



## WELLESLEY RECREATION COMMISSION

### MINUTES

March 31, 2016

9:00am at the Warren Building

#### In Attendance:

Mr. Wrobel, Mr. McKay, Mr. Sheehan, Mr. Chin, Mr. Fitts & Mr. Norton.

Guests: Tom Harrington - Town Counsel

#### Business:

Motion: By Mr. McKay that Mr. Wrobel act as chair for the meeting  
Seconded: Mr. Sheehan  
Vote: All In Favor

#### Approval of Minutes:

Motion: By Mr. Sheehan that the Minutes from the 3/7/2016 meeting be accepted  
Seconded: Mr. McKay  
Vote: All In Favor

#### Discussion of email on 3/14:

The following minutes pertain to the Commission's discussion of the Constant Contact email that was sent by the Recreation Commission on 3/14 regarding the Town Manager form of government being voted on at the 3/15 election.

Town Counsel informed the Commission that he believes the Commission violated the *Campaign Finance Law* and the rules and regulations of the Office of Campaign and Political Finance (OCPF) in two ways: 1. By sending the email through the Constant Contact system the Commission used a public resource for a political purpose; and, 2. Because the email was sent out at approximately 4 PM the day before the election, the Commission violated its responsibility to provide equal access to others who may have wanted to share an opposing view with those on the Commission's email list.

Regarding this second violation, Town Counsel explained that, when the matter will be decided at an election, the Commission should consider its website and email list to be a virtual bulletin board. If the Commission is going to post its views on the bulletin board, it must provide equal access to the bulletin board to those proponents and opponents of an issue should have equal access to post their viewpoint. He acknowledged that, in his opinion, the guidance from the OCPF regarding the timing of an email or website posting continues to evolve and is not always easy to apply. He advised that Commission acknowledge that it made a mistake, treat it as a learning experience, and return to the business of the Commission.

Town Counsel explained that his office has already been in contact with OCPF to discuss this matter. Sarah Hartry, Deputy General Counsel for OCPF, confirmed that OCPF is aware that the Recreation Commission had sent an email out using the Wellesley Recreation Department's Constant Contact email listserv, and that they had received calls from residents in town regarding the Commission's use of the listserv. Attorney Hartry also confirmed that, to her knowledge, OCPF had not yet received a formal complaint on the matter. Attorney Hartry advised as follows:

1. They believe that the Commission's use of Constant Contact to send an email and the timing of that email each constitute a violation of the *Campaign Finance Law*;
2. OCPF would likely not pursue the violations unless a complaint was filed;
3. Nevertheless, the Commission would be well served by self-reporting the violations to OCPF and by individual members of the Commission agreeing to personally reimburse the Town for the expense of using Constant Contact.
4. If OCPF were to receive a complaint and pursue the violation, it is possible that they would not seek to impose any additional penalties if the Town had already been reimbursed. However, Town Counsel advised that the Commission vote to reimburse the Town to put the matter to rest.

Mr. Wrobel asked how far in advance the Commission should have sent the email to provide equal access to others, and commented that the email would have lost its affect had it been sent out any earlier.

Town Counsel responded that OCPF hasn't set a specific amount of time that would satisfy the equal access requirement. He opined that perhaps sending future emails out a week in advance in addition to the day before to give any opposing perspectives a chance to express their opinion. He also suggested that contacting others known to hold a differing opinion and letting them know that the Commission will be posting its opinion might be the most effective way to ensure compliance.

Mr. Wrobel stated that the email that was sent wasn't of personal matter or any personal viewpoint, rather the Recreation Commission's perspective on the issue.

Town Counsel restated that the content of the letter wasn't the issue.

Mr. Sheehan then mentioned that Hans Larson took offense to the content of the email.

Mr. Wrobel addressed the timing of the email stating that the email was sent on Monday 3/14 because the Recreation Department had a normal, programmatic email advertisement set to go out on Saturday. Mr. Wrobel chose the 4pm send time because he believes that most spam is generated between 9am and 2pm and he wanted people to see this email.

In regards to a violation with the State Ethics Commission, the Recreation Commission is in violation of *M.G.L. c.268A, §23(b)(2)*, related to the use of public resources for personal gain. Town Counsel advised the Commission to send a letter to OCPF and the Ethics Commission to end the process set in motion by the email.

Town Counsel distributed a draft of a letter to the Commission that will be sent to OCPF and the Massachusetts State Ethics Commission

**Motion:** By Mr. Sheehan to accept the contents of the letter to OCPF and the State Ethics Commission and sign a final draft on April 4, 2016  
**Seconded:** Mr. McKay  
**Vote:** All In Favor

**Motion:** By Mr. Sheehan to for Commission to accept Statement of Responsibility and include the statement in the Commission Meeting minutes of March 31, 2016.

As elected officials we have a responsibility to follow certain rules; including rules that pertain to the personal use of municipal property and to elections. We take all of our responsibilities very seriously. While not intentional, we learned from Town Counsel today that we did not comply with all of the rules, and for that, we are truly sorry. We acknowledge our mistakes and wish we could go back and undo those that we cannot remedy. We have learned from this experience and we will endeavor to do better in the future.

**Seconded:** Mr. McKay  
**Vote:** All In Favor

**Next Meeting:**

The next Commission meeting will be Monday, April 4th at 6pm at WMS.

**Motion:** To adjourn by Mr. Sheehan  
**Seconded:** Mr. McKay  
**Vote:** All in favor

Respectfully Submitted,

Brandon Fitts, CTRS