

**SELECTMEN'S MEETING AGENDA\***

*Donn B. Griffin Room, Town Hall  
732 Main Street, Harwich, MA  
Regular Meeting 6:30 P.M.  
Monday, January 14, 2019*

*\*As required by Open Meeting Law, you are hereby informed that the Town will be video and audio taping as well as live broadcasting this public meeting. In addition, anyone in the audience who plans to video or audio tape this meeting must notify the Chairman prior to the start of the meeting.*

I. **CALL TO ORDER**

II. **PLEDGE OF ALLEGIANCE**

III. **WEEKLY BRIEFING**

IV. **PUBLIC COMMENTS/ANNOUNCEMENTS**

V. **CONSENT AGENDA**

A. Minutes:

1. November 13, 2018 Regular Session
2. November 19, 2018 Regular Session
3. November 26, 2018 Regular Session

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

- A. Overview of the Short Term Rental Law – John Giorgio, KP Law
- B. POCCA – Use of Glyphosate (“Roundup”) – Laura Kelley

VII. **NEW BUSINESS**

- A. Request for permission to close Villa Roma from January 5, 2019 until the first week in March 2019 for repairs and general maintenance on interior and exterior
- B. Request for permission to close the Cape Sea Grill for the month of February for cleaning and renovations

VIII. **CONTRACTS**

IX. **OLD BUSINESS**

- A. Review and Approval of the Draft Land Use Control Regulation

X. **TOWN ADMINISTRATOR'S REPORT**

- A. Dog Hearing – February 6, 2019
- B. Assistant Town Administrator Position
- C. Departmental Reports

XI. **SELECTMEN'S REPORT**

XII. **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

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

Date: \_\_\_\_\_  
January 10, 2019

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, NOVEMBER 13, 2018  
6:30 P.M.**

**SELECTMEN PRESENT:** Ballantine, Howell, Kavanagh, MacAskill, McManus

**OTHERS PRESENT:** Town Administrator Christopher Clark, Chief Guillemette, Amy Usowski, Emily Mitchell, Sharon Pflieger, Richard Waystack, Taylor Powell, and others.

**WEEKLY BRIEFING**

Chief Guillemette announced "No Shave November" to raise funds and awareness for veterans as requested by the Command Staff noting that each officer who forgoes shaving for the month of November donates \$100 to the cause.

Emily Mitchell, COA Director, announced that a case worker from the Homeless Prevention Council will be at the COA on Tuesdays from 1:00 to 4:00 p.m.

**CONSENT AGENDA**

A. Minutes:

1. October 15, 2018 Regular Meeting
2. October 22, 2018 Regular Meeting
3. October 29, 2018 Regular Meeting

B. Vote to approve and sign Election Certifications for Register of Deeds, County Commissioner and Assembly of Delegates

Mr. McManus moved approval of the Consent Agenda and the items thereon. Mr. Howell seconded the motion. With regard to Item B, Mr. Howell pointed out the total final results include the mail-in ballots from overseas so this is a 100% return. The motion carried by a unanimous vote.

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

A. Annual Meeting

1. Wastewater Support Committee

Ms. Pflieger, Chair, delivered the annual report of the Wastewater Support Committee and took comments from the Board.

2. Board of Assessors

Mr. Waystack, Chair, delivered the annual report of the Board of Assessors and took questions and comments from the Board.

### 3. Council on Aging

Mr. Waystack, Chair, delivered the annual report of the Council on Aging and took comments from the Board.

#### B. Public Hearing – Classification Hearing – Board of Assessors

Mr. McManus read the hearing notice into record and Chairman Kavanagh opened the hearing. Mr. Waystack reported that at a duly posted meeting of the Board of Assessors held on October 29, 2018, the Board of Assessors met and voted to recommend to the Board Selectmen that they select a factor of "1" taxing all property at the same rate, that they do not grant an open space exemption, that they do not grant a residential exemption, and that they do not grant a small commercial exemption. He reported that the valuation of the Town has gone up substantially, by 6.96% over the last year, and they have come up with a proposed rate of \$8.66 per thousand which is a drop of \$0.14. He explained that as the valuation goes up, the tax rate goes down and you can't increase levy based on value alone. He noted that the market is starting to level. He encouraged the public to take a close look at their valuations and noted that the average residential parcel is now valued at \$542,000. Chairman Kavanagh asked for public input and no one appeared before the Board. Mr. Howell moved to close the public hearing. Mr. MacAskill seconded the motion and the motion carried by a unanimous vote. Mr. Howell moved that the Town of Harwich select a factor of "1" taxing all property at the same rate, that we do not grant an open space exemption, we do not grant a residential exemption, and we do not grant a small commercial exemption. Mr. MacAskill seconded the motion and the motion carried by a unanimous vote.

#### C. CPC project application submitted by Conservation to extend the jetty landward at the east end of Red River Beach to help curb erosion – Amy Usowski, Conservation Administrator

Ms. Usowski reported that an application has been submitted to the CPC to extend the jetty landward at the east end of Red River Beach to help curb erosion. She provided a Power Point presentation on the proposed project. Mr. MacAskill asked if the Conservation Commission supports this and Ms. Usowski responded that they haven't weighed in on it yet and need to have a public hearing. She said they're supportive of finding a solution to the erosion problem at the east end of Red River. Mr. Howell pointed out that an affirmative vote of the Conservation Commission would be required in order for CPC to consider this. Ms. Usowski said the plan just needs slight revision and then will be submitted to the Conservation Commission and they will have a public hearing at the very latest around the first of the year. Mr. Howell stressed that timing is critical. Mr. MacAskill moved that we support the CPC project application submitted by Conservation to extend the jetty landward at the east end of Red River Beach to help curb erosion. Mr. Howell seconded the motion and the motion carried by a unanimous vote.

### **NEW BUSINESS**

#### A. Recommendation on Ember's Disciplinary Hearing held on October 31, 2018

Mr. MacAskill moved that we approve the recommendation of the disciplinary hearing officer, the Town Administrator, on Ember's disciplinary hearing held on October 31, 2018. Mr. Howell seconded the motion and the motion carried by a unanimous vote.

B. Request by Planning Board member David Harris to use Remote Participation at meetings from December to the first meeting in May

Mr. MacAskill commented that Mr. Harris puts a lot of time in and is an asset to the Planning Board. He added that Mr. Harris participates in every meeting and does his homework. Mr. Howell commented that their preference is to have people engaged here rather than participating remotely. Mr. Howell moved to accept the request for approval to allow remote participation on the part of Dave Harris in the months of December, January, February, March, April and the first meeting in May for the Planning Board. Mr. MacAskill seconded the motion and the motion carried by a unanimous vote.

C. RFP for the Wastewater Communication and Outreach Coordinator / Owner's Project Manager

Mr. Ballantine said we are getting into the discussion of Project Manager vs Outreach Coordinator after the fact as the project has already started. He reported that there was discussion this morning with the Wastewater Support Committee on the subject of Project Coordinator rather than Project Manager. He stated that conceptually the main function is to move all the moving parts together so they are in a central location, and secondly, in terms of the program management part, we haven't paid a lot of attention to what the state and county said we have to do to maintain our permits. He said there is a lot of criteria they want us to submit on a regular basis and this person would do that and public engagement would be a huge part of the job as well. He said this is a stronger position than the Communications Coordinator they had previously discussed. He stated that we want to make sure the financial information comes back to committee for monitoring and tracking. He said the RFP is missing the detailed plans and timelines we need and he asked the Board to agree to an overall direction. After Mr. Ballantine's remarks there was a lengthy discussion on structure to allow for free information flow.

Mr. Clark said he met with one of the contractors we sent the material to and asked for input and they said they marketed the RFP in their own firm and in smaller firms they have relationships with and people weren't really interested in the Public Outreach Coordinator element because that's more of like a public relations firm. He noted that they said that an Owners Project Manager is more known in the industry and if we marketed it that way we may get more interest. He added that they said we may want to consider just hiring a part-time staffer and servicing the public relations element and coordination and Mr. Ballantine commented that those are good suggestions.

Mr. Howell said this is definitely heading in the direction closer to what he had in mind and that somebody has to be on top of things happening in a timely manner for each milestone and the idea of the staff member is more appealing as we own them.

Mr. MacAskill stated that he didn't know how to put a number on this and he sees a lot of this already being done by Dan Pelletier and his staff. He commented that we are trying to reinvent

what we've already invented and that tracking belongs with a staffer, not a firm that the Board votes to hire. He said he would send his thoughts to Mr. Ballantine.

Mr. Clark stated that we had a vision about 2 years ago that we wanted to have the wastewater and water merge and for Dan Pelletier to be the lead. He stated that we did do some special legislation to amend the Charter to kind of get to that element and that didn't go all that well and he'd like to have that be revisited so Mr. Pelletier knows clearly that by the Charter they are going to be Water/Wastewater. He explained that Mr. Pelletier does a lot of the compliance check-off lists now on the water side. He added that if we formalize that he can get going on that to make sure we comply with those elements of the CWMP.

Chairman Kavanagh noted that there are going to be other elements that also need coordination as we go forward including traffic management that Mr. Pelletier won't be able to do.

Mr. Ballantine said his view is the Board would be responsible for implementation of the CWMP and construction of pipes and after that they would turn it over to the Water/Wastewater Department.

Mr. MacAskill noted that Mr. Pelletier has done a lot with wastewater in other towns. He added that Mr. Pelletier will control all of it and bring back to the Board through the Town Administrator. He questioned why we would hire someone to track the CWMP and not use Mr. Pelletier.

Mr. Clark stated that having an Owners Project Manager is still a need to be filled and noted that the CWMP calls for annual reports and that needs to be done.

Mr. Howell pointed out that there are a lot of loose ends here particularly between departments.

Mr. Ballantine asked the Board to send him any suggestions and he can take them back to the Wastewater Support Committee but asked that they move quickly. Chairman Kavanagh reiterated that the Board needs to send Mr. Ballantine their feedback.

The Board took comments from Ms. Pflieger who encouraged there be one person to oversee all of this, a project manager who would report to the Board of Selectmen and Mr. Pelletier. Mr. Clark said he is aware of the points Ms. Pflieger made and we are working on all the pieces. He stressed that he doesn't want the general public to think we are not addressing all the elements of the project.

Mr. McManus advocated for a Project Manager for the construction part and after that he sees the Water/Wastewater Department taking over.

## **CONTRACTS**

- A. Approval of Contract between the Town of Harwich and Weed & Feed Inc. for Improvements to Cranberry Valley Golf Course in the amount of \$53,947

Mr. Howell requested there be a written recommendation by either the Assistant Town Administrator or Town Administrator for contracts. At Mr. Fernandez' and Mr. Clark's recommendation, Mr. MacAskill moved to approve the contract between the Town of Harwich and Weed & Feed Inc. for improvements to Cranberry Valley Golf Course in the amount of \$53,947. Mr. Howell seconded the motion and the motion carried by a unanimous vote.

## **TOWN ADMINISTRATOR'S REPORT**

### **A. Housing Coordinator Status**

Mr. Clark said that responses are due in by Thursday and we have sent this out to several firms.

### **B. Contract approval for the Mount Pleasant Gravestone Conservation in the amount of \$47,250**

Mr. Clark reported that this contract is just for cleaning the stones by acid washing and it is funded by CPC.

### **C. Departmental Reports**

There was no action on this item.

## **SELECTMEN'S REPORT**

Mr. MacAskill commented that he was a "victim" on Harwich Old Timers social media page. He explained that there was a post about him name calling one of our residents, a friend of his, at the election and the webmaster didn't take it down or ask him if was true. He said there is always the same small group of people that are often negative to the Town Administrator and the Board, they are extremely rude and it's a very one sided conversation. Mr. MacAskill added that there was a second post about the Board flapping their wings and not doing anything to get legislation passed so that debate could happen on the Harwich Old Timers page. He stated that the webmaster promotes this knowing that the Board can't do anything about it. Mr. MacAskill stressed that all these people are welcome to attend the Board of Selectmen's public meetings and stand before the Board with their comments but instead they hide behind their keyboards at home and insult the people who are working hard for this Town. He welcomed them to take get on an agenda and take advantage of the process. Mr. McManus agreed that anyone can take advantage of the process and this is where we are supposed to conduct Town business.

## **ADJOURNMENT**

Mr. Howell moved to adjourn at 8:15 p.m. Mr. MacAskill seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel  
Recording Secretary

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, NOVEMBER 19, 2018  
6:30 P.M.**

**SELECTMEN PRESENT:** Ballantine, Howell, Kavanagh, MacAskill, McManus

**OTHERS PRESENT:** Town Administrator Christopher Clark, Carolyn Carey, John Stewart, Allin Thompson, Gary Carreiro, Noreen Donahue, Cyndi Williams, Michael Lach, and others.

Chairman Kavanagh reported that the Board had just come out of Executive Session where they discussed a real estate issue related to 4 Central Avenue and also litigation about the Viprino vs. Harwich lawsuit.

Mr. Howell announced the unexpected passing of former Selectman Mr. Freeman Allison and called for a moment of silence.

**WEEKLY BRIEFING**

Noreen Donahue of the Wastewater Committee discussed the Wastewater Phase 2 sewer connection process and hook up costs. She discussed information on tax credits for septic on the State Department of Revenue website and provided general guidelines.

Ms. Carey provided information on recent and upcoming Community Center events.

**PUBLIC COMMENTS/ANNOUNCEMENTS**

Ms. Williams of the Chamber of Commerce discussed upcoming Chamber of Commerce events including Christmas in Harwich.

**CONSENT AGENDA**

- A. Vote to confirm the appointment of Robert Doane as the Historic District/Historical Commission's representative to the Community Preservation Committee

Mr. McManus moved approval of the Consent Agenda and adoption of the item thereon with a term to expire of June 30, 2019. Mr. MacAskill seconded the motion and the motion carried by a unanimous vote.

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

- A. Annual Meeting

- 1. Housing Authority

John Stewart, Executive Director of the Housing Authority, provided the annual report of the Housing Authority and took questions and comments from the Board. It was agreed to put a public notice in the newspaper to hold a joint meeting in an effort to fill the two current vacancies.

## 2. Water Commissioners

Mr. Thompson, Chair, delivered the annual report of the Board of Water Commissioners and took questions and comments from the Board.

### B. Cold Brook Attenuation Project – video

Mr. Lach of the Harwich Conservation Trust presented a video overview of the Cold Brook Attenuation Project.

## **NEW BUSINESS**

### A. Second meters for homes that have irrigation systems – discussion

Mr. Pelletier made the following statement:

The Board (of Water Commissioners) did vote to support the installation of irrigation water meters but they still need to work out the details. We are anticipating the Water Department will still bill and read the same meter they always have and they will be allowing residents who are connected to the sewer system to get a separate irrigation meter which will be read and deducted from the master meter. That is our plan moving forward.

He said the most logical thing to do is to bill people for what they're using going in and bill people for what we're treating on the way out.

He took questions from the Board regarding billing software. Mr. MacAskill said it was great news. Mr. Howell recommended that people take care of any leaks they may have sooner rather than later.

### B. Capital Outlay votes – update

Mr. Clark thanked the Capital Outlay Committee who he said have gone through all the items and have their recommendations ready which are included in the Board's packets. He said he would like to have a summary version and complete version as an appendix for the warrant as he did last year. Mr. Howell said this still co-mingles things that are not capital items on the capital plan and asked for items \$50,000 and above that we anticipate borrowing for. The Board took questions and comments from Noreen Donahue regarding a hardship fund for hooking up to sewer service and said she is hoping there will be a provision in the plan for this. Mr. Clark discussed a concept, he said if the statute is clear and says you can do up to 2% over what you borrow money at, if the Town came up with \$100,000 and funded it by free cash so there is no borrowing cost and sent to the County for the County to administer and dedicate it to Harwich residents, we could ask the County if they could do 1% administrative costs, then people could borrow at the 1% and it wouldn't require special legislation. Mr. McManus said you could do it as a one year exclusion as



well. Mr. Clark said he would like to speak to the County about this. The Board agreed to discuss these items at a later meeting.

#### C. 2018 Holiday Hours

Mr. Howell moved to accept the recommendation of the Town Administrator and that we give the Town employees the 21<sup>st</sup> off as a half day and the 24<sup>th</sup> of December off as a full day. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

#### D. Appointments to the Harwich Center Initiative Committee – terms expire on December 31, 2019

1. Lincoln Hooper; 2. Paul Doane; 3. Lane Meehan; 4. Dan Wolf

Mr. MacAskill noted that all were interviewed last week and we are still looking for two more people. Mr. Ballantine said the first meeting of the Committee is November 27<sup>th</sup> at 4:00 p.m. Mr. Howell moved to approve the nominations of Lincoln Hooper, Paul Doane, Lane Meehan and Dan Wolf as members of the Harwich Center Initiative Committee with terms all to expire December 31, 2019. Mr. MacAskill seconded the motion. Mr. McManus said he has a long involvement with the previous Harwich Center committee and he intends to attend the meetings and provide historical perspective as questions come up. The motion carried by a unanimous vote.

### **OLD BUSINESS**

#### A. Special Legislation – Water/Wastewater Commission Charter amendments

Mr. Clark made the following statement:

We had at Town Meeting last year an effort to try to create the Water and Wastewater Commission. That does require a Charter change so there was Charter change language that was put together. We obviously didn't get that material vetted and carefully reviewed so I wanted to at least bring up the same language that was presented before. I know that we did have Mr. Pelletier and myself meet with John Giorgio and I was at Town Meeting and I think one of the focal points of some of the discussion on the language was that there is a sentence in here that says that "following initial approval the Town Administrator would be responsible for overseeing all expenditures." I think what that was attempting to do was just to kind of acknowledge the role of the Town Administrator as Chief Procurement Officer but in discussion I think it's probably safest just to take it out. Why restate what's already stated in the Charter. So I know at least from discussions that Dan (Pelletier) and I had as well as with Attorney Giorgio, we don't have any issue with removing that language but I think it does have some merit to just make sure we have a discussion in public so that way as we build the warrant to try to get the warrant done a little bit early and we start to go with the work that was done last year, make the revision and see if we can kind of move this forward to make sure we are in the wastewater business. I think just for the general public the concept behind this and what this accomplishes, or the intent of it, is that the Board of Selectmen would retain the capital authority and the regulatory authority for rules and regs to design out and build a system and then once the system becomes operational and online, the Water Department already does an outstanding job of billing and monitoring and overseeing the water system and then that this

would have that authority would go to a new Water/Wastewater Commission, the language in here does keep it as an elected body and it moves from three members I believe to five members so that's just really because they're taking on additional responsibility. The thought was to have some additional members to kind of maybe have some of that diversity of opinion in the deliberations but I think that's what this is attempting to accomplish. I think the language gets us to hopefully where we need to be but there may be some tweaks that may need to be done to it but I think it would be good to commence a discussion and see if we can get this thing finalized so we can put the warrant together.

Mr. Howell made the following statement:

Several things, the first one is this never made its way through the Charter and By-Law Committee last year in addition to what was said on Town Meeting floor so that has to happen. I mean this is a pretty significant change. Secondly, I'm a little mystified about the way its listed in the agenda, I'm not reading into anything, but it says Special Legislation, but this is being done by going to Town Meeting, getting 2/3 vote and then coming back to the Town election again the subsequent year like we always used to do it so it's not Special Legislation not withstanding whatever the agenda says. Finally, from just at the very top, I suggest that I already have a change "Amend the Town of Harwich Charter to Change the Name of the Water Commission and Water/Wastewater Commission." I suggest that we also add the words "and to Add Additional Duties and Responsibilities Thereto." It's not a name change, it's actually a significant job change.

Mr. MacAskill questioned how long they are going to wait for this and what's the shortest route. He said we need to think about Special Legislation if it is quicker or meet with the Water Commissioners and see how we can put this in place sooner.

Mr. Howell stated the following:

But to what point because they're not going to be taking over the system until its built. We're not even going to be starting to build until this May and there isn't going to be anything to be able to hand over to them to operate until this would go to the next Town year's election.

Mr. MacAskill stated the following:

I think to the point Don, that right now the only person at the helm on this now is the Town Administrator and we the Board of Selectmen aren't going to put this together, certainly we're going to be in control of this but we're not going to do the work. Two weeks ago unless I'm mistaken, our conversation was whose going to run this whole thing now, not whose going to run this who thing in two years.

Mr. Clark said he just wants to get the language squared away for Town Meeting this year and for the Town election the following year.

Mr. Thompson said he could see going ahead and getting it done sooner rather than later. He said he agrees with taking the language out, it's pretty straightforward and he can see going ahead with the article. This was the consensus of the Board as stated by Chairman Kavanagh.

Mr. Clark said he would amend that language and put in there that there is more detail than just a name change.

Mr. Thompson stated that if Mr. Pelletier is going to oversee project, he would look to see that the Board fund some portion of his salary for that time that he can draw on as well as any expenses he might need so it doesn't fall on the Water Enterprise Fund. Mr. Clark responded that the Town approved the Sewer Enterprise Fund and Mr. Pelletier's time could come out of that as well. Mr. Clark said we could legally do it but having this Charter change in place makes more sense legally.

Mr. Howell said the Water Commissioners would have to agenda and vote approval of this language and then send to the Board so they can forward it to the Charter Committee.

Mr. Clark said he would make the revisions and ask to have it on both agendas.

#### B. 4 Central Avenue amendment

Chairman Kavanagh noted that this was discussed in Executive Session. She explained that Town Meeting voted to dispose of the property known as 4 Central Avenue and the process to do so was conducted. She stated that a bid was received and in the details of putting together the Purchase and Sale, there was a concern, and actually in the documents for the bid we did put in that we didn't want someone to acquire a small piece of property that's really only available for parking a couple of vehicles on and have them attempt to construct something, so we did amend the bid process to say the land would stay in its natural state, and there was a request from the winning bidder to park cars on it and use it for when guests come so the topic in Executive Session was to make those revisions to the Purchase and Sale, so now we can schedule the closing.

#### C. Recruitment of Interim Housing Authority member discussion

Mr. Clark said there was an ad out on October 18 to see if someone has an interest in this. Mr. Howell noted that the ad is separate and distinct from the legal ad that we are going to hold a public hearing.

#### D. Parking Committee status

Mr. Howell stated the following:

We have got to the point where we've got five. We've got three people from the community, I guess there was one business and two residents. John Mahan still has to be sworn in. We appointed him but he didn't. We have to send out letters even though they're only going to go inside the building for one of them. There is no appointment necessary because we approved ex-officio by job title in the charge that we approved, the Town Planner, the Executive Director of the Chamber. What they do need from us is a letter because of the approval so they can get sworn in. When John gets sworn in they can actually meet.

He encouraged people to apply and Chairman Kavanagh said it is a priority.

## **TOWN ADMINISTRATOR'S REPORT**

### **A. IT update**

Mr. Clark reported that there are two parts to our contract with the County, to do an overall review of our system and to provide back-up services to our IT Director. He said Mr. Travers from the County will be making a report shortly.

### **B. Affordable Housing Trust update**

Mr. Clark reported that they had their first meeting last week. He said he volunteered to be Chair and Mr. Howell agreed to be Vice-Chair. He said they are focusing on anything they need for Town Meeting and will probably be looking at parcels under Town control that we could use for affordable housing and will be bringing back in form of a warrant article.

### **C. CWSRF 4424 – Financing eligibility for construction of a sewer line to the Chatham wastewater system**

Mr. Clark reported that we got a letter from DEP on the zero interest rate for which we have received preliminary approval. He stated that the savings would be \$16,000,000 which is a big win for the community.

### **D. Supplemental Chapter 90 apportionment**

Mr. Clark reported that we received an additional \$136,000 Chapter 90 apportionment.

### **E. Departmental Reports**

There was no action on this item.

## **ADJOURNMENT**

Mr. Ballantine moved to adjourn at 8:05 p.m. Mr. Howell seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel  
Recording Secretary

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, NOVEMBER 26, 2018  
6:30 P.M.**

**SELECTMEN PRESENT:** Ballantine, Kavanagh, MacAskill

**OTHERS PRESENT:** Town Administrator Christopher Clark, Carolyn Carey, Gerry Beltis, Linda Cebula, Cyndi Williams, and others.

Chairman Kavanagh reported that the Board had just come out of Executive Session where they conducted strategy in preparation for contract negotiations for the Hot Stove Restaurant contract extension at Cranberry Valley Golf Course.

**WEEKLY BRIEFING**

Ms. Carey announced upcoming events at the Harwich Cultural Center.

**PUBLIC COMMENTS/ANNOUNCEMENTS**

Ms. Williams of the Chamber of Commerce discussed the upcoming Christmas in Harwich events in Harwich Port.

**NEW BUSINESS**

- A. Request by Building Commissioner to waive the building permit fee for the Brooks Park restroom project

Mr. MacAskill moved to approve the request by the Building Commissioner to waive the building permit fee for the Brooks Park restroom project. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

- B. Request from Nstar Electric, d/b/a Eversource Energy to grant a License Agreement to place new facilities (**transformer**) at #1464 Orleans/Harwich Road which will allow service to Harwich Fire Station 2 during construction – effective until the permanent easement can be approved at Town Meeting

Mr. MacAskill moved to approve the request from Nstar Electric, d/b/a Eversource Energy to grant a License Agreement to place new facilities, a transformer, at #1464 Orleans/Harwich Road which will allow service to Harwich Fire Station 2 during construction effective until the permanent easement can be approved at Town Meeting. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

- C. Request from Verizon New England and Nstar Electric, d/b/a Eversource Energy to grant a License Agreement to place new facilities (**poles**) at #1464 Orleans/Harwich Road which will allow service to Harwich Fire Station 2 during construction – effective until the permanent easement can be approved at Town Meeting

Mr. MacAskill moved to approve the request from Verizon New England and Nstar Electric, d/b/a Eversource Energy to grant a License Agreement to place new facilities, poles, at #1464 Orleans/Harwich Road which will allow service to Harwich Fire Station 2 during construction effective until the permanent easement can be approved at Town Meeting. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

- D. Request from member Larry Brophy for permission to use remote participation for upcoming meetings of the Affordable Housing Trust – mid December 2018 through March 2019

Mr. MacAskill moved to approve the request from member Larry Brophy for permission to use remote participation for upcoming meetings of the Affordable Housing Trust from mid December 2018 through March 2019. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote

- E. Crosswalk Policy – *first reading*

Mr. Clark and Mr. Beltis, Traffic Committee Chair, provided an overview of the draft policy. Mr. Ballantine asked for a cover process page to help people understand what’s needed to get a crosswalk and Mr. Beltis agreed. Mr. Beltis discussed with the Board doing an inventory of crosswalks in Town and determining which ones aren’t ADA compliant. There was a brief discussion about an upcoming policy on speed bumps.

## **OLD BUSINESS**

- A. Water/Wastewater Commission language revisions

Mr. Clark stated the following:

We did do an article last year for Town Meeting’s consideration and what this is, is in the Charter to amend right now, we have just a Water Commission and there is no provision in the Charter for Wastewater so the Town, through the Board of Selectmen as Sewer Commissioners is doing that through statute, not through the Charter and to try to reflect more accurately how we do with the Charter, have the proposed language. A lot of this is what we had proposed for last year at Town Meeting with a few corrections if you would. First, it really isn’t just a name change, it is also to add additional duties and responsibilities thereto so the Water Commission becomes the Water/Wastewater Commission so now you have a whole element of sewer law that needs to be built into it so it is an administration of the sewer Chapter 83 of MGL. The other one was in the Commission itself, it’s to go from 3 members to 5 members for elected overlapping terms so it retains the elected element which I believe was something that the Water Commission, because where they are elected, certainly thought was important. A few corrections that we have in here was take out the language that’s in the

Charter that the Wastewater Superintendent shall request this officer to cooperate with and be responsive to the request from the Town Administrator's office so we just cleaned up that language a little bit in that. We had to update the dates so it would be May 6 of 2019, would be the vote of Town Meeting and then would take effect in 2020 if the townspeople vote it at the ballot so those just more updates to the change. One of the comments that came out last time is that I think that the original language just kind of tried to mirror a little bit the Charter language about the Administrator having the ability on really procurement to kind of oversee some elements of that. We just struck that wording "following initial approval by the Town Administrator" because the Charter is already clear on what role the Administrator plays relevant to the Water Commission. Those were the changes, with the Board's approval tonight we can certainly send a note down to the Water Commission. If both parties vote it we can get it on the warrant for the May 2019 meeting.

Mr. MacAskill questioned what we do if we can't get 5 people to run for this and questioned whether we should have a provision in there for elected or appointed. Mr. Clark responded that there is a default provision in the Charter already that two elected bodies can get together so if there are 3 and we don't get 2 others, that the Board of Selectmen will have the opportunity to appoint.

Mr. Ballantine moved we amend the Town of Harwich Charter to change the name of Water Commission to Water/Wastewater Commission and to have additional duties and responsibilities as written in the document. Mr. MacAskill seconded the motion and the motion carried by a unanimous vote.

#### B. Proposed revisions to Sewer Regulations

Mr. Clark asked to hold this item. He said he asked Attorney Giorgio to review our current sewer regulations and discussed that we need to mirror Chatham regulations in some areas. He noted that Attorney Giorgio has drafted a letter and he will put in the packet for next week.

### **TOWN ADMINISTRATOR'S REPORT**

#### A. Budget Warrant Timeline update

Mr. Clark reviewed the Budget Warrant Timeline for December. The Board agreed to stick to full day Saturday budget hearings.

#### B. Disturbing the Peace complaint - Fish and Game Club on Depot Road

Mr. Clark reported that we had a resident who had a concern about noise from the Fish and Game Club on Depot Road. He said he met with them and also went out to the site. He reported that he found the site to be very removed and he thought they were very cognizant of what they're doing with regard to safety. He pointed out that they have been in operation for almost 100 years. Mr. Clark said he recognizes that as people move into the neighborhood, it doesn't preclude that the neighbor was there first and has certain rights and privileges. He said Attorney Giorgio's initial reaction was he didn't believe we had any regulations that he could think of that we would even have the power to regulate even if we wanted to. He added that Attorney Giorgio also made

note of the club being there so long and they had the rights to continue their operations. He said he asked Attorney Giorgio to do another review.

C. Departmental Reports

There was no action on this item.

**ADJOURNMENT**

Mr. MacAskill moved to adjourn at 7:07 p.m. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel  
Recording Secretary



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**TO:** Christopher Clark, Harwich Town Administrator (*By Electronic Mail Only*)

**FROM:** John W. Giorgio, Esq., KP Law, Town Counsel

**RE:** Short-Term Rental Legislation

January 8, 2019

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Now that the Short-Term Rental Law has been enacted, KP Law will be sending out general guidance to our municipal clients. We are also expecting that the Department of Revenue will be issuing guidance documents in the near future. However, the Town may want to consider certain actions at the 2019 Annual Town Meeting to implement the new law. To that end, I am providing you with a preview of available options as you are preparing the warrant.

#### **Local Acceptance**

There are, in fact, three local acceptance options available under the new law and one additional local option the Town may wish to consider:

1. The new law, Chapter 337 of the Acts of 2018 (the Act), revises G.L. c. 64G, §3A, to include short-term rentals among the list of establishments subject to the local excise tax. Specifically, the new law authorizes a local excise upon the transfer of occupancy by the operator of a room in a bed and breakfast establishment, hotel lodging house, short-term rental or motel located within the Town at a rate of not more than 6%.

The Act defines short-term rental as:

an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

It is my understanding, however, that the Town previously accepted G.L. c. 64G, §3A and set the rate at 4%. Accordingly, there is no need for the Town to accept the new §3A which extends the local excise tax to short-term rentals. Section 15 of the Act provides: "A city or town that accepted section 3A of chapter 64G of the General Laws before July 1, 2019 shall be deemed to have accepted said section 3A of said chapter 64G for the purposes of this

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act.” However, if the Town wishes to change the percentage amount of the tax, a new Town Meeting vote would be required.

Please also be advised, however, that if the Town previously voted a home rule petition to establish a rooms excise tax on short-term rentals, it is unlikely that the General Court will act on any such petitions in light of the passage of the new Act.

The new tax will apply to a change of occupancy starting on or after July 1, 2019, that is booked on or after January 1, 2019. It is expected that the Department of Revenue will shortly be issuing guidance to municipalities and operators as to the specifics of charging and remitting the tax to the Commonwealth.

2. The new law adds G.L. c. 64G, §3D (a) which authorizes a community impact fee of not more than 3 per cent of the total amount of rent for each transfer of occupancy of a professionally managed unit. A professionally managed unit is defined as “1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family two-family, or three-family dwelling that includes the operator’s primary residence.” Adoption of the community impact fee is only available if the Town accepts or has already accepted section 3A, and the acceptance vote for section 3D(a) must be separate from the vote to accept section 3A. Unlike the rooms tax under section 3A, which is paid to the Commonwealth and then remitted to the Town quarterly, the community impact fee under section 3D (a) is paid monthly by the operator directly to the Town and the Town is required to dedicate not less than 35% of the community impact fees it receives to affordable housing or local infrastructure projects.

3. The new law also adds G.L. c. 64G, §3D(b) which would allow the Town, upon an acceptance vote by Town Meeting, to impose a community impact fee of not more than 3% upon each transfer of occupancy of a short-term rental that is located within a two-family or three-family dwelling that includes the operator’s primary residence. The same requirements for payment directly to the Town and dedicating not less than 35% of the short-term rental impact fees to affordable housing or local infrastructure projects apply as well.

4. Although this next option has been available since enactment of the Municipal Modernization Act in 2016, it may be of particular relevance with the passage of the Short-Term Rental Legislation. If the Town accepts G.L. c. 40, §5B, the Town can dedicate not less than 25% of the local rooms excise tax to any stabilization fund. This would include any new revenue generated from short-term rentals. The Town must accept paragraph 4 of §5B at Town Meeting, establish the stabilization fund (if an appropriate one does not already exist), and designate the percentage of the room excise (not less than 25%) to be deposited in the stabilization fund. No further appropriation into the fund is required. For example, if the Town desires to dedicate 50%

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of the new rooms excise for affordable housing purposes, Town Meeting would have to vote by a two-thirds vote to establish a new Affordable Housing Special Purpose Stabilization Fund, vote to accept Paragraph 4 of G.L. c. 40, §5B, and vote that 50% of the rooms excise tax to be deposited into the fund. One potential drawback of this approach is that any appropriation from the stabilization fund by Town Meeting would require a two-thirds vote, and the revenue so dedicated would not be available for appropriation for general fund expenses.

### **Cape and Islands Water Protection Fund**

In addition, Harwich is included in the Cape Cod and Islands Water Protection Fund which is a Trust established pursuant to §2 of the Act (G.L. c. 21C, §19).

G.L. c. 64G, §3C provides for a 2.75% additional rooms excise tax to be collected by the Commonwealth for transfers of occupancy of units located in Towns on the Cape and Islands. Those funds are deposited directly into the Fund and are dispersed by the Management Board to member towns for water abatement projects. There is no local acceptance required by Town Meeting to implement this provision.

The Town may not withdraw from the Fund for a period of one year after the effective date of the Act. See §12 of the Act. Because the Act did not include an emergency preamble, the Act will become effective 90 days after December 28, 2018, which is the date the Governor approved the Act, or March 28, 2019. Accordingly, the Town Meeting cannot vote to withdraw from the Fund unless the effective date of the withdrawal is March 28, 2020, or later. The Town could, therefore, ask Town Meeting to vote to withdraw from the Fund at the 2019 Annual Town Meeting as long as the vote specifies that the withdrawal will not take effect until March 28, 2020.

Withdrawal requires a two-thirds vote of Town Meeting, but the Town may not withdraw during the term of any financial assistance awarded from the Fund. If the Town withdraws and then subsequently votes to rejoin the Fund, the Town will be ineligible for grants and subsidies for a two-year period.

A Management Board is established, and each member town will have one representative of the Board, who is appointed by the Select Board but must include either a member of the Select Board, the Town Administrator, or "other municipally employees professional staff." The Management Board is required to make "an equitable distribution among participating municipalities consistent with revenue deposited from each municipality." The term "equitable distribution" is not defined, so it remains to be seen how the Management Board, once it is established, will allocate the available funds. In this regard, both the Cape Cod Commission and the Marth's Vineyard Commission are required to provide administrative and technical support to the Management Board and may be compensated for such support from the Fund. In addition,

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the Management Board may, pursuant to a Memorandum of Understanding with the DEP, expend up to 10% of the annual revenue in the Fund to contract with a regional planning agency, an institution of higher education or non-profit corporation to evaluate and report on the efficacy of adaptive management measures to reduce nitrogen pollution, monitor water quality, and conduct water quality monitoring. Accordingly, I do not expect that the full amount of the 2.75% tax will be available for distribution by the Management Board.

### **Local Regulation**

Finally, §14 of the Act expressly authorizes a municipality by ordinance or bylaw to regulate operators subject to the rooms excise tax and who have registered pursuant to G.L. c. 62C, §67. The bylaw may:

(i) regulate the existence or location of operators under this section within the city or town, including regulating the class of operators and number of local licenses or permits issued to operators under this section and the number of days a person may operate and rent out an accommodation in a calendar year;

(ii) require the licensing or registration of operators within the city or town; provided, however, that a city or town may: (A) accept a certificate of registration issued to an operator in accordance with section 67 of chapter 62C in lieu of requiring an operator to obtain a local license or registration under this section; or (B) issue a provisional license or registration to permit an operator to offer accommodations on temporary or seasonal basis;

(iii) require operators to demonstrate that any properties or premises controlled, occupied, operated, managed or used as accommodations subject to the excise under this chapter are not subject to any outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices;

(iv) require properties or premises controlled, occupied, operated, managed or used by operators as an accommodation subject to the excise under this chapter to undergo health and safety inspections; provided, however, that the cost of any inspection conducted under this section shall be charged to and solely paid by the operator under this section; provided further, that after any initial health and safety inspection, the city or town may determine the frequency of any subsequent inspections;

(v) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this section; provided, however, that a city or town that suspends or terminates an operator's right to operate an accommodation for a violation of any ordinance or bylaw shall notify the commissioner of revenue of the suspension or termination; and

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(vi) establish a reasonable fee to cover the costs associated with the local administration and enforcement of regulating operators and accommodations.

Under this section, the Town may publish a public registry of all short-term rental accommodations including where the accommodation is located. This is an interesting provision because under section 1 of the Act, the state will be establishing a registry of all operators but is limited to only listing the name of the street and the municipality where the listing is located. If the Town is interested in developing its own regulations for short-term rentals, including limiting the number of licenses issued, we would be happy to work with the Town in drafting an appropriate bylaw. In this regard, however, you may be aware the city of Boston has been sued by Airbnb in connection with their respective ordinances regulating short-term rentals, and there have been some threats by the lodging industry to challenge at least the registry provisions of the new Act. It may, therefore, be prudent to wait until the Courts have addressed these legal challenges before proceeding with the enactment of a local bylaw.

It is important to note that the new law does not specify whether the bylaw must be a general bylaw or a zoning bylaw. Furthermore, there is nothing in the new law that would preclude the adoption of a Board of Health regulation to address health and safety issues. It may come down to how the Town intends to regulate short-term rentals, if at all. As a general rule of thumb, a local general bylaw would be appropriate to establish a licensing and registry scheme, or to limit the number of licenses than can be issued. If, on the other hand, the Town is only interested in establishing an inspection program, a Board of Health regulation may be more appropriate for a health and safety inspection protocol. If the Town wanted to limit short-term rentals to particular areas within the town and/or to require a special permit use, a Zoning Bylaw would be the appropriate mechanism.

Please let me know how the Town would like to proceed and whether you want us to draft some or all of the local acceptance provisions outlined above.

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## Sandy Robinson

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**To:** Sandy Robinson  
**Subject:** RE: [Harwich MA] Agenda Request (Sent by Laura Kelley, poccapecod@gmail.com)

Message:

Dear Board of Selectmen in all Cape towns ~

This is a request email for the POCCA team to give a presentation to your Board of Selectmen in January. Please see attached for documents describing in more details and send this complete email to all on your board of Selectmen, thank you.

The POCCA team is asking that the Board of Selectmen to adopt a NO Glyphosate and chemicals policy for those properties they directly control. And two, that the Board of Selectmen encourage their Board of Health to adopt a health regulation, using their powers, prohibiting the use of Glyphosate and chemicals on all town owned properties. For those towns who already volunteer to not use Glyphosate products on your town owned land, I thank you from the bottom of my heart! Our request is would you please take the next step and write a policy to protect and educate more?

In early March 2019, at the next Mass. state Pesticide Board Meeting, the POCCA team plans on updating them and the Pesticide and Crop division of MDAR, what the communities on Cape Cod are doing as property owners by voluntarily not allowing or using Glyphosate and other lawn chemicals on town owned property because it is proven harmful to people, as well as, bees.

As you may know there was a historic liability and personal injury case this past summer in California, where the court ruled and decided the active ingredient in Roundup, Glyphosate, is harmful to humans. A groundskeeper at a school in California has cancer from using Roundup, lets educate our towns to protect themselves as well, please do your own research:

<http://time.com/5460793/dewayne-lee-johnson-monsanto-lawsuit/>

Currently there are over 9,000 pending liability and personal injury cases filed by people allegedly harmed by exposure to Glyphosate/Roundup, so this matter is not going away.

Also in September a study came out of the University of Texas in Austin that proves Glyphosate is directly harmful to the microbiota in Bees and we need to keep pollinators alive:

<http://www.pnas.org/content/early/2018/09/18/1803880115>

These two landmark events clearly demonstrate harm by Glyphosate/Roundup to people and bees.

On December 19th, 2018:

<https://capecodchronicle.com/en/5351/chatham/3891/capecodchronicle.com?fbclid=IwAR38H3SfzxR7RU6TlzWbHjJsrBRfOn0R-8CerDv9SBynetgYx73Dr4n3YsY>

This is a video about the court case in California last summer:

<https://www.facebook.com/GenResist/videos/2162899357067948/UzpfSTE1NTkzNTM3NjE2MjoxMDE1Njc2MzUzNDE4MTE2Mw/>

I look forward to hearing from your town soon as to when we can be on your next agenda to give a presentation to your Board of Selectmen. Currently we are in Orleans on January 2nd, Brewster on January 7th, Wellfleet on January 22nd, Yarmouth on January 29th so please offer other dates. Chatham Selectmen already voted unanimously (see article above on Dec. 19th), we hope all Cape Cod towns will adopt a policy as well.

Thank you for your help during these changing times.

All the best,

Laura Kelley

President of POCCA Cape Cod

[www.pocccapecod.org](http://www.pocccapecod.org)



*Helping to Preserve Our Quality of Life on Cape Cod*

November 28, 2018

Dear Board of Selectmen ~

I am writing you to request to be on the agenda of your next Board of Selectmen's meeting as soon as possible. The goal is to have towns not use chemicals on their Town Owned Land (Town Owned Land is all land owned by the Town including, school property, recreational fields, ball fields, walking paths, cemeteries, parks, windmill lawns, ROW power lines, walking paths and the like). Current studies came out this past summer showing Glyphosate, the active ingredient in Roundup, is harmful to human health, as well as, bees.

As you may know there was a historic liability and personal injury case this past summer in California, where the court ruled and decided the active ingredient in Roundup, Glyphosate, is harmful to humans. A groundskeeper at a school in California has cancer from using Roundup for 2 years. Lets educate our towns to protect themselves, please do your own research:  
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Also in September a study came out of the University of Texas in Austin that proves Glyphosate is directly harmful to the microbiota in Bees and we all need to help to keep pollinators alive:  
<http://www.pnas.org/content/early/2018/09/18/1803880115>

These two landmark events clearly demonstrate harm by Roundup to people and bees.

My requests are for Cape Cod towns to not wait for our state of Massachusetts Pesticide Board or the Environmental Protection Agency to make changes but to start by voluntarily not using products with Glyphosate in them and to ask all town employees to not use this harmful herbicide again. Thank you for making changes to protect people and the grounds in which they roam upon.

~ POCCA Cape Cod ~ Protect Our Cape Cod Aquifer ~ [poccapotecod.org](http://poccapotecod.org) ~

My requests to all Cape towns:





*Helping to Preserve Our Quality of Life on Cape Cod*

1 - Voluntarily not use products with Glyphosate in them on any Town Owned Land by VOLUNTARILY discontinuing its use and RECOMMEND to all town employees not to use Roundup, for it is harmful. **Make this a town commitment. Please vote on this.**

**2 - Write your own town policy to protect others. Refer to the #7 paged Organic Pest Management document written in Marblehead by their Board of Health as guidance, that has worked since 2005. Have your Board of Selectmen send this policy to your town of Board of Health with a recommendation to adopt it.** This is framework towns can modify it as they wish. It gets voted on and passed at the Board of Health level and becomes a policy within your town to protect citizens and visitors alike. **Selectmen please vote to give the Marblehead policy to your board of Health along with a high recommendation to adopt it.**

3 - Once your town policy is written, give it to all your town residents and businesses and SUGGEST they follow by VOLUNTARILY not using products with Glyphosate herbicides on their own land. Encourage citizens in your own town to reduce or eliminate the use of herbicides/pesticides. Send out a email or 'snail mail' letter with the #2 links above showing the studies to inform and educate residents and businesses about these changing times. This widens the outreach and helps educate others in your town of the harm these products have.

Discussion on how to care for your Town Owned Land ~ experts from Pure Solutions in Chatham will be present who are able to help transition your town from conventional treatments to non-toxic methods. They test soil, monitor and care for land without the use of chemicals. They feed land to build up soil with their own fertilizer, they only feed when needed (not an automatic 8 step-program yearly) to lessen the amount of nitrogen and phosphorus used. Pure Solutions has a formula to deter pests with essential oils like mosquitos and ticks on properties. They are glad to work with your existing town employees, DPW, parks & fields departments and schools, for a smooth transition from conventional to non-toxic methods on land in your town.

4 - Spring of 2019, please write to the Massachusetts Pesticide Board (MDAR) and let them know your town doesn't want Eversource to use Herbicides for vegetation management along Rights-of-way power lines in your town. Wait for the Yearly Operational Plan (YOP) to come out in the Spring of 2019, then write a strong comment in a document from your town during the comment period when it is open to the public to write comments/concerns.

Thank you for sharing these important current events in order to help protect your citizens.

Best,  
Laura Kelley,  
President of POCCA Cape Cod

~ POCCA Cape Cod ~ Protect Our Cape Cod Aquifer ~ poccacapecod.org ~

# **TOWN OF MARBLEHEAD BOARD OF HEALTH**

## **ORGANIC PEST MANAGEMENT REGULATIONS**

**Adopted: December 7, 2005**

**Effective: December 22, 2005**

**Carl D. Goodman, Esq., Chairman David B.  
Becker, D.M.D., M.P.H.  
Helaine R. Hazlett**

**Wayne O. Attridge, Director of Public Health**

**TOWN OF MARBLEHEAD  
BOARD OF HEALTH**

# **ORGANIC PEST MANAGEMENT REGULATIONS**

## **SECTION I - FINDINGS & PURPOSE**

The Board of Health does hereby find that:

All pesticides are toxic to some degree and the commonplace, widespread use of pesticides is both a major environmental problem and a public health issue; and

All citizens, and in particular children, as well as other inhabitants of our natural environment, have a right to protection from exposure to hazardous chemicals and pesticides in particular; and

A balanced and healthy ecosystem is vital to the health of the town and its citizens; and as such is also in need of protection from exposure to hazardous chemicals and pesticides; and

When an activity raises threats of harm to the environment or human health, precautionary measures should be taken, even if some cause and effect relationships are not yet fully established; and

It is in the best interest of public health to eliminate the use of toxic pesticides on Town-owned land, ponds and waterways; to encourage the reduction and elimination of the use of toxic pesticides on private property; and to introduce and promote natural, organic cultural and management practices to prevent and, when necessary, control pest problems on Town-owned land.

Accordingly, the Board of Health finds and declares that the purposes of these Organic Pest Management Regulations are (1) to protect the public health by restricting the use of hazardous chemicals and pesticides on Town-owned land (2) to guarantee the right of the residents of the town of Marblehead the safe use of public land, (3) to encourage the reduction and elimination of the use of toxic pesticides on private property.

## **SECTION II - AUTHORITY**

These Organic Pest Management Regulations are promulgated under the authority granted to the Marblehead Board of Health under Massachusetts General Laws Chapter 111, Section 31 providing that Boards of Health may make reasonable health regulations and under the authority granted to the Marblehead Board of Health under Massachusetts General Laws Chapter 111, Section 122 to make regulations for the public health and safety relative nuisances and causes of sickness.

## **SECTION III - DEFINITIONS**

The following words and phrases, whenever used in these Organic Pest

Management Regulations, shall be construed as defined in this section:

OPM shall mean Organic Pest Management.

Pests are and may be known as undesirable plants, insects, fungi, bacteria, and rodents, birds and other animals. Common examples in turf grass and the landscape can be, but are not limited to, crabgrass, knotweed, poison ivy, chinch bugs, grubs, and a variety of plant pathogens.

Pesticides are defined by the Massachusetts Department of Food and Agriculture Pesticide Bureau as “substances or mixtures of substances that prevent, destroy, repel, or mitigate pests, or defoliate, desiccate, or regulate plants.” Pesticides are poisonous substances that can have an adverse effect on the environment or impair human health. Herbicides, fungicides, insecticides, miticides, avicides and rodenticides are all considered pesticides. Pesticides that are classified as known, likely, or probable human carcinogens or probable endocrine disruptors, or those pesticides that meet the criteria for Toxicity Category I or Toxicity Category II, as defined by the United States Environmental Protection Act (EPA) in section 156.10 of Part 156 of Title 40 of the Code of Federal Regulations, are subject to these Regulations. A list of the pesticides in the EPA’s Toxicity Categories I and II will be periodically updated and maintained at the offices of the Town of Marblehead Board of Health.

Organic Pest Management is a problem-solving strategy that prioritizes a natural, organic approach to turf grass and landscape management without the use of toxic pesticides. It mandates the use of natural, organic cultural practices that promote healthy soil and plant life as a preventative measure against the onset of turf and landscape pest problems.

Essential OPM practices include, but are not limited to:

- regular soil testing;
- addition of approved soil amendments as necessitated by soil test results, following, but not limited to, the recommendations of NOFA/Mass (Northeast Organic Farmers’ Association/Mass) and/or the Organic Material Review Institute of Eugene, OR;
- selection of plantings using criteria of hardiness; suitability to native conditions; drought, disease and pest-resistance; and ease of maintenance;
- modification of outdoor management practices to comply with organic horticultural science, including scouting, monitoring, watering, mowing, pruning, proper spacing, and mulching;
- the use of physical controls, including hand-weeding and over-seeding;
- the use of biological controls, including the introduction of natural predators, and enhancement of the environment of a pest’s natural enemies;
- through observation, determining the most effective treatment time, based on pest biology and other variables, such as weather and local conditions; and
- eliminating pest habitats and conditions supportive of pest population increases.

#### SECTION IV - PROHIBITION

The use and application of toxic chemical pesticides, by Town of Marblehead employees and/or by private contractors, is prohibited on all Town-owned lands.

#### SECTION V - CONTROL OF POTENTIAL PEST PROBLEMS

Organic Pest Management practices, i.e. natural, organic turf and landscape cultural practices and maintenance, shall be the method of choice to understand, prevent, and control potential pest problems;

Control products used under the terms of this Regulation shall be those products on the approved list of NOFA/Mass. (Northeast Organic Farmers' Association/Mass.) and/or the Organic Materials Review Institute of Eugene, Oregon, or such other lists or products as may be approved by the Director or by the Board of Health from time to time;

#### SECTION VI - ADVISORY COMMITTEE

An OPM Advisory Committee shall be formed which shall advise the Board of Health as to all matters arising out of or in connection with these Regulations. Whenever practical, the Director and/or the Board of Health shall consult with the Advisory Committee prior to the granting of any waivers under Section VIII. The Advisory Committee shall have such additional responsibilities as may be granted to it by the Board of Health. The OPM Advisory Committee shall be composed of representatives of the general public, elected town officials, appointed town officials, and town employees as the Board of Health may determine from time to time. Membership on the OPM Advisory Committee shall be at the pleasure of the Board of Health.

#### SECTION VII - INVENTORY OF PESTICIDES

A registry of all pesticides currently stored in or on Town-owned premises shall be compiled by the Director of Public Health who shall have authority to order the disposal of any such products that the Director deems unnecessary to be stored within the Town, such disposal to be through the Town's Hazardous Wastes Collection program or otherwise.

#### SECTION VIII - EXEMPTIONS

All outdoor pest management activities taking place on Town of Marblehead-owned land shall be subject to these Regulations, except as follows:

1. Pesticides otherwise lawfully used for the purpose of maintaining a safe drinking water supply at drinking water treatment plants and at wastewater treatment plants and related collection, distribution, and treatment facilities.
2. Pesticides in contained baits or traps for the purpose of rodent control.
3. Pesticides classified by the United States Environmental Protection Agency as exempt materials under 40CRF 152.25, or those pesticides of a character not requiring FIFRA regulation.

4. The use of chemical controls as approved in advance and in writing by the Director of Public Health or by the Board of Health in the event of a public emergency as determined by the Director or by the Board of Health; provided, however, that such authority to grant a temporary waiver shall be limited to a period of thirty days. Any waiver in excess of thirty days as to any one emergency may be extended for an additional period not to exceed six months but only by a vote of the Board of Health. All waivers granted by the Director shall be reported to all members of the Board of Health no later than one business day following the issuance of the waiver. Notice of all such waivers shall be posted, in the manner provided for notice of public meetings, within two business days following the issuance of the waiver. Any waiver granting the use of pesticides on Town land shall require the use of Integrated Pest Management protocol and shall specify the use of a specific pesticide(s) determined to be the least toxic material for the specific application. The Board of Health shall determine if such a waiver is warranted based on the following criteria: a) the pest situation poses a threat to human or animal health and/or environmental quality; b) reasonable OPM efforts, if any, have been attempted; and c) viable alternatives consistent with this Regulation do not exist.

Any Town department or contractor granted a waiver hereunder shall comply with all applicable laws, rules and regulations of the Commonwealth of Massachusetts including, but not limited to those requiring notification to site users, abutters, and the proper method for storage, application, and posting.

#### SECTION IX: TRAINING AND EDUCATION

All Town of Marblehead personnel involved in the evaluation, approval, or implementation of organic turf and landscape maintenance and/or outdoor pest control should receive training and education in natural, organic cultural and technical methods.

#### SECTION X: COMPLAINTS

- A. The Director of Public Health shall investigate complaints received about any practices or acts that may violate any provision of these Regulations.
- B. If the Director finds that an investigation is not required because the alleged act or practice is not in violation of these Regulations, the Director shall notify the complainant of such finding and the reasons upon which it is based. The Director shall provide a report to the Board of Health of all such complaints and findings.
- C. If the Director finds that an investigation is warranted, the Director shall investigate and if the Director finds that there has been a violation of these Regulations, then the Director and/or Board of Health shall be authorized to take such action and institute such proceedings as are provided by law.

## SECTION XI - VIOLATIONS AND PENALTIES

- A. It shall be unlawful for any person to use or apply any toxic chemical pesticides on any town owned land except as specifically authorized in these Regulations.
- B. Any person who violates any provision of these Organic Pest Management Regulations shall be subject to a fine of five hundred (\$500.00) dollars for a first offense and one thousand (\$1000.00) dollars for second and subsequent offenses.
- C. Each application of a prohibited product shall be deemed to be a separate offense.
- D. Citations for violations of these Organic Pest Management Regulations may be in such form as the Board of Health may determine.
- E. In addition to the penalties provided for hereunder, the Board of Health shall have the authority to file a civil suit for damages to compensate the Town for all costs incurred as a result of violations of these regulations.

## SECTION XII - OTHER APPLICABLE LAWS

These Organic Pest Management Regulations shall not be interpreted or construed to permit the application or use of pesticides or other hazardous materials where such use or application is restricted by other applicable health, environmental, safety or fire codes, regulations or statutes.

## SECTION XIII - SEVERABILITY

If any provision, clause, sentence or paragraph of these Organic Pest Management Regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions of these Organic Pest Management Regulations that can be given effect without the invalid provision, clause, sentence, or paragraph, and to this end the provisions are declared to be severable.

SECTION XIV: EFFECTIVE DATE

These regulations shall be effective upon publication.

Adopted: December 7, 2005

By the Board of Health of the Town of Marblehead  
Carl D. Goodman, Esq., Chairman David B. Becker,  
D.M.D., M.P.H.  
Helaine R. Hazlett, Secretary  
Wayne O. Attridge, Director of Public Health





Process to Voluntarily Eliminate  
the use Glyphosate and Other Chemical Products  
from Town Owned Properties.

1. Municipalities own (either fully or shared) and/or control all kinds of property in their towns, or example; Town Hall and other public building lawns, parks, cemeteries, recreational areas ball fields (passive and active), water sheds, well fields. Department of Public Works maintains beaches, conservation parcels and school properties, to name a few.
2. If a Town owns or controls a property, then the Town may be held liable for injury or harm that occurs to a person who is legally on or using that property.
3. A number of chemical products including glyphosate (one of the brand names is Roundup, that contain glyphosate as an active ingredient) that are used to control vegetative pests, "weeds, poison ivy, crab grasses etc." *have been shown to have the capability to cause harm and illness to human, pollinators (honey bees) and animals i.e. dogs.*
4. For a number of years now the Town has actively written the Massachusetts Department of Agricultural Resources, Pesticide and Crop Division, expressing that they do not want to have utility companies spraying herbicides/pesticides on right-of-way areas, which run through the community's water sheds and well fields. These letters opposing spraying of glyphosate and other herbicides were done as part of the review process for the Five-Year Vegetation Management Plans (VMPs) and Yearly Operational Plans (YOPs). Please write in the Spring of 2019 during the comment period, once you read the newly written YOP plan.
5. Recently Eversource Energy in response to a lawsuit between it and a Cape Cod town, questioned the irony of that Town's own use of herbicides/pesticides on municipal property while trying to 'regulate' the utility's use of the "same product(s)."
6. ***Therefore, it is the best of the Town to voluntary stop using chemical products on their properties, for the protection of citizens, children, visitors, pollinators and animals.***

7. The easiest manner and most effective ways are to do this and manage this is utilize the powers of the Board of Health to adopt a local regulation, solely regulating the Town's use on its own property - see #1 for property locations.

As MGL c.132B the Massachusetts Pesticide Control Act. "The purpose of this chapter is to conform the laws of the commonwealth to the Federal Insecticide, Fungicide, and Rodenticide Act, Public Law 92 §516, as amended, and the regulations promulgated thereunder and to establish a regulatory process in the commonwealth. *The exclusive authority in regulating the labeling, distribution, sale, storage, transportation, use and application, and disposal of pesticides in the commonwealth shall be determined by this chapter.*" (Emphasis added)

Communities in the past have tried by the Home Rule process or local by-law attempted to regulate the use of all herbicides/pesticides in their communities, and those actions have been struck down by the Mass. AG's Municipal Law Section and further under appeal the court has also determined that local regulation is in conflict with MGL c. 132B [TOWN OF WENDELL & another vs. ATTORNEY GENERAL & others. 394 Mass. 518, January 10, 1985 - April 11, 1985

However, the decision did provide a path in its wording, "The regulation of the board of health must fall for the same reasons we have just set forth. A local board of health has authority to make reasonable health regulations. G. L. c. 111, Section 31. Such regulations, however, must be consistent with State law."

Under MGL a Board of Health does in fact have the power to enact regulations to protect the public health and safety from relative nuisances and causes of sickness. A Board of Health may act under Massachusetts General Laws Chapter 111, Section 31 providing that Boards of Health may make reasonable health regulations and under the authority granted to the Board of Health under Massachusetts General Laws Chapter 111, Section 122 to make regulations for the public health and safety relative nuisances and causes of sickness.

8. When an activity raises threats of harm to the environment or human health, precautionary measures should be taken, even if some cause and effect relationships are not yet fully established; and, It is in the best interest of public health to eliminate the use of toxic pesticides on Town owned land, ponds and waterways; to encourage the reduction and elimination of the use of toxic pesticides on private property; and to introduce and promote natural, organic cultural and management practices to prevent and, when necessary, control pest problems on Town owned land(s).
9. Therefore, we would ask that Board of Selectmen ***to vote to set a policy and direction to the Board of Health and other boards under its direct control to voluntary not use herbicides/pesticides on Town owned land(s).***

p.3.

**And further to send the adopted “TOWN OF MARBLEHEAD BOARD OF HEALTH ORGANIC PEST MANAGEMENT REGULATIONS” Adopted: December 7, 2005 and Effective: December 22, 2005, with a strong affirmative request that the Board of Health adopt a similar regulation. This is a model that has worked. Towns can use it or write as they desire.**

Since you are acting as a property owner, you have a right to regulate what products, methods and actions occur on property the Town owns. Since School Departments operate somewhat autonomously the proposed Board of Health regulation would regulate school property to greater extent than 333 CMR 11.14 does today. Unfortunately, the CMR only regulates school facilities where the students are either under 6 years old or have special needs up to twenty-one years of age.

10. Board of Selectmen/board of Health will note on Page 1 of the Marblehead Board of Health Regulation the following finding; “the Board of Health finds and declares that the purposes of these Organic Pest Management Regulations are (1) to protect the public health by restricting the use of hazardous chemicals and pesticides on Town-owned land (2) to guarantee the right of the residents of the town of Marblehead the safe use of public land, (3) to encourage the reduction and elimination of the use of toxic pesticides on private property.
11. Besides the action to restrict the use of Glyphosate and other chemical products from Town owned properties through a policy, number #3 is a public outreach action as well. We encourage the Board of Selectmen to announce on their website and other forms of announcements like emails or letters, that the Board has taken this step to restrict the use of Glyphosate and other chemical products from Town owned properties. And ask the town to encourage the residents to do like-wise by sending them the new town policy as they have written.

December 26, 2018

Brought to you by The POCCA Team

POCCA Cape Cod ~ [www.poccapecod.org](http://www.poccapecod.org) ~ [poccapecod@gmail.com](mailto:poccapecod@gmail.com)

January 05, 2019

To whom it may concern:

This letter is to formally request permission to close Villa Roma, located at 278 Route 28 in West Harwich for a short period of time this winter. We would like to close January 05, 2019 and re-open the first week of March 2019. While not in operation, the business will use this time to tend to some much needed repairs and general maintenance on both the interior and exterior of the building.

While in the past the Villa Roma has always stayed open year round, we find it necessary at this juncture to close for this limited period of time so that we may efficiently and effectively continue to maintain our thriving business.

Thank you for your time and consideration,

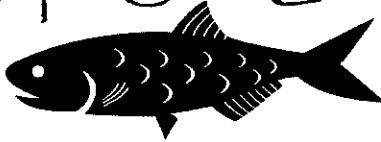
A handwritten signature in blue ink, appearing to be "DM", with a large, sweeping underline that extends across the width of the signature.

Douglas Morrissey, Owner/Manager

A handwritten signature in blue ink, appearing to be "LA Faxon", with a long, horizontal underline.

Lee Anne Faxon, Owner

# Cape Sea Grille



January 9, 2019

Ms. Julie Kavanagh  
Chair of the Board of Selectmen  
Harwich Town Hall  
732 Main St.  
Harwich, MA 02645

Dear Ms. Kavanagh,

We would like to request to close from February 1<sup>st</sup> to February 28<sup>th</sup>, 2019 for cleaning and renovations. While we are very excited to be open year-round, we have many projects that we won't be able to accomplish while the restaurant is open.

Thank you in advance for your consideration.

Jennifer & Doug Ramler  
Cape Sea Grille  
31 Sea St.  
Harwich Port, MA 02646

508-432-4745

31 Sea Street, Harwich Port, MA 02646  
[www.cape-seagrille.com](http://www.cape-seagrille.com)  
Chef Douglas Ramler and Jennifer Ramler, Manager



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

January 4, 2019

Christopher Clark, Town Administrator  
Town Hall  
732 Main Street  
Harwich, MA 02645

Re: Town of Harwich  
0-Percent Interest SRF Loan Eligibility  
CWSRF No. 4424  
Draft Land Use Control Regulation

Dear Mr. Clark:

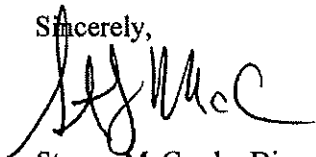
The Town has expressed interest in obtaining a reduced rate loan for work related to the installation of wastewater collection system piping within the Pleasant Bay service area and, to date, has satisfied four (4) of the five (5) regulatory requirements set forth in Chapter 312, Acts of 2008, Section 5. The Town is eligible for zero-percent (0-percent) interest SRF loan financing upon the successful adoption of land use controls. The Massachusetts Department of Environmental Protection (MassDEP), Division of Municipal Services (DMS), received a revised draft land use control (LUC) regulation intended for implementation within the Town of Harwich.

A review of the revised regulation in accordance with the criteria established under regulations 310 CMR 44.04 was accepted by DMS on November 14, 2018, and the Department of Housing and Community Development (DHCD) in a memo dated December 13, 2018. The Town's proposed LUC regulation applies to all present and future sewer service areas that are outlined in a Targeted Watershed Plan, and the Comprehensive Wastewater Management Plan that has been approved by the Secretary of the Executive Office of Environmental and Energy Affairs and MassDEP.

At this time, please request the Board of Selectmen, acting as Sewer Commissioners, host a public discussion on the proposed Land Use Control Regulation at a regularly scheduled meeting. Barring objection, please request the Board move to adopt the LUC as part of current Sewer Use Regulations. Upon adoption, provide to this office a certified copy of the approved Regulation by the Town Clerk, along with a copy of the meeting Agenda and subsequent Minutes. Receipt of these documents will satisfy the outstanding SRF loan conditions associated with eligibility for 0-percent interest financing for the upcoming construction work.

If there are any questions concerning this matter, please do not hesitate to contact Gregory Devine of my staff at 617.292.5883.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. McCurdy', written over the word 'Sincerely,'.

Steven McCurdy, Director  
Division of Municipal Services

Cc: David Young, CDM Smith  
Gregory Devine, DMS - Boston  
Ashraf Gabour, DMS - Boston

SEWER USE REGULATIONS

Harwich, MA

Article XII

Land Use Controls – Wastewater Flow Management

November 5, 2018 – DRAFT 1

**Preamble:**

*The Town of Harwich Board of Selectmen being responsible for the design and construction of the town sewer systems and for the implementation of the Comprehensive Wastewater Management Plan (CWMP) adopt the following Land Use Control – Wastewater Flow Management regulation to achieve Flow Neutral requirements. Sewer Service Areas (SSAs) to be implemented over eight phases during a 40-year period and wastewater flow projections for those areas have been defined after completing a comprehensive and deliberate study of the existing and projected wastewater needs of the Town. Reference is hereby made to the Final CWMP accepted by the Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs (EOEEA) in 2016. The intent of this regulation is to manage the wastewater flows in Town to those projected in the approved CWMP, and sewage treatment provided through intermunicipal agreements and/or in the case of construction of a wastewater treatment facility, the issuance of flow limits issued through a MassDEP Groundwater Discharge permit.*

**Commented [YDF1]:** Believe this should be the MassDEP Groundwater Discharge Permit; not NPDES since land recharge

**Background:**

Any owner of a house, building, or other structure used for human habitation, occupancy, employment, or recreation shall install sanitary facilities thereon in order to connect at his or her own expense to a public sanitary sewer of the Town based on the following sections.

All Connection and Extension Permits for sanitary sewers shall be issued at the sole discretion of the Harwich Board of Selectmen. Implementation of the Comprehensive Wastewater Management Plan and construction of the sewer systems are the responsibility of the Board of Selectmen. The Town of Harwich completed a CWMP in 2016 prepared by CDM Smith Inc., to provide a comprehensive wastewater management plan that outlines the existing and future wastewater needs of the Town in order to protect and restore water quality.

To analyze existing wastewater flows and estimate future wastewater needs, the Town was divided into eight Sewer Service Areas primarily by watershed. The Campground Area, Great Sand Lakes area, and the Route 28 Harwich Port area are outside of the Massachusetts Estuaries Project (MEP) watershed areas and thus are grouped separately. Figure 13-4 from the CWMP shows the watersheds and SSAs. Existing and future wastewater flows were also calculated for each of the five watersheds. The approved March, 2016 CWMP, used water use data from 2004 through 2007 to estimate existing and future wastewater needs, identifying a future need of 1,259,000 gallons per day (gpd). The sewer service area flows for each of the eight (8) watershed areas are summarized in attached Table 1-1.



The Harwich Board of Selectmen will use information and recommendations included in the CWMP as a guide when considering applications for new connection and extension permits and thereby manage the capacity within the sewer system to serve the needs of the Town for the 40-year planning period.

**Regulation: Land Use Control – Wastewater Flow Management**

The Harwich Board of Selectmen are adopting this new Sewer Use Regulation article that will ensure managed smart growth and prevent excessive growth based on availability of municipal sewer service.

**General Land Use Controls**

The Sewer Use Regulation as adopted by the Board of Selectmen delineates and designates eight SSAs and the wastewater flow to be allocated to those individual areas. The areas are shown on Figure 1-1 and the flows are shown on Table 1-1, are both attached and made a part of this sewer use regulation Article XII. Those flows shall be utilized as a guide by the Town in allocating flows for new connections within the individual SSA during the noted 40-year planning period (2017-2057). Flows are based on actual flows.

**Wastewater Flow Management**

The Board of Selectmen reserve the right to reallocate flows within all SSAs provided that the following provisions are met:

1. An applicant seeking to alter a SSA or flow within a SSA shall be responsible for all costs associated with that change including potential for filing a Notice of Project Change with the Massachusetts Environmental Policy Act (MEPA) Office as well as burden of proof to demonstrate the public health need or water quality need, and public benefit;
2. A re-allocation of flows within the SSA shall not exceed the total project flow increase for Harwich in the projected 40-year planning period as presented in the March, 2016 CWMP and shown in Table 1-1;
3. A re-allocation of flow from one SSA to another SSA without exceeding the total flow increase shall be subject to a simple majority vote of the Board of Selectmen; and
4. A re-allocation of flows to an area outside an existing SSA shall only be allowed under the following circumstances:
  - a. For non-public health emergencies or water quality benefits, by unanimous vote of the Board of Selectmen and by positive vote of a legally convened town meeting if zoning changes or Town funding is required. This provision is possible provided the total flow for the projected 40-year planning period is not exceeded.
  - b. For public health emergencies, by unanimous vote of the Board of Selectmen and by recommendation of the Harwich Board of Health. This provision is possible provided the total flow for the projected 40-year planning period is not exceeded.

**Abandonment of Systems**

Existing on-site septic systems that are connected to the Town's sewer system shall comply with Commonwealth of Massachusetts - Department of Environmental Protection Regulations 310 CMR 15.354 - Abandonment of Systems and any local Harwich Board of Health regulations.

**Adopted**

The Board of Selectmen for the Town of Harwich, MA, do hereby adopt the following Land Use Control - Wastewater Flow Management regulation. The sewer service areas and projected wastewater flows have been designated following comprehensive and deliberate study of the existing and projected wastewater needs of the Town. Reference is hereby made to the Final Comprehensive Wastewater Management Plan (CWMP) accepted by the MEPA Office in 2016.

**Approved:**

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

Board of Selectmen:

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Table 1 - 1  
Sewer Service Areas

<b>Sewer Service Area Name (SSAs)</b>	<b>Flow Allocation (in gpd)</b>	<b>Approved Flow (in gpd)</b>
Allen Harbor	61,500	0
Herring River	628,000	0
Route 28/Out MEP	28,000	0
Pleasant Bay	326,000	300,000 (1)
Saquatucket Harbor	113,000	0
Wychemere Harbor	31,900	0
Campground	34,800	0
Great Sand Lake	35,800	0
<b>CWMP Total Flow</b>	<b>1,259,000</b>	<b>300,000</b>

- (1) Town has an executed Inter-municipal Agreement with the Town of Harwich for 300,000 gallons to service the Pleasant Bay Sewer Service Area.
- (2) Phased approvals for wastewater flow to the listed SSAs will be approved by the town Wastewater Commissioners as inter-municipal agreements and construction of a wastewater treatment facility with an issued MassDEP Groundwater Discharge Permit that outline maximum available sewer flows.

Commented [YDF2]: Groundwater Discharge Permit??

# SEWER USE REGULATIONS

Harwich, MA

## Article XII

### Land Use Controls – Wastewater Flow Management

November 5, 2018 – DRAFT 1

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To analyze existing wastewater flows and estimate future wastewater needs, the Town was divided into eight Sewer Service Areas primarily by watershed. The Campground Area, Great Sand Lakes area, and the Route 28 Harwich Port area are outside of the Massachusetts Estuaries Project (MEP) watershed areas and thus are grouped separately. Figure 13-4 from the CWMP shows the watersheds and SSAs. Existing and future wastewater flows were also calculated for each of the five watersheds. The approved March, 2016 CWMP, used water use data from 2004 through 2007 to estimate existing and future wastewater needs, identifying a future need of 1,259,000 gallons per day (gpd). The sewer service area flows for each of the eight (8) watershed areas are summarized in attached Table 1-1.

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### **Regulation: Land Use Control – Wastewater Flow Management**

The Harwich Board of Selectmen are adopting this new Sewer Use Regulation article that will ensure managed smart growth and prevent excessive growth based on availability of municipal sewer service.

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**Approved:**

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

Board of Selectmen:

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# SEWER USE REGULATIONS

Harwich, MA

## Article XII

### Land Use Controls – Wastewater Flow Management

November 5, 2018 – DRAFT 1

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**Adopted**

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**Approved:**

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

Board of Selectmen:

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Table 1 – 1  
Sewer Service Areas

<b>Sewer Service Area Name (SSAs)</b>	<b>Flow Allocation (in gpd)</b>	<b>Approved Flow (in gpd)</b>
Allen Harbor	61,500	0
Herring River	628,000	0
Route 28/Out MEP	28,000	0
Pleasant Bay	326,000	300,000 (1)
Saquatucket Harbor	113,000	0
Wychmere Harbor	31,900	0
Campground	34,800	0
Great Sand Lake	35,800	0
<b>CWMP Total Flow</b>	<b>1,259,000</b>	<b>300,000</b>

- (1) Town has an executed Inter-municipal Agreement with the Town of Harwich for 300,000 gallons to service the Pleasant Bay Sewer Service Area.
- (2) Phased approvals for wastewater flow to the listed SSAs will be approved by the town Wastewater Commissioners as inter-municipal agreements and construction of a wastewater treatment facility with an issued MassDEP Groundwater Discharge Permit that outline maximum available sewer flows.

## Sandy Robinson

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**From:** Christopher Clark  
**Sent:** Wednesday, January 09, 2019 8:45 AM  
**To:** Sandy Robinson  
**Subject:** Fwd: Contact Info for Follow Up

Sandy,

Please include under TA Report Jan 14th. Thanks.

Chris

Sent from my iPhone

Begin forwarded message:

**From:** Judi Wilson >  
**Date:** January 8, 2019 at 7:56:56 PM EST  
**To:** Christopher Clark <[cclark@town.harwich.ma.us](mailto:cclark@town.harwich.ma.us)>  
**Subject: Re: Contact Info for Follow Up**

Thank you

On Jan 8, 2019, at 5:54 PM, Christopher Clark <[cclark@town.harwich.ma.us](mailto:cclark@town.harwich.ma.us)> wrote:

Judy,

I did speak with the Police Chief, Deputy and Patrol Lt. On your letter and our follow up. I sent under separate email the rabies info and read info on quarantine. No rabies in animal. I talked with Sandy today about scheduling hearing as soon as we comply with notice requirements. I did speak with Chief about our follow up and asked for him to review material. Our ACO is currently out but a covering Officer reached out to your Mom today to provide info.

I would like to say sorry for the incident.

Chris

Sent from my iPhone

On Jan 8, 2019, at 8:58 AM, The Wilson Family wrote:

Sandy,

Based on last night's Board of Selectmen's discussion of our experience after my mother's December 22nd dog attack, I am expecting Chris Clark or some town official to get back to me with follow-up information including vaccination and rabies status of

the animal, date of dangerous dog hearing, etc. I will NOT speak to the Animal Control Officer further after how we have been treated, so please let Chris know it needs to be someone else to follow-up with me.

Here is my contact information:

**Judi Wilson**

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Thank you,

Judi

## **Assistant Town Administrator**

### **Town of Harwich**

The Town of Harwich is accepting applications for the position of Assistant Town Administrator. Must have a minimum Bachelor's Degree in public administration or a related field, MPA preferred, and 5 years of municipal experience or equivalent education and experience in Town, County, or State government. The position will be focused on project management, human resources coordination, procurement, working with town departments and citizen services. 35 hours/week \$92,455 - \$104,594 per year, depending upon qualifications, and full benefits. Town employment application and job description are available on the town's website at [www.harwich-ma.gov](http://www.harwich-ma.gov) or from the Town Administrator's Office at (508) 430-7513. Town must receive the completed Town employment application and resume at Office of Harwich Town Administrator, 732 Main Street, Harwich, MA 02645 for the first round of interviews by February 15, 2019. Applications accepted until position is filled. Review of applications will commence February 19, 2019. EOE

TOWN OF HARWICH, MASSACHUSETTS  
ASSISTANT TOWN ADMINISTRATOR

DEFINITION

The Assistant Town Administrator assists the Town Administrator with professional administrative and daily operations of the town; responsibilities include general management, supervision, human resources, procurement, insurance coordination, and special projects; other related work, as required. Serves as a liaison and coordinates between town officials, employees and citizens. This is considered to be a developmental position in which the incumbent will be assigned various duties based upon professional competencies.

Exercises considerable judgment in providing professional advice to the variety of official boards and committees, concerning the development, implementation, and administration of policies, goals, regulations and statutory requirements related to the administration and operation of the Town.

ESSENTIAL DUTIES AND RESPONSIBILITIES

*The essential functions or duties listed below are illustrations of the type of work performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.*

Coordinates the daily operations of the town, oversees and evaluates performance for the Community Development and Community Services department heads, which currently are inclusive of the following departments: Community Development: Health, Building, Conservation, Planning and Engineering, Community Services: Council on Aging, Community Center, Channel 18, Recreation, and Golf may administer some or all of these departments based upon needs of the Town Administrator based upon effective span of control; Oversees activities of all Town employees under direction of or in absence of Town Administrator; Liaisons with Brooks Library and provides information and assistance to town committees.

Assists in procurement and contracting, including supplies, services, design and construction; prepares RFP documents and advises department heads and staff on procurement procedures and requirements; assists departments with the preparation of required contracts.

Acts as primary Human Resources Manager to coordinate training and development of employees. Researches and investigates personnel issues and grievances; Actively assists in collective bargaining negotiations when directed; Advises department heads on the methods to be used when administering personnel procedures including but not limited to: recruiting, hiring, evaluating, disciplining, and terminating; Keeps abreast of federal and state laws and regulations pertaining to personnel practices and labor law; Develops, Administers, and monitors personnel policies and practices to ensure contractual and statutory compliance.

Assists in preparation of annual operating and capital budgets. Assists in the preparation of Town Meeting Warrant articles by preparing backup information on various projects.

Acts as liaison and coordinates activities with municipal, county, state and federal agencies and officials; Attends local, state, federal or other meetings to gather or present information, ask or answer questions and respond to input.

Assists in the preparation for the Board of Selectmen meetings, researching issues, providing background and recommendations for action when requested.

Responds to citizen inquiries, complaints, and suggestions; provides research assistance and addresses requests of other Town departments, general public, citizen groups, and media.

Completes special projects, such as drafting regulations and policies for the Board of Selectmen, conducting research, and project development and management.

Acts as the Town Administrator in his or her absence.

Performs similar or related work as assigned by the Town Administrator

#### SUPERVISION

Works under the administrative direction of the Town Administrator, in accordance with the bylaws, rules, regulations, policies and procedures of the town; duties require the ability to plan and perform operations; a variety of responsible and complex duties require a thorough knowledge of municipal operations and the exercise of considerable judgment and initiative; situations not clearly defined by precedent or established procedures are referred to the Town Administrator.

#### SUPERVISORY RESPONSIBILITIES

Supervises a span of control over departments as directed by the Town Administrator as currently or maybe assigned Community Development and Community Services Department Heads and manages the work of these departments and committees under the jurisdiction of the Town Administrator. Acts as an Acting Department Head in the absence or dismissal of a Department Head.

#### WORK ENVIRONMENT

Work is performed in office conditions; the nature and volume of work is subject to various fluctuations, due to budget, Town Meeting and seasonal cycles; the employee is required to attend evening meetings.

The employee operates standard office equipment.

The employee has ongoing contact with town departments, outside agencies and the public; contacts require excellent public relations skills, persuasiveness and resourcefulness.

The use of discretion is required in relation to town-wide confidential information, including personnel files, collective bargaining negotiations, bid documents, legal proceedings, and criminal investigations.

#### RECOMMENDED MINIMUM QUALIFICATIONS

##### EDUCATION AND EXPERIENCE

Bachelor's Degree in public administration or a related field; Master's Degree preferred; three to five years of administrative experience, including municipal management experience; human resources experience is preferred or an equivalent combination of education and experience.

##### KNOWLEDGE, ABILITY AND SKILL

Knowledge of municipal government, Massachusetts General Laws, including procurement laws and relevant federal laws and regulations, personnel management and labor relations, public finance and budgeting and public ethics.



Ability to communicate effectively, orally and in writing with town employees, outside organizations and the general public; ability to independently prioritize, plan and organize a variety of responsible and complex tasks ; ability to manage multiple projects and departments simultaneously.

Written and verbal communication skills; computer skills; supervisory skills; planning and organization skills; public relations skills.

Proficiency in an electronic documentation, spreadsheets and presentation applications and effective knowledge of availability of information.

Proven supervisory skills

#### PHYSICAL REQUIREMENTS

Minimal physical effort is required to perform most duties. The employee is frequently required to sit, speak and hear and use hands to operate equipment. Vision requirements include the ability to read and analyze documents and use a computer.

*This job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.*



# Harwich Fire Department



*Fire Suppression*

*Prevention*

*Emergency Services*

Norman M. Clarke Jr., Chief of Department

David J. LeBlanc, Deputy Fire Chief

## Fire Prevention – Inspections

December 1 - December 31

Inspection Type	
Resale	25
Annual	18
Final	2
Lockbox	10
Liquid Propane	13
Oil Burner	5
Oil Tank	1
Pre-Inspection	2
Re-Inspection	
Safety Inspection	2
Town Hall – Plans (hours)	8
Town Hall – Meeting (hours)	
Tank Truck	
Fire Drills	2
Meetings – Misc	4
Joint Inspection	



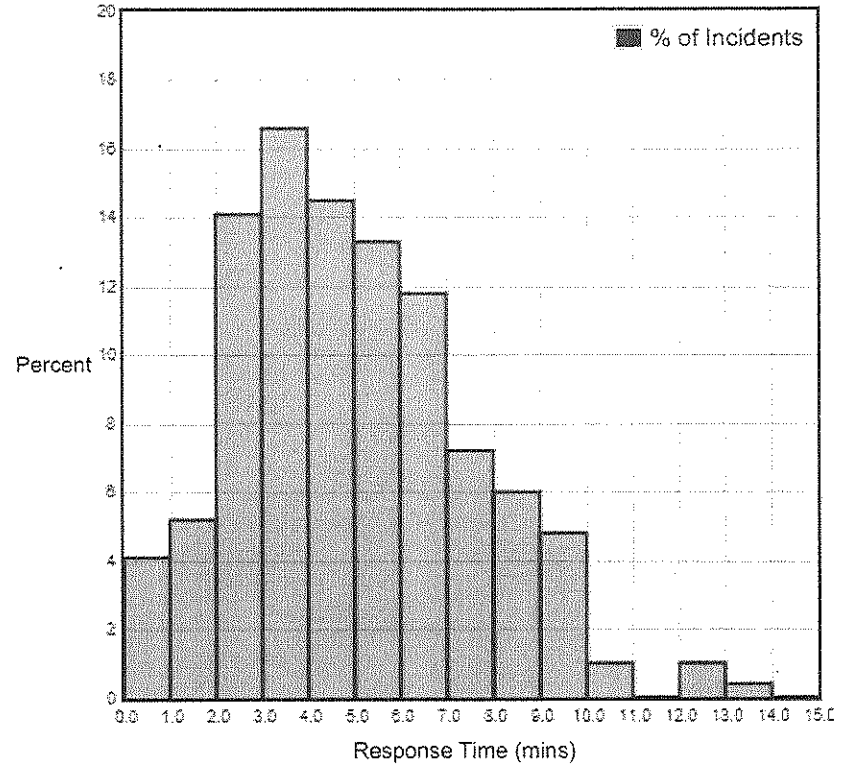
Incident Type Report (Summary)  
 From 12/01/18 To 12/31/18  
 Report Printed On: 01/08/2019

Incident Type	Count	% of Incidents	Est. Property Loss	Est. Content Loss	Total Est. Loss	% of Losses
<b>1 Fire</b>						
Building fire (111)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
	<b>1</b>	<b>0.29%</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>3 Rescue &amp; Emergency Medical Service Incident</b>						
Rescue, EMS incident, other (300)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
EMS call, excluding vehicle accident with injury (321)	272	79.30%	\$0.00	\$0.00	\$0.00	0.00%
Motor vehicle accident with injuries (322)	5	1.46%	\$0.00	\$0.00	\$0.00	0.00%
Motor vehicle/pedestrian accident (MV Ped) (323)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
Motor vehicle accident with no injuries. (324)	3	0.87%	\$0.00	\$0.00	\$0.00	0.00%
	<b>282</b>	<b>82.21%</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>4 Hazardous Condition (No Fire)</b>						
Combustible/flammable gas/liquid condition, other (410)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
Gasoline or other flammable liquid spill (411)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
Gas leak (natural gas or LPG) (412)	4	1.17%	\$0.00	\$0.00	\$0.00	0.00%
Carbon monoxide incident (424)	3	0.87%	\$0.00	\$0.00	\$0.00	0.00%
Power line down (444)	3	0.87%	\$0.00	\$0.00	\$0.00	0.00%
	<b>12</b>	<b>3.49%</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>5 Service Call</b>						
Service Call, other (500)	11	3.21%	\$0.00	\$0.00	\$0.00	0.00%
Lock-out (511)	2	0.58%	\$0.00	\$0.00	\$0.00	0.00%
Water or steam leak (522)	2	0.58%	\$0.00	\$0.00	\$0.00	0.00%
Assist police or other governmental agency (551)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
Unauthorized burning (561)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
Cover assignment, standby, moveup (571)	3	0.87%	\$0.00	\$0.00	\$0.00	0.00%
	<b>20</b>	<b>5.82%</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>6 Good Intent Call</b>						
Good intent call, other (600)	4	1.17%	\$0.00	\$0.00	\$0.00	0.00%
Dispatched and cancelled en route (611)	6	1.75%	\$0.00	\$0.00	\$0.00	0.00%
Authorized controlled burning (631)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
	<b>11</b>	<b>3.21%</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>7 False Alarm &amp; False Call</b>						
Sprinkler activation due to malfunction (731)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
Smoke detector activation due to malfunction (733)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
Alarm system sounded due to malfunction (735)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
CO detector activation due to malfunction (736)	3	0.87%	\$0.00	\$0.00	\$0.00	0.00%
Unintentional transmission of alarm, other (740)	2	0.58%	\$0.00	\$0.00	\$0.00	0.00%
Smoke detector activation, no fire - unintentional (743)	2	0.58%	\$0.00	\$0.00	\$0.00	0.00%
Alarm system activation, no fire - unintentional (745)	4	1.17%	\$0.00	\$0.00	\$0.00	0.00%
Carbon monoxide detector activation, no CO (746)	2	0.58%	\$0.00	\$0.00	\$0.00	0.00%
	<b>16</b>	<b>4.65%</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>9 Special Incident Type</b>						
Special type of incident, other (900)	1	0.29%	\$0.00	\$0.00	\$0.00	0.00%
	<b>1</b>	<b>0.29%</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>Total Incident Count:</b>	<b>343</b>			<b>Total Est. Loss:</b>	<b>\$0.00</b>	

Incident Response Time Analysis

Date Range 12/01/2018 to 12/31/2018  
 Total # of Runs Fitting Criteria 483 runs  
 Average Response Time 4.5 mins  
 Service(s) Harwich Fire Department  
 Incident Type(s) All

Response Time	# of Incident Responses	% of Incident Responses
0 mins	20	4.1%
1 mins	25	5.2%
2 mins	68	14.1%
3 mins	80	16.6%
4 mins	70	14.5%
5 mins	64	13.3%
6 mins	57	11.8%
7 mins	35	7.2%
8 mins	29	6%
9 mins	23	4.8%
10 mins	5	1%
11 mins	0	-
12 mins	5	1%
13 mins	2	0.4%
14 mins	0	-
15 mins	0	-



 Report Description

[Back To Filters](#)

Incident Type Category	Incident Type	Call Type Total
False Alarm & False Call	False alarm and false call, other	12
	Malicious, mischievous false alarm	2
	System or detector malfunction	205
	Unintentional system/detector operation (no fire)	259
	<b>Category Subtotal</b>	<b>478</b>
Fire	Fire, other	3
	Mobile property (vehicle) fire	8
	Natural vegetation fire	10
	Outside rubbish fire	4
	Special outside fire	2
	Structure Fire	41
<b>Category Subtotal</b>	<b>68</b>	
Good Intent Call	Controlled burning	15
	Dispatched and cancelled en route	117
	Good intent call, other	46
	Steam, other gas mistaken for smoke	7
	Wrong location, no emergency found	1
<b>Category Subtotal</b>	<b>186</b>	
Hazardous Condition (No Fire)	Chemical release, reaction, or toxic condition	22
	Combustible/flammable spills & leaks	66
	Electrical wiring/equipment problem	241
	Explosive, bomb removal	1
	Flammable gas or liquid condition, other	6
<b>Category Subtotal</b>	<b>336</b>	
Overpressure Rupture, Explosion (Overheat too fire)	Excessive heat, scorch burns with no ignition	3
	Overpressure rupture from air or gas (no fire)	1
	Overpressure rupture from steam (no ensuing fire)	1
	Overpressure rupture, explosion, overheating, other	1
<b>Category Subtotal</b>	<b>6</b>	
Rescue & Emergency Medical Service Incident	Electrical rescue	1
	Emergency medical service (EMS) Incident	3,565
	Extrication, rescue	3
	Medical assist	5
	Rescue or EMS standby	3
	Rescue, emergency medical call (EMS), other	3
	Search for lost person	3
	Water or ice-related rescue	4
<b>Category Subtotal</b>	<b>3,687</b>	
Service Call	Cover assignment, standby at fire station, move-up	18
	Person in distress	99
	Public service assistance	40
	Service call, other	126
	Smoke, odor problem	7
	Unauthorized burning	14
	Water problem	38
<b>Category Subtotal</b>	<b>312</b>	
Severe Weather & Natural Disaster	Severe Weather & Natural Disaster	5
<b>Category Subtotal</b>	<b>5</b>	
Special Incident Type	Citizen complaint	2
	Special type of incident, other	19
<b>Category Subtotal</b>	<b>21</b>	
<b>Grand Total</b>		<b>5,029</b>

## **Health Director Monthly Report December 2018**

- *Departmental news-*

Interviews were conducted for potential new Board of Health Members with one successful applicant-Dr. Ronald Dowgiallo, DMD. Dr. Dowgiallo was sworn in on December 20<sup>th</sup> and I look forward to working with him in 2019.

The amended Real Estate Transfer Regulations were officially ratified in December and are effective. This amendment was primarily due to the sewerage and need for a process to request waivers for upgrades in the Phase 2 area.

I attended the quarterly meeting of the Health Agent's Coalition. Discussion of a need for more volunteers in the communities in times of emergency was had. The Cape Cod Medical Reserve Corps is down in numbers and have begun a recruitment campaign in order to get more people involved. The Town of Harwich as a small corps of residents who volunteer for emergency management tasks/flu clinics/town events, however this group has dwindled over the years.

- *Wastewater-*

Requests have been made by homeowners and engineers to have a change made in the location of the sewer main in order to accommodate corner lots wishing to connect on the main road rather than the side road. CDM Smith has been apprised of these requests and many have been granted. A few are still in review for financial feasibility.

The Board of Health approved the Licensed Utility Installer and Sewer Connection Permit applications in December. The fees for these permits will be discussed at the public hearing in January. The BOH has suggested a fee of \$125.00 for an annual license to be a Utility Installer and no fee to be charged for Sewer Connection.

I attended the Wastewater Support Committee meeting. There is a focus on perhaps initiating a neighborhood liaison contact list. The committee is looking into whether or not this concept would be helpful to get information out to the residents in Phase 2 on a more personal level. Dan Pelletier suggested that we make an attempt to get everyone in Phase 2 on the automated phone "robo calls" system that the Water Department and Police Department use to alert residents of timely information

- *Other news-*

I met with the Chair of the Board for the Pleasant Bay Community Boating Program. She is interested in starting an educational program with a "floating classroom" component. We went over the regulations for Recreational Camps for Children and it seems that this program will fall under the Health Department jurisdiction for permitting as a summer camp. More info to follow.



# 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

## Monthly Report to the Board of Selectmen

December 2018

Along with our regular weekly duties and responsibilities, which include but are not limited to processing payroll, receiving, reporting and depositing tax/water payments and departmental receipts, processing accounts payable checks, assisting Taxpayers and Employees with any requests and other various customer service, the following took place:

### December Collections

	FY 2019	FY 2018
Tax/Water Collections:	\$352,796.45	\$2,957,676.23
Departmental turnovers:	\$1,302,415.19	\$11,841,802.48
Total:	\$1,655,211.64	\$14,799,478.71

Note: the extreme variance in receipts from FY 18 to FY 19 was due to the change in tax laws effective January 1, 2018. This resulted in many taxpayers pre-paying real estate taxes, both on the current fiscal year, as reflected in Tax/Water collections, and towards future bills, reflected in Departmental turnovers.

### December Disbursements

	FY 2019	FY 2018
Accounts Payable	\$3,133,148.52	\$2,048,857.14
Payroll	\$1,401,281.37	\$1,558,109.61
Total:	\$4,534,429.89	\$3,606,966.75

Respectfully submitted,  
Amy Bullock, Treasurer/Collector