability Trust Fund under my control in accordance with this IPS.

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Date

I, \_\_\_\_\_, as Representative of Rockland Trust Company, have reviewed this IPS and will manage the Town of Harwich OPEB Liability Trust Fund under my control in accordance with this IPS.

Rockland Trust Company

\_\_\_\_\_  
By:

\_\_\_\_\_  
Date

Policy Endorsement

Board of Selectmen

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

## Charleen Greenhalgh

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**From:** Amy Duffy  
**Sent:** Monday, July 18, 2016 12:05 PM  
**To:** Charleen Greenhalgh  
**Subject:** sticker sales  
**Attachments:** Beach Sticker policy.doc

Hi Charleen,

I am responding to our conversation about Mr. MacAskill's concerns regarding sticker sales and what has changed this year. I've attached a copy of the Rec Commission's policy on beach stickers, which describes who is entitled to a residential rate beach sticker. While I've never seen a written policy for transfer station permits, I think it is reasonable to assume similar guidelines, especially as there is now a "non-resident" rate.

I was surprised to hear there were more complaints about the transfer station than the beach stickers. We do have many complaints about not allowing resident rate beach stickers to family members and friends as had happened in the past. As far as the transfer station, the big change is that this is the first year for license plate recognition. There is no physical sticker issued. A resident or taxpayer pays \$160 for the first car, and \$25 each for additional cars *owned and registered to themselves*. They do not get a \$25 permit for family members, neighbors nor friends visiting. It appears in the past, and I have heard multiple people admit, that there was much "sharing" of the transfer station stickers in previous years. I have had many taxpayers freely admit that they left the sticker at the house for family and friends and/or shared it with neighbors.

As for the actual sales of the beach stickers and transfer station access, this year there are 5 brand new customer service representatives selling at the Community Center (3 per shift), the Chamber sells them with a convenience fee of \$3, and we sell them here in the Treasurer's Office during normal Town Hall hours. I did cut back the Community Center hours from 8-3 in the past to 8-2 this year, mainly because the longer shift required by law a 30 minute break for the employee, and there is simply no opportunity to get up and leave a terminal when there are people waiting in line to purchase a permit.

The sellers are instructed to ask for vehicle registrations for *every sale*. If a registration has an out of town address, then proof of residency or property ownership is required. This is NOT a change in procedure, aside from the fact that in the past it was not adhered to as strictly. All day long we are told "I am in the system". We require a valid registration for every vehicle, in the system or not. Period. We go out of our way to look up property records for people who are unprepared, which only slows down the process for everyone else.

Obviously, there are instances where a judgement call must be made; i.e. homeowners who do not drive and have a relative or friend who goes to the transfer station or takes them to the beach. We are all doing our best to be fair, polite and consistent. We do get plenty of angry customers, but I have mostly witnessed that for beach stickers, not disposal access. I've also had several people who are very glad we are enforcing the Rec Commission's policy, as beach parking is hard to come by!

I am happy to speak with anyone who has a comment or concern. However; I and the staff are only enforcing the rules in place, we don't make them. Any changes to the policy would be made by the Rec and Youth Commission for beach or the Highway Department for transfer station.

Amy Bullock, CMMC – CMMT  
Treasurer/Town Collector  
[abullock@town.harwich.ma.us](mailto:abullock@town.harwich.ma.us)

## ***Harwich Beach Sticker Policy***

### ***All applicants for any sticker must present the following documentations:***

Valid vehicle registration for each vehicle with the applicant's name on the registration OR a lease listing the applicant as the lessee of the vehicle.

Proof of ownership of residence in Harwich

Please see the eligibility requirements and required documentation in the following section.

***Please Note: The Burden Of Proof Of Residency Falls On The Applicant.***

### ***Sticker Eligibility:***

#### ***Resident /Tax Payer, Spouses, and Domestic Partners***

Current year resident tax bill

Listed as an owner of real property in the Assessor's office, with property that has a tax bill issued.

Vehicle registered in the Town of Harwich with Excise Tax bill on file and/or MA driver's license showing Harwich address.

Copy of year round lease. If you do not have a lease – please supply proof of residence with a full year's worth of TWO utility bills.

Non Resident Town of Harwich Employees are eligible for resident stickers with proper documentation.

#### ***Dependent Children (under 19 or under 24 with college ID)***

Parent's current year resident tax bill

Valid vehicle registration for each vehicle with the resident or taxpayer as the owner of the vehicle

Driver's license showing Harwich address and college ID (if applicable)

The dependent of a listed property owner with the same year-round address on a driver's license, picture ID or student ID. For purposes of beach sticker eligibility, the Town of Harwich uses the same rules as the IRS. The dependent must be no more than 19 years old (24 years old if a full time student). If a dependent is more than 24 years old, he/she must have his/her car registered at a Harwich address and driver's license showing Harwich address.

#### ***Direct Family Members (son/daughter, brother/sister, mother/father)***

Must permanently reside in home (12 months per year) with proof

Valid vehicle registration for each vehicle with the resident or taxpayer as the owner of the vehicle

Driver's license showing Harwich address

Active duty military personnel whose home of record is Harwich as identified by Commanding Officer will be eligible for a resident sticker.

In the case of property held in trust, Resident Beach Stickers may be issued to trustees upon presentation of adequate written documentation of trustee status. Beneficiaries of the trust are not deemed owners of the property and as such are not eligible for a Resident Beach Sticker.

An adult child not living permanently in the Harwich residence can purchase a Seasonal Sticker.

#### ***Seasonal non-resident/non-taxpayer***

Valid vehicle registration for each vehicle

### ***Sticker placement:***

Beach – rear passenger side bumper

BOS (Michael MacAskill)

**Brooks Free Library**  
739 Main St., Harwich, MA 02645  
Phone: (508) 430-7562  
Email: [vhewitt@clamsnet.org](mailto:vhewitt@clamsnet.org)



*GINNY HEWITT*

From: Ginny Hewitt, Library Director

To: Greg Winston, Chairman, Historic District Historical Commission

CC: Jeannie Wheeler, Co-Chair, Building and Grounds Committee, Library Board of Trustees  
JoAnne Brown, Co-Chair, Building and Grounds Committee, Library Board of Trustees  
Mary Warde, Chair, Brooks Free Library Board of Trustees  
Joan McCarty, Vice Chair, Brooks Free Library Board of Trustees  
Jeanne Steiner, HDHC liaison to Brooks Free Library  
Sean Libby, Facilities Manager  
Robert Cafarelli, Town Engineer  
Christopher Clark, Town Administrator  
Michael MacAskill, BOS Chairman and Liaison to HDHC  
Julie Kavanaugh, BOS Liaison to Brooks Free Library Board of Trustees  
Robert MacCready, Chair, Community Preservation Committee

Subj: Update on Library Exterior Preservation Project

Ref: HDHC letter of Feb. 9, 2016 documenting your support for the request for Community Preservation funding to preserve the historic portions of the Library exterior

Date: July 12, 2016

The Library Trustees' Building and Grounds Committee has asked me to notify you of a change in the management of the Library exterior preservation project and provide a status update for your July monthly meeting next week.

The impact of the full centralization of building maintenance was discussed by the Board of Selectmen, Town Administrator and Library Trustees at the Selectmen's May 31, 2016 meeting. It was agreed that the Library Trustees and Library Director are no longer responsible building maintenance, including managing the exterior preservation project recently approved at Town Meeting. This means that any requests for a Certificate of Appropriateness or Non-Applicability for changes visible from a public way will be requested from the HDHC by other Town officials (i.e., Town Engineer or Facilities Manager), not the Library Trustees or Library Director. This letter is to inform you of this change as your Feb. 9 2016 letter states a Library representative will return to the HDHC seeking any future approvals needed for this project.

To update you on the status of the project, no contract has been signed yet for the architectural services. We began the procurement process in early March, providing draft procurement



specifications detailing the architectural services needed in the hopes that the architect could be selected and a contract issued in late spring using currently available CPC funds rather than waiting until July 1<sup>st</sup> to begin work on this. After reviewing procurement regulations, the Town Engineer determined a formal procurement process was not necessary. In May he recommended to the Selectmen that the Town contract with the architects who performed the feasibility. The Trustees advised the Selectmen they were in favor of this approach, and after some discussion they left the May 31st meeting with the understanding that this was what would happen. On June 13<sup>th</sup>, however, the Selectmen approved contracting with that firm but only if the cost of the architectural services was under \$25,000. If the cost was higher than \$25,000 the Selectmen voted that a formal procurement process should be followed, with bids solicited from other firms.

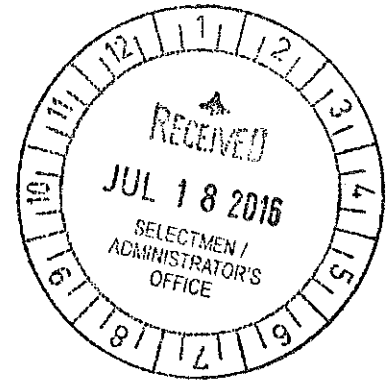
This was a surprise to the Trustees since the Selectmen had previously indicated they would accept the recommendation of the Engineer, Facilities Manager, Town Administrator and Trustees. The \$25,000 limit is significantly below the estimate for architectural services provided by the consultants in their report, which historic preservationists had already indicated were not out-of-line for high quality historic preservation work. (Note: The consultant's report estimated the cost of architectural services at \$64,000. While this amount may be reduced somewhat since some preservation work has been deferred and was not included in the project, it is still likely to be well over the \$25,000 limit set by the Selectmen.) In addition, funds for the full amount of the estimate are included in the funding approved by CPC.

As of this writing it is not clear yet if the Town will be contract with the architectural firm that did the feasibility study, which will require a new vote by the Selectmen, or if the Town will do a formal procurement process and solicit bids from other firms. Until this is determined and a contract is issued for architectural services, no progress will be made on this project.

Thank you again for your support of CPC funding this project. Further details and status updates will have to be provided to you by other Town officials as the Library is not responsible for managing this project going forward.

P. O. Box 426  
South Harwich, MA 02661  
June 26, 2016

Michael MacAskill, Chairman  
Board of Selectmen  
Town of Harwich  
732 Main St.  
Harwich, MA 02645



RE: Harwich Home Rule Charter

Dear Chairman MacAskill:

Pursuant to inquiries from your board and the Finance Committee during the 2016 town meeting season with respect to Harwich Home Charter, the following is an outline of areas of concern observed the recent past or are currently occurring. The issues are addressed in order of placement in the Charter:

2-8-2 All articles involving an expenditure of town funds shall be considered by the finance committee which shall issue a written recommendation on all such articles. The chairman of the committee, or a designated representative, shall be present at the town meeting to provide verbal explanations of the committee's recommendations.

**The Finance Committee is arguably acting outside of its authority in considering and making recommendations on non-monetary matters.**

3-2-2 The board of selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

**Issues raised in this letter would suggest that the Board of Selectmen has not fulfilled its duties in this respect.**

3-7-1 Except for the purpose of investigation authorized by this charter, the board of selectmen or its members shall deal with town officers and employees who are subject to the direction and supervision of the town administrator solely through the town administrator, and neither the board nor its members shall give orders to these officers or employees, either publicly or privately.

**Anecdotal evidence suggests that over recent years, some members of the Board of Selectmen have routinely violated this directive. Unfortunately, those most directly impacted by this (i.e. town employees) are reticent to publicly address it due to understandable concerns for their jobs.**

4-5-2 The creation of any new full-time, compensated position which requires the approval of the board of selectmen shall not become effective until the position has been funded by a vote of town meeting.

**It is hard to follow just how the establishment of the position of Wasterwater/Water Superintendent came to be, but apart from the process, this clearly represents a new position that was not voted or funded by Town Meeting for a department (Wastewater) that has never been officially established. In addition, this position now appears to be under split jurisdiction, i.e., part Water Commission and part Town Administrator. It is difficult, as a practical matter, to see how this functions.**

6-3-1 A moderator shall be elected for a 3-year term. The moderator shall: a) preside at all town meetings; b) appoint the members of the finance committee; c) appoint ad hoc committees of the town meeting under clause 2-7-1; d) preside at any hearing called to discuss the suspension or removal of the town administrator; and e) annually attend at least 3 meetings of the finance committee.

**A search of Finance Committee minutes shows no indication of attendance of the Town Moderator at any time since online records are available dating to late 2014.**

6-6-3 The (Water) commission shall appoint a water superintendent, and shall request this officer to cooperate with, and be responsive to, requests from the town administrator's office.

**According to the Charter, the Water Commission is responsible for the hiring of the Water Superintendent who is then directed to "cooperative with a be responsive to requests from the Town Administrator". Nowhere does it say this person is hired either by the Board of Selectmen or the Town Administrator.**

**Recently, the Water Superintendent position has morphed into a Water/Wastewater Superintendent. This is a new position never authorized or funded through Town Meeting or, as far as it can be determined, with the involvement of the Water Commission as required by Charter. In addition, this position appears to be something of a hybrid having been half appointed (Wastewater portion) by the Town Administrator and half appointed (Water Superintendent) by the Board of Selectmen/Water Commission. Aside from the violations implied, it also effectively leaves this position with two masters.**

7-1-1 To ensure a diverse citizen representation on all appointed town agencies, the board of selectmen shall make a concerted effort to seek out qualified persons from the town when filling vacancies, and year-round Harwich residents shall be given preference for appointment to any town agency.

**It appears that a number of people either recently or currently serving on Harwich committees and are not "from the town" of Harwich including members of the Treasure Chest Committee and at least one member of the Planning Board who was not a legal resident of the Town of Harwich at the time of appointment. Other instances may exist, but these appointments were not thoroughly researched for purposes of this letter.**

7-1-2 To further promote a maximum level of qualified, active, and interested citizen participation on appointed town agencies, the board of selectmen shall advertise all vacancies and impending appointments. This advertising shall enumerate the vacancies that are to be filled and shall solicit the submission of a citizen activity record form from persons willing and able to serve. The advertisements shall be published in a newspaper of general circulation in the town and shall be made once a week for a minimum of 2 weeks after the vacancy arises.

**As of mid-May of this year, it does not appear that the Board of Selectmen has strictly adhered to this directive, in particular with the requirement for newspaper advertising.**

7-1-4 Before making appointments to the finance committee, the moderator shall also make an effort to seek out qualified persons to serve and shall cause a notice to be published enumerating the vacancies to be filled and setting forth the location, time and date when the moderator will be available to interview persons willing and able to serve. The advertising of vacancies on the finance committee shall also be published in a newspaper of general circulation in the town and shall be made once a week for a minimum of 2 weeks after a vacancy arises.

**As of mid-May of this year, it does not appear that the Town Moderator has strictly adhered to this directive, in particular with the requirement for newspaper advertising.**

7-2-2 All town agencies of the town shall; a) organize annually; b) elect necessary officers; c) adopt rules of procedure and voting; d) maintain minutes and records of attendance, copies of which shall be a public record and regularly filed with the town clerk; and e) nominate prospective employees of their choice, who shall then be considered for appointment by the town administrator, as provided in clause 4-4-2.

**Anecdotal evidence suggests that a number of boards and committees do not organize annually or adopt rules of procedure as specified. In addition, at least one major board, i.e., Board of Health, not only failed to reorganize as stipulated, but for some period of time had or has, worked on a practice of rotating interim chairs appointed either just before a meeting was convened or at the start of the meeting despite not being included on the agenda for that meeting.**

7-2-4 All town agencies shall conduct their meetings under the open meeting provisions of the Open Meeting Law.

**As of this writing, recent issues with the Community Center Facilities Committee in this regard appear to have gone unaddressed by the Board of Selectmen as a whole.**

**Apparently, this issue was addressed with a member of the CCFC at a meeting of the Selectmen's Interview Subcommittee. While this was a posted meeting of the two-selectman committee, it is difficult to see this as a proper function of an "Interview/Nominating" Subcommittee. The questionable subcommittee assignment, taken with the fact that to date no report or recommendation has come back to the full board, appears at the very best to be an artful way to keep this issue out of the public view, and at worst, as an end run around the intent, if not the letter, of the Open Meeting Law.**

7-2-6 Any person duly appointed to a town agency shall take up the duties of that office immediately upon taking the oath of office.

**This is also a matter of State Law, but public records show that a significant number of people serving on boards and committees have never been sworn in, some over a very long periods of time. This could call into question any and all actions by governmental boards and committees with unsworn members voting. Most seriously, this involves major positions such as the Town Moderator, who was elected in May of 2015 but wasn't sworn in until the day of Town Meeting 2016. This would call into question the validity and legality of any actions taken during the period when the Town did not have a "duly sworn" moderator, including appointments made by the Moderator to the Finance Committee and Caleb Chase Fund Committee. Among the many others who remained unsworn up until at least mid-May of this year are appointees to the Capital Outlay Committee, Community Center Facilities Committee, and Board of Appeals. Again, this raises concerns of the legality of actions taken by these Boards and Committees to the extent of the impact of the votes of unsworn members with regards to the ultimate decisions of those boards.**

7-5-1 A planning board of 9 members and 2 alternate members shall be appointed by the board of selectmen for 3-year overlapping terms.

**Planning Board members have been appointed in such fashion as to create a situation where at least five of the terms expire simultaneously. While it is understood that this issue will be addressed shortly, it is a further example of non-compliance with the clear terms of the Charter.**

7-16-2 The by-law/charter review committee shall also be responsible for reviewing all articles proposing to change the by-laws or charter, and all such articles shall be submitted by the board of selectmen to the by-law/charter review committee not later than 14 days after the deadline for submission of articles.<sup>4</sup>

**According to minutes as well as information provided by the Chairman of the ByLaw and Charter Review Committee, no such submissions were received during the most recent cycle or over the past several years when the committee itself never met due to lack of sufficient membership to conduct business. Important by law and charter changes not properly referred this year included the Police Departments "door to door soliciting" and others. The failure of the Board of Selectmen to make the necessary appointments to this committee for a number of years is also a clear violation of the Charter.**

9-1-3 Vacancies in the finance committee shall be filled by the moderator within 30 days after the moderator has been notified, in writing, of the vacancy on the committee. Any person appointed to fill out an unexpired term shall take up the duties immediately upon taking the oath of office.

**Several vacancies have existed on the Finance Committee over at least the past year for well in excess of 30 days despite the fact that a number of citizens have expressed willingness to serve in these positions.**

9-1-4 No member of the finance committee shall hold any other elected or appointed town office, except for membership in the capital outlay committee.

**No exceptions to this provision are outlined in the Charter including so-called "Advisory" groups although instances of such appointments appear to have occurred.**

9-6-2 A "capital outlay" shall mean the acquisition, construction or renovation of buildings, equipment or land having a total cost of \$50,000 during any budget year and planning funds for any such capital outlay.

**Numerous items under the \$50,000 threshold are included in the Capital Plan, and although some of these are found to be aggregated with unrelated items within categories to meet the threshold and many are noted as "Below \$50,000" on the Plan by the Capital Outlay Committee, this practice is not supported by the terms of the Charter.**

9-7-1 The finance committee shall publish, in 1 or more newspapers of general circulation in the town, the general summary of the capital outlay plan and a notice stating: a) the times and places where copies of the capital outlay plan are available for inspection; and b) the date, time, and place, not less than 7 days after the publication, when the committee shall conduct a public hearing on the plan.

**No record can be found that any such hearing was ever held; and it is questionable, at best, that the publication requirement is met by the general publication of the Warrant since it does not appear that the Warrant is published "in a newspaper of general circulation" in time to satisfy the public hearing requirement. In addition, this requirement is not satisfied by the submission of the Capital Outlay Plan by the Capital Outlay Committee to a joint public meeting of the Board of Selectmen and Finance Committee specified in the earlier Charter Section 9-6-3.**

Some members of recent boards, as well as the current board, have expressed "confusion" over the language of the Charter, particularly when the language does not suit the purposes of those members. One immediate past member of the Board even stated at a meeting several years back that "We don't always follow the Charter" or words to that effect.

Overall, the Charter is written in plain language and is generally very clear in its intent. The Charter was never designed to cover every nuance of town government but rather to provide a broad outline and to take advantage of options available to local governments under

Massachusetts General Law to structure local government in ways that may not exactly follow State law. Hence, the term "Home Rule." Where the Charter is silent on any particular issue or detail, the local government then looks to its own bylaws and to state law for instruction. Again, in keeping with the notion of "Home Rule", the framers of the Charter intended that adoption of changes to the Charter would be voted at Town Meeting and then submitted to the voters of the Town of Harwich for final passage. The practice in recent years of submitting amendments to the Massachusetts General Court flies in the face of that original intent and also allows the legislators to alter the language adopted by the town. And while this practice may be more convenient and expeditious, it also totally defeats the purposes of "Home Rule."

It should also be noted that in some cases, following the legislative route has allowed certain inconvenient amendments passed by Town Meeting to be delayed "in committee", one such example being the extended delay in the legislative adoption of the issue of town subsidized health insurance for elected officials.

Please note that the foregoing includes only issues easily identified through observation and public records. It is entirely possible, even likely, that additional problems exist. A thorough review of current and past practices should be undertaken at all levels of town government, as well as a step by step review of the charter itself and changes made if and where they are legitimately necessary. In addition, a more pro-active approach to educating board and committee members regarding proper procedures might be in order.

Several members the Board of Selectmen as well as the Chairman of the Finance Committee were very vocal at the recent Town Meeting in asserting that independent Charter enforcement is unnecessary and that any compliance issues can be handled "in house". Hopefully that will be the case going forward.

Thank you for your attention.

Sincerely,

Sandra Baylis Hall

## Goals and Objectives - FY2017

### **Goal 1: Financial Leadership and Stability**

Objective A: Develop FY2018 budget within the limits of Proposition 2 1/2 that minimizes the use of capital exclusions

Objective B: Provide transparency in town finances

Objective C: Develop specific financial strategies to increase S&P Bond rating.

**Goal 2: Governance.** Communicate and conduct Town government business in an efficient, effective, transparent and responsive manner.

Objective A: Conduct Town government business in an efficient and effective manner

Objective B: Conduct Town government business in a transparent manner.

Objective C: Conduct Town government business in a responsive manner

**Goal 3: Infrastructure.** Work with and support the design, construction and renovation activities of the Harbormaster, Department of Public Works, Board of Water Commissioners, Library and other departments conducting major projects.

Objective A: Support and report periodically on the water side rebuilding project at Sagatucket Harbor.

Objective C: Investigate renovation project proposed for Lower County Road

Objective D: Determine appropriate distribution of CVEC energy savings.

**Goal 4: Natural Resources.** Continue to implement the Comprehensive Wastewater Management Plan.

Objective A: Wastewater planning and implementation

Objective B: Wastewater Education and Outreach

### **Goal 5: Planning and Economic Development**

Objective A: Investigate improved utilization, sale or lease of several properties in Town.

Objective B: Create and maintain a strong business and job growth environment

### **Goal 6: Quality of Life and Public Safety.**

Objective A: Provide high quality, cost-effective public safety services to residents and visitors.

Objective B: Support the Fire Station #2 Renovation Project.



## Goals, Objectives, Actions & Deliverables

**Goal 1: Financial Leadership and Stability** - provide financial leadership and stability to all Town departments and Town sanctioned boards and committees. (Primary responsibility is with TA although the Finance Team, Capital Outlay Committee and the Finance Committee provide significant input)

**Objective A:** Develop FY2018 budget within the limits of Proposition 2 1/2 that minimizes the use of capital exclusions.

Actions/Deliverables:

1. Provide Seven Year Capital Plan, 2018-2024 January, 2017
2. Report: Estimated Free Cash November, 2016
3. Report: FY2018 TA Budget Message TBD
4. Provide Initial Budget and additional updates as needed TBD

**Objective B:** Provide transparency in town finances

Actions/Deliverables:

1. Provide quarterly expense and revenue reports for each Town department.
2. Report: Provide revenue sources and expenses for each department. Show each department's operating cost breakdown and how these costs are covered by fees, grants, improvement funds, stabilization funds, facility maintenance and repair funds, and revolving funds. Provide examples of combinations of sources that were used to fund projects, such as Allen Harbor dredging or certain DPW projects using local ("leverage") funds for design only, etc. BOS will select 3 departments to start. Schedule of briefings and written report TBD.
3. Further implement the visual software package to better inform the taxpayers where their tax dollar is being spent. Investigate and document options to provide greater financial transparency to the public with easy access to the Town's expenditure information for the current fiscal year or past years. One such option is the "Open Checkbook" feature that is offered in Arlington, MA. Information on every level of government expenditures, from total spending to payroll information to individual vendor payments is available. Memorandum #1: Recommend visual software enhancements, implement and demonstrate. Memorandum #2: Assess and report on "Open Checkbook" concept for Harwich. (If not, why not? What can be offered to taxpayers?) Schedule: TBD
4. Examine at least 1-3 years of auditors' reports and document how the Finance Dept. has resolved auditor's suggestions/recommendations. Memorandum #1 is a list of last three years auditors comments/recommendations along with identification of which ones have been or will be acted on. Assess Best Practices published by the Bureau of Accounts, MA DOR and identify up to two to implement. Schedule of report and briefing TBD

5. Evaluate the need to form an insurance advisory committee to work with the TA to identify, develop options and implement town insurance matters.

**Objective C:** Develop specific financial strategies to increase S&P Bond rating.

**Actions/Deliverables**

1. Provide memorandum identifying potential savings that could result over the next 5-10 years of planned borrowing if the Harwich rating was increased. Schedule: TBD
2. Identify specific, sustainable revenue sources to fund annual contributions to Other Post Employment Benefits (OPEB). For example, evaluate auctioning tax title liens to collect unpaid real estate taxes. Estimate what the financial benefit would be in the first year and succeeding years. Discuss lessons learned and automated process developed in Yarmouth, MA and assess if applicable to Harwich. Develop a memorandum that describes the recommended plan to proceed with disposition of tax liens. Schedule: TBD

**Goal 2: Governance.** Communicate and conduct Town government business in an efficient, effective, transparent and responsive manner.

**Objective A:** Conduct Town government business in an efficient and effective manner

**Actions/Deliverables**

1. Implement Accela. Set expectations based on current status and resources available. Update and document specific on-line requirements for first version to be implemented. Complete planned implementation of on-line permitting services using Accela software platform. Full implementation of version 1.0 to include documentation of work flow and data requirements for each department, focus group test planning and results, security and back-up plan, full system test plan (functionality and back-up/security) testing and final report, training or on-line help, and final evaluation report. With a goal of improving permitting service to all residents and visitors identify and document requirements for next phase or version. A second version or phase of implementation will expand on-line services to other departments, including Golf, Waterways, Recreation, Community Center and Harbors. Develop on-line services expansion plan.  
Deliverables: Numerous - as listed above. (Milestones are useful to oversee software implementation.) Schedule: Negotiable
2. Request that Charter Review Committee assess the Charter to identify what needs to be changed/improved. Provide recommended Charter changes for ATM consideration. Primary responsibility remains with departments where permits and payments are being automated.
3. Direct that all Town boards and committees review their charges to determine if current charges are appropriate or modifications are required. This would include recommendations for adding an advisory committee, combining committees or eliminating the committee completely.  
Deliverable: Memorandum listing Town committee findings and recommendations and TA recommendations, including the process needed to accomplish the recommended changes. Schedule: TBD.

4. Ensure that all Town boards and committees are conducting meetings and public hearings in accordance with the Harwich Charter, Massachusetts General Laws and relevant state and local regulations.  
     Deliverable: A plan that outlines how Administration will ensure continued compliance and updated training.
5. Assess document storage needs. Investigate document storage at a remote location such as basement of Community Center or police station.  
     Deliverables: 1) Requirements Analysis - what documents/data need to be stored? How much and what type of space is required over the next 10-15 years. 2) Alternatives study - what options does the Town have to accommodate these requirements and at what estimated costs? What sources of funding are available for part or all of this activity (grants, CPC). Schedule: TBD
6. Review and reevaluate BOS policies and make comprehensive updates to bring them up to date.

**Objective B: Conduct Town government business in a transparent manner.**

**Actions/Deliverables**

1. Develop and implement informational meetings ("pre-annual town meetings) to improve understanding and assess potential impacts of the Harwich budget and selected warrant articles. Deliverable: Develop and implement a plan that addresses how to select budget items and warrant articles that need this attention, what outreach method will be implemented, what resources are needed and how Administration will evaluate the results. Plan date: TBD.
2. Public Awareness and Outreach. Improve awareness and understanding of the BOS, other Town-sanctioned groups, and Town departments. By Q2 of this FY the Town Administrator will develop new ways to communicate to the public the actions of the Selectmen, and Town boards, committees and departments. Provide residents and visitors with information about selected parts of Town government through the use of newsletters, periodic programs, site visits, and other communications media. Initially the focus of this objective/task will be the Water Department operations and one other department (Wastewater Project will be treated separately).  
     Deliverables: Two memoranda each co-authored by Administration and head of the departments selected to participate in this outreach activity describing activities planned, resources and schedules required to achieve this objective.  
     Periodic status reports on media projects, site visits, and initial feedback from residents/visitors.  
     End-of-year report on lessons learned.

**Objective C: Conduct Town government business in a responsive manner**

**Actions/Deliverables**

1. Establish Harwich-specific email addresses. To enhance communication between town agencies and the residents of the Town provide all Town sanctioned groups with a Town email address. Identify these email addresses on the Town website. Provide appropriate backup of email transmissions that use Town servers. Create a

policy that requires all official communications between public and these Town groups be made through the Harwich email system. Provide technical support to implement. Deliverables: Memorandum #1: provide a level of effort (labor) and cost estimate for Town staff to accomplish this objective. Memorandum #2: provide draft policy and procedures to implement. Memorandum #3: provide on-line training materials. Memorandum #4: provide evaluation report. Schedules: TBD

2. Reevaluate the pros and cons of Harwich Town Hall being open until 8 PM on Mondays and closed at noon on Fridays. Deliverable: Memorandum that reviews the original purpose of staying open longer on Mondays all year, assesses impacts of on-line access to Town Hall services, quantifies benefits (if any) to residents, reviews merits department-by-department, provides comparisons with other Massachusetts Town Hall operations, and addresses other relevant issues, such as having some departments work longer one day while other Town operations work a standard work week. Schedule: TBD.
3. Evaluate potential improvements to audio reception, recording and broadcasting in Griffin Room. Propose technological options to record other meetings in this room without IT staffing. Deliverables: Report on technology options and costs for improved audio broadcast of meetings in Town Hall and Harwich Community Center. Schedule TBD
4. Develop an agreement for classroom usage at Monomoy Regional High School and Harwich Elementary School (with and without fees) for meetings of Town-sanctioned groups. Schedule TBD

**Goal 3: Infrastructure.** Work with and support the design, construction and renovation activities of the Harbormaster, Department of Public Works, Board of Water Commissioners, Library and other departments conducting major projects.

**Objective A:** Support and report periodically on the water side rebuilding project at Saquatucket Harbor.

**Objective B:** Support and report on the land side design project

**Objective C:** Investigate renovation project proposed for Lower County Road. Director of DPW in Nov 19, 2015 memorandum recommended this project for FY2018. Develop a plan including public hearings, financing options, milestones and schedules.

**Objective D:** Determine appropriate distribution of CVEC energy savings. Validate through direct, written communications with the MA DOR, Div. of Local Service the most appropriate distribution and accounting of CVEC energy savings. If necessary, amend the accounting for previous years to follow the advice of DOR. If appropriate, accomplish the sharing of CVEC receipts with the Water Enterprise Fund through an "off-taker" approach. Implement the revenue sharing, accounting and reporting efficiently. Document and report as part of quarterly revenue reports.

**Goal 4: Natural Resources.** Continue to implement the Comprehensive Wastewater Management Plan

**Objective A:** Wastewater planning and implementation

#### Actions/Deliverables

1. Attempt to finalize negotiations with Chatham BOS regarding terms, conditions, costs, timing and other details related to Chatham treating up to 350,000 gallons of sewage a day from East Harwich area. (BOS subcommittee to work with TA in completing negotiations and presenting options/recommendations prior to and at the Harwich Annual Town Meeting, May, 2017.
2. Convene preliminary discussions with neighboring Towns (Dennis and Yarmouth). Document common/joint interests in combining or coordinating wastewater activities. TA to initiate; Selectmen to participate.
3. Document results of mitigation projects at Muddy Creek. Support Cold Brook mitigation planning and implementation.
4. Continue ongoing pollution mitigation efforts and implementation of new technologies. Keep abreast of results of projects nationwide on alternative technologies as well as natural processes for mitigation, including eco-machines, aeration, propagation of bivalve shellfish, and membranes.

#### Objective B: Wastewater Education and Outreach

#### Actions/Deliverables

1. Use readily available information to develop guidelines for environmentally-appropriate fertilization of lawns and gardens. Provide guideline information on safe use of nitrogen and phosphorus fertilizers using various communication methods. Work with the Wastewater Implementation Committee and Natural Resources Department to identify what other towns have done. Plan and implement one method/activity to educate Harwich residents of the effects of improper lawn and garden fertilization.
2. Plan and implement a wastewater education program for resident and nonresident taxpayers to explain why this project is necessary, where we are in this process and what are the next activities planned. Conduct at least 2 educational meetings, including recording and rebroadcast. Recommend options for supporting public outreach either through contract or creating a part or full-time position of public outreach specialist. If necessary, create the position description.

**Goal 5: Planning and Economic Development.** Actively participate in development of housing, business, transportation and historic and cultural enhancements. Establish working relationships with officials of nearby towns, Barnstable County, State and Federal agencies, as appropriate.

#### Objective A: Investigate improved utilization, sale or lease of several properties in Town.

#### Actions/Deliverables

1. Develop a plan(or plans) on how to use, sell or lease the five properties known as the Albro House, Bank Street Fire Station, Old Recreation Building, West Harwich Schoolhouse and the Harwich Middle School. Include detailed and specific justifications for retaining properties for municipal use. Provide estimates of resources required to accomplish each alternative. Identify in a preliminary memorandum what

steps can be taken in the near term, such as minor repairs to maintain the integrity of the building or removing/disposing of unused or unusable equipment and equipment and material not owned by the Town. Plan should include consideration of how the lease or sale proceeds should be used.

2. Support community involvement, State compliance, planning, and public information activities in the Rt. 28 reconstruction project from Herring River to the Dennis line.
3. Support community involvement in the HECH/Chase House historic preservation and Chapter 40B development at 93 and 97 Rt. 28. Primary responsibility remains with HECH, Habitat for Housing and their respective contractors and consultants and not Town employees/departments. Town departments can participate in some planning, coordination, inspection and facilitation support to ensure public participation and consensus on project direction and implementation. Deliverables: Roles and Responsibilities Statement to define specific municipal duties relating to these projects. Periodic memorandum updates and briefings on HECH plans and accomplishments and Habitat plans and accomplishments.

**Objective B: Create and maintain a strong business and job growth environment**

**Actions/Deliverables**

1. Explore creation of an economic development committee to be charged with working with the various levels of Chambers of Commerce to increase private business development in Harwich and to generate new ideas for increasing town revenue without raising taxes.
2. Create and Maintain Positive Town and Business Relationship. Establish policies, procedures, relationships that supports a vibrant and sustainable Harwich business community. Continue to provide a streamlined regulatory process and business-friendly staff of volunteers, Town employees and elected officials. Encourage and support new small businesses in Harwich. Work with the Harwich Chamber of Commerce to maximize the effectiveness of HCC branding activity which seeks to promote Harwich as a destination, as well as a great place to reside or own/operate a business. Define issues of importance to Harwich businesses and evaluate costs of doing business in comparison to neighboring towns. Make recommendations for improvements as necessary.
3. Assist Town departments and Town sanctioned groups with grants and pursue funding opportunities in support of town priorities and policy goals. Stay abreast of and perform research involving governmental legislation, policies and regulations that may impact the Town. Participate in regional school activities, such as school rebuilding or renovation projects. Participate in Mass Municipal Association activities that are relevant to Harwich. Encourage other department heads to do the same.
4. Develop educational program agreements with Monomoy Regional School District and Cape Cod Technical whereby special projects can be conducted coincident with major capital projects in Town. For example, the waterside renovation project at Saquatucket could be the subject matter or course material for a local high school course.

5. Investigate novel ideas to promote Harwich and attract tourists, such as painting/decorating fire hydrants.
6. Explore affordable and senior housing options where the Town may retain the property. Memorandum #1: TA shall outline a plan to identify proven and novel approaches to develop Affordable housing in Harwich.

**Goal 6: Quality of Life and Public Safety.** Develop and support programs that improve quality of life for Harwich residents and visitors. (Public Safety Departments have the primary responsibility for progress and accomplishments. TA has coordination, support and reporting responsibility)

Objective A: Provide high quality, cost-effective public safety services to residents and visitors.

Actions/Deliverables

1. Assess public safety signage throughout the Town for adequacy and consistency. Identify improvements. Establish scope of activities and estimate costs.
2. Investigate options, including increased police surveillance, low cost, automatic speed detection systems, raised crosswalks or speed bumps to lower vehicle speed on town streets. Other nearby towns have implemented more visible crosswalk signs, painted crosswalks, and speed limit posting in conjunction with actual vehicle speed display. If Harwich is to continue to grow as a destination point on the Cape, the Town needs to develop and implement a public safety plan that encompasses greater pedestrian and bicycle safety and encourages slower traffic speeds. A plan is needed to establish Harwich as the safest community on the Cape. Accurate information on construction projects, delays and road closures needs to be communicated better. Bike path and roadway intersections have received much needed attention of late. Pedestrian and traffic information signs need similar improvements. Some signs are faded or not visible due to growth of trees and bushes both on town land and private property.  
 Deliverable: Memorandum #1: Define near-term options that could be implemented in 30 days or less. Memorandum #2: Identify steps and resources needed to develop a comprehensive safety improvement plan for Harwich

Objective B: Support the Fire Station #2 Renovation Project.

Actions/Deliverables

1. Apply Town resources (Planning, Engineering, etc.) to support conduct and documentation of needs assessment, preliminary design and alternatives development, cost estimation and preparation of periodic presentations and open meetings and final recommendations to the Selectmen and Town voters.  
 Deliverables: 1) Station Needs Assessment - provide operational requirements that drive the need and design of enhancements and expansions; 2) Alternatives analysis and preliminary design; 3) Cost estimates; 4) Final recommendations.

###

## SUMMARY OF NEW PUBLIC RECORDS LAW

- **Takes effect** on January 1, 2017.
- Creates a new position entitled **Records Access Officer (RAO)**.
  - A. **Municipality must designate** one or more RAO's.
  - B. RAO is **responsible for coordinating responses** to public records requests.
  - C. RAO **must establish guidelines** to assist requestors in making informed requests and post said guidelines on the municipal website by July 1, 2017.
  - D. RAO's appropriate contact information must be posted on the municipal website.
- **Requests** must be in writing and made to the RAO by hand delivery, first class mail or email.
  - A. **Within 10 business days** after receipt of request, RAO must either:
    - 1. **Allow inspection or provide a copy** of the public record, if the record is reasonably described, in possession of the municipality and a reasonable fee is paid; or
    - 2. Indicate that the municipality (1) **does not intend to allow inspection or provide a copy** and include reason why it cannot comply or if there is an exemption, or (2) it cannot comply within the 10 business day period deadline due to burden (**municipalities may be allowed an additional 15 business days to comply**). This response must be made in writing via first class mail or email.
  - B. Municipality may petition the Supervisor of Public Records for **additional time** beyond the 25 day period.
  - C. The requester **cannot be required to state the reasons for the request**, except to determine if it is for a commercial purpose or to evaluate a fee waiver.
- **Reasonable Fees** may be charged unless the record is freely available for public inspection.
  - A. Copies are limited to **5 cents per page**, for black and white copies.
  - B. Employee time can be charged if the time exceeds 2 hours (i.e. search, retrieval, segregation, redaction and production) and is limited to the hourly rate of the lowest paid employee capable of performing the task limited to \$25.00 per hour.
  - C. Fees may be charged only if RAO responds within the 10 business days.
- **Electronic Records** – Records must be produced electronically, unless records are not stored electronically or the requester is unable to receive/access electronic records.
  - A. Records must be provided in a format desired by the requestor, to the extent feasible.
  - B. Municipal RAO's must post commonly available electronic records on the **municipal website**, to the extent feasible.



- RAO must **keep track of the information** related to requests and said information is to be collected by the Secretary of the Commonwealth annually and published on its website and reported to the Clerks of the House of Representatives and Senate.
- **Remedies** provided under new law include:
  - A. Requestor may petition the Supervisor of Public Records for a decision if municipality does not comply or provides a response in violation of the Public Records Law.
  - B. Requestor may seek judicial review of the decision of the Supervisor of Public Records.
  - C. If a civil action is commenced in Superior Court:
    1. An injunction may be issued;
    2. Reasonable Attorney's fees and costs may be awarded.
- **Storage of Public Records:** an electronic system or database must provide data in a commonly available electronic format to provide maximum public access.
- **Personal email addresses** of government employees and family members are included in Exemptions to public records.

This document merely summarizes the main points of the new public records law and is not meant to be a complete outline of every change to the public records law.

6/7/2016

## Charleen Greenhalgh

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**From:** Anita Doucette  
**Sent:** Thursday, June 30, 2016 2:17 PM  
**To:** Charleen Greenhalgh  
**Subject:** FW: KP Law, P.C. eUpdate: The New Public Records Law  
**Attachments:** The New Public Records Law.pdf

Charleen

You had asked me for this --

Anita N. Doucette, MMC/CMMC  
Town Clerk  
508-430-7516 x5

The Commonwealth of Massachusetts Secretary of State has determined that e-mail is a public record

**From:** KP Law, P.C. [mailto:KPLAW@k-plaw.com]  
**Sent:** Tuesday, June 28, 2016 6:06 PM  
**To:** KP Law, P.C. <KPLAW@k-plaw.com>  
**Subject:** KP Law, P.C. eUpdate: The New Public Records Law



## The New Public Records Law

Attached please find a detailed outline of the new Public Records Law. Passed on June 3, 2016, this law will reshape the manner in which public entities respond to public records requests. Although the relevant portions of the law will not take effect until January 1, 2017, it is highly likely that each public entity will want to take steps to implement the law well in advance of the effective date. We expect additional guidance from the state will be available at some point in the fall as the Supervisor of Records is required to promulgate regulations to be effective on January 1, 2017.

At this time, there are still more questions than answers, but we will continue to analyze the law and its implications for our public sector clients.

## The New Public Records Law - Municipalities

On June 3, 2016, the Legislature enacted, “An Act to Improve Public Records”, Chapter 121 of the Acts of 2016 (<https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter121>). Chapter 121 makes significant changes to the Public Records Law, and as a result, public entities throughout the state will need to adjust their public records practices. Importantly, however, the new requirements will not take effect until January 1, 2017. The outline that follows is therefore for general information purposes only.

Note that different requirements and timelines apply to municipalities as compared to other types of entities. At this time, however, it is not clear whether districts and authorities providing municipal services will be treated as municipalities for purposes of the law. We will provide separate guidance to such entities as may be needed.

### (1) Changes to Exemptions

- The new law amends Exemption (n) to allow records to be withheld related to cyber security;
- Exemptions (o) and (p), and other provisions of law relative to the public records status of home addresses and telephone numbers of certain public employees, public safety personnel, victims of adjudicated crimes, and their family members’ names and personal information, have been revised to allow withholding of personal e-mail addresses; and
- The names and addresses of persons who own, possess, or are licensed to carry firearms will not be subject to disclosure, other than in particular situations.

### (2) Appointment and Duties of Records Access Officer (“RAO”)

- The RAO is the municipal clerk and any others appointed by the “chief executive officer”;
- The RAO will assist public records requesters, assist records custodians in maintaining records, and prepare guidelines as to the public records request and response process;
- Contact information for each RAO and the guidelines must be posted to the official website;

### (3) Responses to Requests

- The time to provide an initial written response has increased from 10 calendar days to 10 business days;
- The new law expressly authorizes requests by hand, first class mail and e-mail; the law does not expressly address in person verbal requests and we are uncertain whether the Supervisor’s regulations will address this issue;
- If a complete response cannot be provided within the initial time frame, the RAO must still respond to confirm receipt, either explaining why a complete response cannot be provided, directing the requester to a different custodian, outlining what will be withheld if known, and estimating the time for response;

- For municipalities, the law establishes an outside date to provide the requested records not to exceed 25 business days from the date of the initial request, although the requester can agree to more;
- The RAO may ask the Supervisor to grant 30 additional business days for “good cause shown”;
- “Good cause shown” will be evaluated based upon a variety of factors including: time needed to search for and redact the record(s); office hours; capacity of the office; number of requests; and whether the request is part of a series that are frivolous, intended to intimidate or harass;
- The law establishes a preference for electronic copies, unless the requester specifically dictates otherwise, and, to the extent feasible, documents must be posted on the municipal website.

#### (4) Fees

- ***A reasonable fee may be assessed*** for production of records other than those “freely available for public inspection” (such as on a website) ***ONLY if the RAO responds to the request within 10 business days***;
- The fee for copies of records shall not exceed the actual cost for reproducing the record, and shall, unless otherwise provided, be calculated as follows: the actual cost of storage device; for black and white photocopies or computer printouts, no more than \$.05/page, whether single or double-sided (the Supervisor’s Public Records Fee Access Regulations are already reflective of this requirement)
- For responses requiring two hours or less, it appears no fee may be assessed for “employee time”;
- If more than two hours of work will be required to look for, compile, segregate, redact or reproduce the record, the prorated hourly fee of the lowest paid person capable of doing the work, capped at \$25.00/hour, can be charged; provided, however, that, in a municipality of more than 20,000 people, no charge may be made for the first two hours;
- Subject to the cap, “employee time” may include that required by employees or “necessary vendors, including outside legal counsel, technology and payroll consultants or others as needed by the municipality”;
- The RAO may petition the Supervisor for permission to charge a higher hourly rate, and the Supervisor has five business days to respond; permission may be granted upon a finding that the request is for a commercial purpose OR that the request cannot be prudently completed without the redaction, and the amount of the fee is reasonable and not intended to limit, deter or prevent access; factors to be considered include public interest in access to the record and financial ability of the requester to pay;
- Unlike now, police records are subject to the same fee schedule as other records;
- The RAO may deny additional requests from requesters that have failed to pay for previous requests, provided that the requester is provided with an accounting of outstanding balances;
- As is the case now, the RAO may not require the requester to specify the purposes for the request; however, under the new law, a request for additional information may be made to determine whether the request is made for a commercial purpose (sale or resale of a portion of the record or use of the information to advance strategic business interests, and not for news purposes or to better understand government operations) or to grant a fee waiver.

## (5) Appeals

- By Requester to Supervisor or Superior Court – Appeals may be made to the Supervisor who shall issue a written decision within 10 business days of receipt of the petition; a requester aggrieved by a decision of the Supervisor may obtain judicial review in Superior Court OR the requester can go directly to court
- By Attorney General – The Attorney General, at the request of the Supervisor, may seek to compel disclosure of records; the Attorney General may also act on its own initiative or intervene in case filed by requester;
- All records are presumed to be public, and burden is on municipality to show, by a preponderance of the evidence, that the record or portion thereof may be withheld;

## (6) Attorneys' Fees

- **Presumption in favor of an award of costs and attorneys' fees** – The new law requires an award to be made in any case in which the requester “obtains relief through a judicial order, consent decree, or the provision of the requested documents after the filing of a complaint”;
  - **To combat the presumption**, the municipality must establish that (1) the Supervisor found in favor of the municipality, (2) the municipality relied upon an appellate level decision or a published opinion of the Attorney General based upon similar facts, or (3) request was designed to harass or intimidate or was not in the public interest and made for commercial purposes unrelated to provision of information to the public; thus, if an exemption is asserted, and the court orders any portion of the records to be released OR any portion of the records are released after the filing of litigation, a presumption exists that the plaintiff will be awarded attorneys' fees and costs;
- **Waiver of Fees** - If attorneys' fees and costs are awarded, the Superior Court shall order the municipality to waive fees assessed for copies of the records; if no such award is made, the court may still require the municipality to waive such fees;
- **Punitive Damages** – The Superior Court may award punitive damages of no less than \$1,000 and no more than \$5,000 if the requester has obtained judgment in Superior Court and has demonstrated that the municipality failed to act in good faith.

**Summary.** This eUpdate identifies certain significant changes to the Public Records Law for your immediate information. It will be important to plan for these changes in the law, including appointment of RAOs. In addition to provision of additional written guidance, this fall we will hold approximately a dozen client training sessions throughout the state. The dates and locations for such training sessions will be announced shortly.

Attorneys Lauren F. Goldberg ([lgoldberg@k-plaw.com](mailto:lgoldberg@k-plaw.com)), Brian W. Riley ([Briley@k-plaw.com](mailto:Briley@k-plaw.com)), Gregg C. Corbo ([gcorbo@k-plaw.com](mailto:gcorbo@k-plaw.com)) or Michele E. Randazzo ([mrandazzo@k-plaw.com](mailto:mrandazzo@k-plaw.com)) are available to assist with any questions on the changes to the Public Records Law. They can be reached at 617.556.0007.

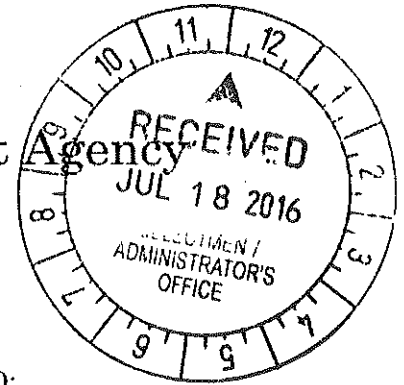
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# Federal Emergency Management Agency

Washington, D.C. 20472

July 12, 2016



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:

Case No.: 16-01-0500P

The Honorable Peter S. Hughes  
Chairman, Town of Harwich Board of Selectmen  
732 Main Street  
Harwich, MA 02645

Community Name: Town of Harwich, MA  
Community No.: 250008  
FIRM Panel Affected: 25001C0609J,  
25001C0626J,  
25001C0628J

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Dear Mr. Hughes:

In a Letter of Map Revision (LOMR) dated February 24, 2016, you were notified of proposed flood hazard determinations affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for the Town of Harwich, Barnstable County, MA. These determinations were for Muddy Creek from the mouth of Muddy Creek at Pleasant Bay to approximately 1.6 miles upstream of the mouth; Pleasant Bay - along the shoreline of Pleasant Bay from approximately 1,400 feet northeast of the mouth of Muddy Creek to approximately 3,630 feet north of the mouth; and Round Cove - along the entire shoreline of Round Cove located between State Route 28 and Pleasant Bay and north of Muddy Creek. The 90-day appeal period that was initiated on March 10, 2016, when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed Flood Hazard Determinations in *The Cape Cod Chronicle* has elapsed.

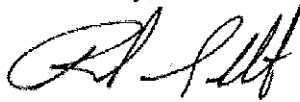
FEMA received no valid requests for changes to the modified flood hazard information. Therefore, the modified flood hazard information for your community that became effective on July 8, 2016, remains valid and revises the FIRM and FIS report that were in effect prior to that date.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Public Law 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65. The community number(s) and suffix code(s) are unaffected by this revision. The community number and appropriate suffix code as shown above will be used by the National Flood Insurance Program (NFIP) for all flood insurance policies and renewals issued for your community.

FEMA has developed criteria for floodplain management as required under the above-mentioned Acts of 1968 and 1973. To continue participation in the NFIP, your community must use the modified flood hazard information to carry out the floodplain management regulations for the NFIP. The modified flood hazard information will also be used to calculate the appropriate flood insurance premium rates for all new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

If you have any questions regarding the necessary floodplain management measures for your community or the NFIP in general, please contact the Mitigation Division Director, FEMA Region I, in Boston, Massachusetts either by telephone at (617) 832-4712, or in writing at 99 High Street, Boston, Massachusetts, 02110. If you have any questions regarding the LOMR, the proposed flood hazard determinations, or mapping issues in general, please call the FEMA Map Information eXchange, toll free, at (877) 336-2627 (877-FEMA MAP).

Sincerely,



Patrick "Rick" F. Sacbibit, P.E., Branch Chief  
Engineering Services Branch  
Federal Insurance and Mitigation Administration

cc: The Honorable Jeffrey S. Dykens  
Chairman, Town of Chatham Board of Selectmen

Ms. Jill R. Goldsmith  
Manager  
Town of Chatham

Ms. Ryan Bennet  
Principal Planner  
Town of Chatham

Mr. David Spitz  
Town Planner  
Town of Harwich

July 15, 2016

**John W. Giorgio**  
[jgiorgio@k-plaw.com](mailto:jgiorgio@k-plaw.com)Mr. Christopher Clark  
Town Administrator  
Harwich Town Hall  
732 Main Street  
Harwich, MA 02645Re: Applicability of Prevailing Wage Law to Work Performed by Volunteers and Inmates

Dear Mr. Clark:

You requested an opinion regarding the applicability of the state's prevailing Wage Law to certain work performed on behalf of the Town of Harwich by volunteers as well as inmates of the Barnstable County Jail. As I understand the circumstances, the Town has used volunteers to paint the Albro House at 728 Main Street, and occasionally uses inmates of the Barnstable County Jail, as part of the Barnstable County Sheriff's Community Service Program, to perform maintenance work on other Town owned buildings. The Town does not pay the volunteers or inmates for the work they perform but does provide the materials required for the projects, and in some instances supplies lunch as well. You question whether the prevailing wage statute, which applies to public works construction projects, is applicable to the above-described work performed by the volunteers and inmates.

In my opinion, the Town is not required to pay prevailing wages for work performed by volunteers and inmates since the work is performed independently of any municipal contract and is not performed by employees of any contractor, sub-bidder or sub-contractor. Furthermore, no Town funds are used to pay the volunteers or inmates. Please be aware, however, that I express no opinion with regard to the obligation, if any, of the Sheriff's Department to comply with the Prevailing Wage Law.

As you know, the Massachusetts Prevailing Wage Law, G.L. c. 149, §§ 26 – 27H, requires that prevailing wages be paid to all employees on public works projects regardless of whether they are employed by the general contractor, a filed sub-bidder, or any sub-contractor and regardless of whether the employees are unionized or non-unionized. To ensure prevailing wages are paid to employees on public works projects, the Prevailing Wage Law requires that the following procedures to be adhered to. Before soliciting bids for any public construction project regardless of the cost of the project, an awarding authority must obtain a prevailing wage rate sheet from the Department of Labor Standards ("DLS"). Once the awarding authority receives the prevailing wage schedule for a particular project, it must include the rate sheet in its invitation for bids. If the project does not require an invitation for bids (for example, if the project will cost less than \$10,000), the



Mr. Christopher Clark  
Town Administrator  
July 15, 2016  
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awarding authority should make sure that anyone who is providing a quote for the construction project has a copy of the prevailing wage schedule for that project. Once a contractor has been selected, the prevailing wage schedule is made a part of the contract for that project.

Here, the Town is not soliciting bids or entering into a contract for the work described above, namely the painting of the Albro House or the maintenance and repair of other Town owned buildings. Furthermore, the work will not be performed by employees of the Town or employees of any contractor or sub-contractor with whom the Town had entered into a contract for the described work. Therefore, in my opinion, while the painting of the Albro House and maintenance and repair of other Town owned buildings, may be deemed a public works project since the work is encompassed within the statutory definition of "construction," the Prevailing Wage Law does not apply since the work will be performed by volunteers and inmates and not "employees." See G.L. c. 149, §27D.

As stated above, in my opinion, the Prevailing Wage Law does not apply to work performed by bona fide volunteers. While the law does not define "volunteer," the method by which Massachusetts courts determine volunteer status under similar statutes such as the Massachusetts Minimum Fair Wage Law, G.L. c.151, provides sound guidance because, in my opinion, if an individual is not considered an employee for purposes of the Minimum Fair Wage Law, they would similarly not be entitled to a prevailing wage.

To determine volunteer status under G.L. c.151, Massachusetts courts apply the same test that federal courts employ under the Fair Labor Standards Act, 29 USC §201 et seq. Volunteer status is determined on a case by case basis and is limited to those individuals performing charitable activities for not-for-profit organizations and thus specifically precludes individuals from volunteering for a for-profit entity. Massachusetts courts employ the following six part test for determining whether an individual qualifies as a bona fide "volunteer":

1. The nature of the entity receiving the services;
2. The receipt by the worker of any benefits, or expectation of any benefits, from their work;
3. Whether the activity is less than a full-time occupation;
4. Whether regular employees are displaced by the "volunteer";
5. Whether the services are offered freely without pressure or coercion; and
6. Whether the services are of the kind typically associated with volunteer work.

In applying this test, courts tend to focus on the benefit conferred on the organization by the worker.

Based on the facts you have presented and analogizing and applying the minimum wage test, in my opinion, the workers who performed the painting of the Albro House and maintenance and

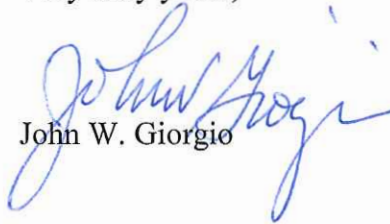
Mr. Christopher Clark  
Town Administrator  
July 15, 2016  
Page 3

repair work to other Town owned buildings are bona-fide volunteers and not “employees” entitled to prevailing wages.

While it is my opinion the Prevailing Wage Law does not apply since the work described is to be undertaken independent of any municipal contract and to be performed by bona fide volunteers, please be advised that nothing would prevent a disgruntled volunteer or inmate from filing a wage complaint with the Department of Labor Standards against the Town if they disagree with their volunteer status and believe they are entitled to be paid a prevailing wage. While we could not locate any formal opinions from DLS on this subject, there is always a possibility that, if a complaint were filed, the DLS could reach a different conclusion. As previously indicated, I also express no opinion on what, if any, obligation the Sheriff’s Department has regarding compliance with the Prevailing Wage Law.

Please do not hesitate to contact me should you have any further questions concerning this matter.

Very truly yours,



John W. Giorgio

JWG/man

554102/HARW/0001

**TOWN OF HARWICH  
PUBLIC MEETING NOTICE**

**NON-RESIDENT TAXPAYERS MEETING  
August 8, 2016**

The Harwich Board of Selectmen will hold the **Annual Non-Resident Taxpayers Meeting on Monday, August 8, 2016**, no earlier than 6:30 P.M., during their regular meeting in the Donn B. Griffin Meeting Room, located at 732 Main Street in Harwich. All Harwich non-resident taxpayers are encouraged to attend this informational meeting, which will provide an overview of town government and provide non-resident taxpayers an opportunity to raise and discuss issues and concerns.

Topics include:

1. Introduction of new Police Officers
2. Report on Safety and New Door to Door Sales By-Law
3. Report from the Highway Director
4. Report from the Harbormaster
5. Report from the Recreation Director
6. Report from Water Superintendent
7. Wastewater Issues
8. Overall Financial Position of the Town
9. Questions and Comments

Harwich Board of Selectmen

Cape Cod Chronicle  
July 28, 2016  
August 4, 2016