

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF SELECTMEN

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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BLYTHE C. ROBINSON

EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

SELECTMEN'S MEETING

TENTATIVE AGENDA

Wellesley Middle School Library

6:00 P.M. Monday, April 24, 2017

1. 6:00 Call to Order
2. 6:05 Citizens Speak
3. 6:10 Executive Session
 - Executive Session under M.G.L. c. 30A, §21(A), exemption #3 to discuss union contract negotiations with the AFSCME Local 335 Supervisory Unit (DPW)
 - Executive Session under M.G.L. c. 30A, §21(A), exemption #7 to comply with Open Meeting Law, M.G.L. c. 30A, §§ 18-25 for the approval of Executive Session Minutes – April 3rd and 12th.
4. 6:20 Discuss union contract negotiations with the AFSCME Local 335 Supervisory Unit (DPW)
5. 6:25 Executive Director's Update
 - Review & Approval of Minutes – March 20th, April 4th, April 12th
 - Approve Babson One-Day License – Wine & Malt Beverages for Reception on May 19, 2017
 - Accept a Gift from Shiva Rouhani for a memorial bench/plaque to be installed at State Street Pond/Memorial Grove
6. 6:35 Discuss School Building Committee Membership
7. 6:45 Annual Town Meeting Preparation and discussion of articles
8. 6:55 New Business

Next Meeting Dates: Tuesday, April 25, 2017, Annual Town Meeting
Monday, May 1, 2017, Annual Town Meeting

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EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

Just a reminder that we'll be meeting at **6:00 PM in the Middle School Library** to take action on several items before heading into Town Meeting at 7:00 PM. This packet contains background on the agendas for both Wednesday and Thursday evenings.

MONDAY, APRIL 24th:

1. Call to Order
2. Citizen Speak
3. We need to go into executive session for two different reasons as listed below.
 - a. Executive Session under M.G.L. c. 30A, §21(A), exemption #3 to discuss union contract negotiations with the AFSCME Local 335 Supervisory Unit (DPW)

Included in your packet is the tentative settlement agreement and cost out spreadsheet showing the value of the proposed contract over the three-year period for the DPW supervisor's unit. We had hoped to be able to wrap up with the Police dispatchers by this point but have not been able to. We do have another meeting with them on Monday morning and will bring you any updates in the evening if a settlement is reached. We would like to review this with you and ask for your favorable action to approve the tentative settlement so we can prepare to present it to Town Meeting for approval of the first year of funding.

MOVE that the Board vote to enter into Executive Session under M.G.L. c 30A, §21 exception # 3 to discuss union contract negotiations regarding the AFSCME Local 335 Supervisory Unit (DPW) because the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body. Furthermore, that Blythe Robinson, Scott Szczebak and Meghan Jop be invited to participate in the meeting to discuss the contract, and that the Board of Selectmen will convene back into open session at the conclusion of the executive session.

- b. Executive Session under M.G.L. c. 30A, §21(A), exemption #7 to comply with any general or special law requirements.

In order to protect minutes of executive session meetings until a matter is closed, the Board needs to go into executive session to approve the minutes. The proper way to do this is to either state a general purpose as we've done above, or to cite the original reason for the executive session when doing so.

MOVE that the Board vote to enter into Executive Session under M.G.L. c 30A, §21 exception #7 to approve the minutes of the April 3rd and 12th, 2017 executive sessions.

#4 – Discuss Union Contract Negotiations

4. Discuss union contract negotiations with the AFSCME Local 335 Supervisory Unit (DPW)

Depending on the discussion in the executive session I would request that you take action to approve the contract changes for these this union group so that the tentative agreement can be executed by the Board Chairperson.

MOVE that the Board vote to approve the tentative agreement with the AFSCME Local 335 Supervisory Unit (DPW) for the period July 1, 2017 to June 30, 2020 and recommend the approval of the first year funding of these contracts to the Annual Town Meeting.

#5 – Executive Director's Update

5. Executive Director's Report

- Minutes – the regular session minutes of the March 20th, April 4th and April 12th meetings are included in your packet for approval.
- Babson One Day License - Included in your packet is an application from Babson College requesting a special one-day license to serve wine and malt beverages at the GSC Friends & Family Reception in Olin Hall on May 19th. The estimated attendance for this function is 300 persons. Staff recommends approval of this application.
- Accept a Gift to the Town – included in your packet is an email from Cricket Vlass of DPW to Terry Connolly notifying him that Ms. Shiva Rouhani has donated a memorial bench/plaque to the Town to be installed at State Street Pond/Memorial Grove, and the value of the donation is \$1,290. With the size of this gift the revised policy calls for this to be brought before the board and approved. Staff recommends that the Board vote to accept the gift. According to her email, this is one of five benches being donated and installed this season.

Minutes:

MOVE to approve the regular session minutes of the Board of Selectmen meetings of March 20, and April 4 and 12, 2017.

Babson One-Day License:

MOVE to approve the One Day License for Babson College on May 17, 2017 in Olin Hall for the GSC Friends & Family Reception.

Minutes:

MOVE to accept the gift of a memorial bench/plaque to the Town by Ms. Shiva Rouhani to be installed at State Street Pond/Memorial Grove.

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EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

MEMORANDUM

DATE: April 21, 2017

TO: Board of Selectmen

FROM: Blythe C. Robinson, Executive Director *BCR*

SUBJECT: Weekly Report

Below are various activities of our office and various departments that I would like to bring to your attention.

- Wellesley Sports Center led by developer Brian DeVellis has submitted the required application package as required by the Town's PSI process for the development of the 900 Worcester parcel into the recreation complex. This is on track with the timeline outlined in the lease agreement. The Planning Board anticipates opening the public hearing on June 5th and has asked staff for comments by May 30th. Should you wish to review the package, it is available in our office. The zoning bylaw changes that require approval by the Attorney General's Office were transmitted to the State by the Town Clerk this week as well.
- You may notice some helicopter traffic that started this week over Wellesley that began on Wednesday. This is due to spraying by the east Middlesex mosquito control project to control larvae, specifically over a wetland located between Cartwright Road, Eisenhower Circle and the RDF. There are no special precautions that residents in the area need to take as this is a relatively non-toxic pesticide.
- Work on the new website continues. We had a positive meeting on Tuesday looking at the new homepage design and layout. Some further edits were suggested, and next week we begin meetings with individual department to work on how each page will be built.
- Brian DuPont and I had a good telephone conference with the folks in the State IT office to discuss the two community compact requests we made. It appears as they may be able to offer us technical assistance on formulation of a communications plan and have given us other plans they've developed to review to see if there is a good fit with our needs. In the area of digitizing public records this may result in a cash grant to enable us to hire a consultant to develop a strategy.

- Terry and I met this week to review the status of the various land leases that are processed through our office. There are five to be renewed before the end of August, of which two will be ready in the next couple weeks (Haynes & Bank of America). For the other three we need to have the property appraisals completed, requests for proposals sent out for response, and then lease agreements drafted for the proposers offering the best price to the Town. This is on track to be completed by the August deadline.
- At the Advisory Committee meeting on Wednesday evening the group took up two topics. They met first with Scott Szczebak and I to review the first four union settlement agreements. It was a positive conversation with a number of good questions asked. While they didn't take a vote on any of these, we anticipate that the vote will be favorable. They also met with the PBC Chair to review the final proposed cost for the school security project. The number to be requested at Town Meeting is \$2,128,414 which was slightly less than FMD proposed as a result of the bid process. Despite the unanticipated reduction, FMD believes it can complete the project with the proposed amount. A copy of the final budget and some background about what changes resulted in this project costing almost half what was originally proposed are in your packet under correspondence.
- It has come to light that the limits of insurance that our new ambulance provider Cataldo is providing to us falls far short of what is included in the contract that they executed with the Town. The Chief and I are not clear yet why that is, other than perhaps they had their agent forward to us a certificate similar to what they provide to other towns, rather than what was required. We will be setting up a meeting with them to resolve the matter in the very near future.

Board of Selectmen Meeting: March 20, 2017**Present: Freiman, Gibbs, Morgan, Ulfelder, Sullivan-Woods****Also Present: Robinson, Jop, Connolly****Minutes Approved:****Meeting Called to Order: 7:00 p.m.****Meeting Documents:**

1. **Agenda**
2. **BOS Calendar**
3. **Agenda background memo**
4. **Host Community Agreement-892 Washington St**
5. **Conservation Restriction – 892 Washington Street**
6. **Executive Director's Weekly Report**
7. **Babson One Day License application**
8. **HHU Master Plan Committee Final Report**
9. **Article 20 Cliff Road PowerPoint Presentation**
10. **Article 21 Hunnewell Field Restroom PowerPoint Presentation**
11. **National Grid Petitions –Lathrop Rd, Park Ave., Worcester St./Bancroft Rd, Great Plain Ave.**
12. **Truck exclusion approval from MassDOT dated 3/3/17**
13. **Memorandum from Mike Regan of VHB on the Brook Street Heavy Commercial Vehicle exclusion dated 11/10/16**
14. **Memorandum from Julie Meyer Re: FY18 Wetlands Budget**
15. **MMA Letter dated 3/10/17**
16. **January 18, 2017 Attorney General Approval of West Bridgewater Marijuana Moratorium**

Ms. Freiman announced the Joint Meeting with the School Committee scheduled for 7:20 pm has been moved to 8:15 pm.

Mr. Morgan reminded the viewers of the public forum on Natural Gas Leaks is being held March 21, 2017 in the Wakelin Room of the main library at 7 p.m.

1. **Citizen's Speak**

None.

2. **Host Community Agreement – 892 Washington Street**

Tom Harrington, Town Counsel, joined the Board to review the proposed Host Community Agreement and Conservation Restriction for 892 Washington Street. 892 Washington Street is currently in Chapter 61A which means it is agricultural land and that it receives a significant tax break. The owner is seeking to sell the 7-acre parcel, which would trigger a conditional right of first refusal with the Selectmen. Mr. Harrington discussed the Town's negotiations in giving up

the right of first refusal in exchange for a Conservation Restriction (CR) on the front and rear of the property. In addition to the conservation restriction, the parcel will be limited to the construction of one single family home.

Mr. Harrington explained the Host Community Agreement sets forth the terms of the agreement and will require the property owner to make a one-time payment of \$7,500. The NRC will hold the Conservation Restriction and will be discussing the Host Community Agreement at its March 27, 2017, meeting. The CR limits the owner's ability to use non-organic chemicals and fertilizer in the CR area. The Town will have the right to enforce deviations to the agreement. The CR is a document that will run with the land in perpetuity.

Ms. Freiman asked if anyone present wished to speak on this matter.

Michael D'Ortenzio, Jr., Precinct B, questioned how the Town handles land purchases as they become available in Town. He felt there may be a better way to consider properties before the land comes up for sale and believes the Town should have a more comprehensive plan regarding open space. He thought it would be very helpful to be forward-thinking on the issue of conservation with regard to spreading out the financial funding over a long period. He just wanted to put this on the table for future consideration and thanked the Board for all their work on this issue.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted 5-0 to approve the Host Community Agreement for 892 Washington Street, assessors' parcel 165-11 (the "Property"), including a waiver of the Town's right of first refusal under Massachusetts General Laws, Chapter 61A; said vote to be contingent upon an affirmative vote of the Natural Resources Commission to approve and accept a Conservation Restriction on the Property, and subject to final review by Town Counsel.

3. Executive Director's Update

Babson One-Day License

Ms. Robinson reviewed the request from Babson College for a one-day license.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to approve a One Day License for Babson College on April 4, 2017, in the Reynolds Campus Center, Room 244 for the Thompson Visiting Poet Pre-Reading Dinner.

4. Annual Town Meeting Preparation

DPW Update

Mike Pakstis, DPW Director, and Dave Hickey, Town Engineer, presented updates on two DPW projects coming before Town Meeting. Mr. Hickey reviewed Article 20, which is the reconstruction of Cliff Road, a long-term capital project. DPW is requesting authorization to borrow \$2,470,000 for the reconstruction of 6,350 feet of Cliff Road. Mr. Hickey highlighted several of the existing conditions of the road including safety concerns over the conditions of

sidewalks and needed drainage, as well as extensive ledge removal plans and improvements. Mr. Hickey noted the roadway reconstruction would include the installation of bike sharrows. Once the plan design has been finalized, the DPW will communicate daily updates to residents on the progress.

Mr. Pakstis provided detail on Article 21, the Hunnewell Field Restroom/Maintenance Facility, noting this project has been in the Capital Plan for many years. The DPW is seeking the authorization to borrow up to \$300,000 to replace the old restroom and maintenance facilities located at Hunnewell Field, which are currently not ADA accessible. The new structure will meet the building code and ADA requirements and will connect with town water and sewer. The proposed structure will also provide storage for field maintenance equipment. The DPW has put this project out to bid before, and the bids came back too high. In considering economic alternatives, a modular option was presented. The modular structure is far less expensive and can easily be replaced. With the modular units, the total cost of the project would be approximately \$180,000.

The Board thanked Mr. Pakstis for his creative low-cost solutions this structure provides.

Mr. Morgan gave a brief update on the CPC Article regarding a \$15,000 appropriation for the design of a potential boardwalk and trail around the vernal pool at the North 40. Mr. Morgan noted the Board reviewed this proposal in the fall and was reluctant to proceed given the needed planning for the North 40. The NRC and the CPC interpreted the Board's reluctance as not being supportive of the construction of the project at this time, but proceeded with an application for the design funds. Mr. Morgan felt the Board should not oppose the appropriation for the design plan and noted that the HHU overwhelmingly voted against the site for a school. Ms. Freiman noted the Board should be consulted on the design and permitting plan. After a brief discussion, the Board agreed to support the funding for the design moving forward to Town Meeting.

Mr. David Himmelberger, Precinct H, briefly reviewed with the Board Article 42, his Citizen's Petition regarding trash removal. Mr. Himmelberger noted he has been before Advisory on several occasions and their comments and suggestions are incorporated into the revised language of the proposed bylaw. Mr. Himmelberger summarized and clarified the revised language. Advisory suggested he come back before the Selectmen to review the changes and seek a new vote on the Article. The Board discussed some of their concerns and asked questions regarding the enforcement of this proposed bylaw. Ms. Freiman proposed that the vote be tabled and the discussion of this article be taken up next week.

5. National Grid Petitions

Ms. Barbara Kelleher joined the Board. Ms. Keller noted that National Grid is seeking four grants of location for the installation of gas lines including Lathrop Road, Park Avenue, Worcester Street at Bancroft Road, and Great Plain Avenue at Fieldstone Way.

Ms. Jop noted Ms. Sullivan-Woods had suggested the Town review whether any of the proposed gas line installations were near identified gas leaks. Ms. Jop reviewed two leaks that were

identified on Worcester Street and Great Plain Avenue. Ms. Jop noted the Worcester Street leak has been repaired. The Great Plain Avenue leak was within a private residence.

The Board reviewed the four petitions. Ms. Jop noted she received an email from the abutter on Park Avenue with several concerns, including the request for National Grid to notify the abutters of the work given the work will be at the end of their driveway, and to repair a small dimple in the road left from the last gas repair at their property.

Ms. Freiman asked if anyone present wished to speak on the petitions.

Ms. Rachel Cottone, resident of Great Plain Avenue, had several questions and concerns regarding the petition for Fieldstone Way. Ms. Cottone asked specifically where the gas line would be located, as dig safe had marked a portion of her property. Ms. Kelleher noted the gas leak at 115 Great Plain Avenue, and questioned the timing of this project. Ms. Jop noted DPW and National Grid determine the timing of the project's construction. Ms. Jop noted the Selectmen authorize the grant of location for the gas line within the public way.

There were no additional questions on the petitions.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted 5-0 to authorize the locations of the mains for the transmission and distribution of gas in Wellesley at the following locations as identified in the petitions received by the Town:

- **Lathrop Road**
- **Park Avenue**
- **Worcester Street/Bancroft Road**
- **Great Plain Avenue/Fieldstone Way**

4. Joint Meeting with the School Committee

Ms. Sharon Gray called the School Committee meeting to order.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Boards voted unanimously to appoint Marjorie Freiman as Chairman and Sharon Gray as Secretary for the joint meeting of the Board of Selectmen and the School Committee.

Ed Cloaninger and Sara Shanahan Co-Chairs of the Hardy, Hunnewell and Upham Master Planning Committee appeared before the Board and the School Committee discuss the HHUMPC recommendation that was finalized on March 16, 2017.

Mr. Cloaninger summarized the past meetings and described the Committee's process in developing the master plan. Ms. Shanahan reviewed the three motions and the results of the Committee's vote. The Committee's recommendation is that the School Committee proceed with a feasibility study to build three new schools on all three sites. The first school

recommended for construction is to be built on the Upham site and the second school to be built is at the Hunnewell site. The third school to be built would be on the Hardy site only if the elementary enrollment is likely to exceed 2,350 students on a trending basis. If the enrollment declines, the two schools would provide sufficient size to replace the three-school option.

Ms. Freiman thanked Mr. Cloaninger and Ms. Shanahan for all the time and work they put into this report and noted how much everyone appreciated their dedicated efforts. It was an amazing piece of work and their diligence on this project was commendable.

Ms. Gray said the School Committee will discuss the next steps in the process at their next meeting as they have not as yet deliberated on the HHUMPC's recommendations.

It was Ms. Jop's opinion that this report should be the standard which all other groups or committees in town should use going forward e.g. the Advisory book. It was a synthesis of a years' worth of work. She was very impressed with labor that went into the preparation and felt the report was straight-forward and articulated clearly their recommendations in a concise way.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board and School Committee unanimously approved to dissolve the HHUMPC with our thanks and appreciation of this service.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board and School Committee voted unanimously that the joint meeting with the School Committee and Board of Selectmen be dissolved.

7. Brook Street Truck Exclusion Update

Mr. Connolly updated the Board on the December 2016 request to the Mass Department of Transportation (DOT) to exclude trucks on Brook Street. This was the second request for a truck exclusion on Brook Street. Mr. Connolly noted the Town applied 15 years ago for an exclusion and was denied. Mr. Connolly stated MassDOT has granted the exclusion pending a vote by the Board of Selectmen. Mr. Connolly noted there would be a public hearing in May to modify the Town's traffic regulations at which time it will be necessary for the Selectmen to authorize the implementation of the exclusion.

8. Wetlands FY18 Budget

Ms. Jop reviewed the request from the Wetlands Administrator to use \$13,400 in the Wetlands Protection Fund towards the Wetlands Protection Committee FY18 budget. The Selectmen had asked the NRC Director and the Wetlands Administrator to prepare and provide to the Board the Wetlands Protection Fund Expenditures as part of their FY18 budget cycle. The request has been approved by the Finance Director and the Selectmen's staff also recommends the approval. These funds are intended to help defray state and local administrative costs and to provide the DEP and the Wetlands Committee with resources to complete project reviews and issue regulatory decisions within required time periods. The Wetlands Committee are able to spend

these fees on related expenses for the administration and enforcement of the Wetlands Protection Act without appropriation, but only with the approval of the Selectmen.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to approve the FY18 anticipated expenditures from the Wetlands Protection Fund in the amount of \$13,400, as requested in a March 7, 2017, memo from Julie Meyer, Wetlands Administrator.

9. BOS Work Plan

Ms. Gibbs gave an overview and summary of the next phases of the Unified Plan noting information regarding the ongoing work of the Steering Committee can be accessed on the town website.

Ms. Freiman noted that there will be extensive work ahead in preparation, review and participation regarding the creation of the Working Group-Budget Bylaw.

Wellesley Stem Expo

Mr. Connolly noted the Town has received a request to use the Tailby Parking lot for additional off-site parking. Mr. Connolly gave a brief summary of the STEM Expo to be held at the Wellesley High school on April 8, 2017. The use of the Tailby Parking Lot will provide additional off-site parking for the expo and shuttle service to the high school for those who are attending the Expo.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to permit the use of the Tailby Parking Lot for the Wellesley STEM Expo held at the Wellesley High School on April 8, 2017, from 9:30 a.m. to 5:00 p.m. with bus service provided to and from Tailby Lot and high school.

ATM Preparation

The Board reviewed and voted on the following Annual Town Meeting Articles:

Article 20 **Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to support the Motion under Article #20 the Reconstruction of Cliff Road at Town Meeting**

Article 21 **Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to support the Motion under Article #21 Hunnewell Field Maintenance/Restroom Facility Project at Town Meeting.**

Ms. Freiman noted her support of the mobile units as a pilot program but encourages the DPW to reach out to the CPC in advance of Annual Town Meeting.

- Article 31 Ms. Gibbs reviewed the small change to increase yard setbacks for the proposed Large Scale Solar Bylaw.
Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to support the Motion under Article 31 As of Right Large Scale Solar Zoning (Green Communities) at Town Meeting.
- Article 32 **Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to support the Motion under Article 32 Large House Review TLAG Definition Amendments at Town Meeting.**
- Article 33 **Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to support the Motion under Article 33 Educational District at Amendments at Town Meeting.**
- Article 34 **Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to support the Motion under Article 34 Rezoning of NRC Properties – Phase 2 at Town Meeting.**
- Article 35 **Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to support the Motion under Article 35 Amendment of Conservation Districts Bylaw.**
- Article 38/39 The Board briefly discussed a dual presentation with PBC, but decided to wait until next week to vote the language.

The Board determined they would hold off on voting any other articles until a later meeting.

10. Old Business/New Business

None.

The meeting adjourned at 9:28 p.m.

Board of Selectmen Meeting: April 4, 2017
Present: Freiman, Gibbs, Morgan, Ulfelder, Sullivan-Woods
Also Present: Robinson, Jop
Minutes Approved:

Meeting Documents:

1. Agenda
2. Agenda Background materials

1. Call to Order

Ms. Freiman called the meeting to order at 6:30 pm.

2. Citizen's Speak

None.

3. Discuss Community Compact Application

The Board discussed the State Community Compact application and determined the digitizing of public records would be the additional requests on the application. The Board had previously agreed to apply for assistance with communications/transparency in government.

4. Discuss endorsement of ATM Articles

Mr. Morgan gave a brief update on a minor modification to Article 30, the proposed moratorium on recreational marijuana. Mr. Morgan noted Town Counsel is recommending extending the moratorium to December 31, 2018. The Attorney General's office has recently approved a moratorium with a similar time period. Mr. Morgan noted the Board of Health and Planning Board have voted unanimously to support the motion. The Board was in favor of modifying the motion to reflect the revised date.

The Board briefly discussed Article 40 the demolition delay bylaw.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (2-3) to support Article 40. Demolition Delay. The motion failed.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted 2-3 to support Article 41. for a half time staff position necessary to support the demolition delay bylaw. The motion failed.

Mr. Ulfelder asked the Board to reconsider Article 32 Large House Review Definition Modification. Mr. Ulfelder noted after further review, he was concerned the proposed Article could affect the roof design of new homes. He was of the opinion that the Zoning Bylaw needs to be modified holistically with a complete revision. Mr. Ulfelder was concerned the series of zoning proposals this year could have unintended consequences on the residents.

Mr. Himmelberger came forward to discuss the proposed easement at 33R Cedar Street. Mr. Himmelberger noted that Town Counsel had informed him that the Board was concerned over the Town providing access to 33R Cedar Street in perpetuity, regardless of whether the Town terminates the driveway/way to the 33R Cedar Street property. The Board noted they had concerns with the proposed language of the easement.

Ms. Freiman noted the School Committee has requested a joint meeting with the Board. Ms. Freiman asked Board members to check their availability on April 13, 2017 at 6:30 pm.

Minutes

The Board reviewed the minutes of April 3, 2017. Ms. Freiman noted the minutes of April 3, 2017 must be reviewed and approved so they can be submitted with the Hardy, Hunnewell, and Upham Statements of Interest.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to approve the minutes of April 3, 2017.

The meeting adjourned at 7:00 p.m.

Board of Selectmen Meeting: April 12, 2017**Present: Freiman, Gibbs, Morgan, Ulfelder, Sullivan Woods****Also Present: Robinson, Jop****Minutes Approved:****Meeting Documents:**

1. Agenda
2. BOS Calendar
3. Executive Director's Weekly Report
4. Agenda Background Memorandum
5. Minutes of March 6, 16, 27, 28
6. Executive Session Log for 2016, 2017
7. Arbor Day Proclamation
8. Draft Gift Policy
9. Annual Town Meeting Draft Motion Changes for Articles 24 and 30
10. DEP Letter on Sustainable Materials Recovery Program
11. MassDOT Chapter 90 apportionment letter

1. Call to Order

Ms. Freiman called the meeting to order at 6:00 p.m.

2. Citizen's Speak

None.

3. Executive Session – Union Contracts

Ms. Freiman declared that the Board would be entering into executive session because an open meeting may have a detrimental effect on the negotiating position of the Town.

Upon a motion by Mr. Morgan, and seconded by Ms. Gibbs, the Board was polled (Ms. Gibbs-aye, Mr. Morgan-aye, Mr. Ulfelder-aye, Ms. Sullivan Woods –aye, Ms. Freiman –aye) to enter into Executive Session under M.G.L. c 30A, §21 exception # 3 to discuss union contract negotiations regarding the AFSCME Local 335 Production Unit (DPW) and the AFSCME Local 335 Supervisory Unit (DPW) because the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body. Furthermore, that Blythe Robinson, Scott Szczebak and Meghan Jop be invited to participate in the meeting to discuss the contracts, and that the Board of Selectmen will convene back into open session at the conclusion of the executive session.

The Board entered into Executive Session at 6:01 pm. See Executive Session Minutes.

The Board returned to open session at 6:15 pm.

Executive Session – Open Meeting Law Compliance

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board was polled (Gibbs-aye, Morgan-aye, Ulfelder-aye, Sullivan Woods –aye, Freiman –aye) to enter into

Executive Session under M.G.L. c 30A, §21 exception #7 to review executive session minutes of the March 6, 2017 executive session.

The Board entered into Executive Session at 6:16 pm. See Executive Session Minutes.
The Board returned to open session at 6:20 pm.

4. Discuss union contract negotiations with the AFSCME Local 335 Production Unit (DPW)

Ms. Jop gave an overview of the proposed three-year contract settlement with the DPW Production Unit. Ms. Jop reviewed the financial impacts of the contract noting the agreement has a 2% COLA for each of the three years. In addition to the COLA, the Tentative Agreement includes modest increases to longevity in the first year, the clothing and boot allowance. In exchange for agreeing to an Agency Fee, Ms. Jop noted the Town would be working to restructure the Fleet Maintenance Department to institute significant changes.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to approve the tentative agreement with the AFSCME Local 335 Production Unit (DPW) for the period July 1, 2017, to June 30, 2020, and recommend the approval of the first year funding of these contracts to the Annual Town Meeting.

5. Executive Director's Update

Ms. Robinson gave a brief update noting she participated in interviews for a new building inspector and noted a candidate for the position has been selected. Ms. Robinson briefly discussed the potential of having a meeting with the Advisory Committee following Annual Town Meeting to review the budget process and consider improvements.

The Board briefly discussed the potential meeting with Advisory as well as Advisory's role in objectively reviewing the budget.

Minutes

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to approve the regular session minutes of the Board of Selectmen meetings of March 6, 16, 27, and March 28, 2017 and the executive session minutes of March 16, 2017.

The Board reviewed the Executive Session release log and determined the executive sessions pertaining to 900 Worcester Street and 892 Washington Street should be released.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to release the Executive Session minutes of 2016 (February 29, April 14, May 23, August 16, October 4, and November 1) and 2017 (January 9, 30 (#2 only), February 6, 13, 27; March 6, 16).

Arbor Day Proclamation

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to approve the Proclamation designating April 28, 2017 as Arbor Day in Wellesley.

6. Review Draft Gift Policy

The Board reviewed the revised Draft Gift Policy.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board voted (5-0) to approve the revised Gift Policy as presented.

7. Annual Town Meeting Preparation and discussion of articles

The Board briefly discussed Article 32, which would revise the definition of TLAG under the Large House Review Zoning Bylaw. Mr. Ulfelder stated he has reconsidered his position on the article, as he is concerned over unintended consequences. Mr. Ulfelder stated he preferred to seek to be fair and equitable through comprehensive zoning bylaw changes. Mr. Ulfelder briefly discussed his concerns including the high cost of the review, the potential for larger homes, and the impacts it may have on relationships between neighbors.

Ms. Sullivan Woods noted the Planning Board has studied this issue for over a year and has considered the impacts identified. Ms. Jop noted she has rarely seen the cost of the Large House Review trigger significantly high costs, except in instances when the properties were of size in the 10,000 – 14,000 square foot range.

Upon a motion by Mr. Morgan and seconded by Ms. Gibbs, the Board re-voted (4-1) to support Article 32, with Mr. Ulfelder against.

The meeting adjourned at 7:00 pm.



Date of Application: 4/10/2017 Date of Event: 5/19/17

Application fee for one or more applications filed on the same date: **\$25.00**
 Fee for each license issued: **\$50.00**
 Make checks payable to: Town of Wellesley

☐ All Alcoholic Beverages ☒ Wine and Malt Beverages Only

Name of Non-Profit Organization: Babson College

Name of Event Manager: Holly Brennan Address: Babson College
Address: Babson College

Event Name & Description (If multiple events; See Attachment1): GSC Friends and Family Reception

Event Contact: Kate Buckman

Event Date: 4/19/17

Event Location: Olin Hall

Occupancy: 600 Estimated Attendance: 300 Indoor/Outdoor (circle one)

An 8X11" floor plan of the premises to be licensed must be submitted along with the application showing the exact location within the event area where alcoholic beverages will be sold, served, and consumed, and indicating all entrances and exits.

Name of catering service responsible for service of alcoholic beverages:

Chartwells
Name

Babson College Campus
Address

Describe steps you have taken to ensure that the employees of the catering service or the individuals listed above have completed an alcoholic beverage server-training program or similar in-house training.

All servers must be TIPS trained and certified. Evidence of training must be provided prior to event.

Describe security precautions or police details if any:

Babson College Public Safety Officers are assigned to each event in accordance with the College's long-standing practice. The number of officers assigned to a particular event fluctuates based upon the number of anticipated attendees. Access to event location is controlled consistent with College policies based upon the type of event, the location and the number of anticipated attendees.

Babson College

Kate Buckman
Printed Name of Applicant
Its Dir. Grad Student Affairs


Applicant's Signature

4/10/17

Date

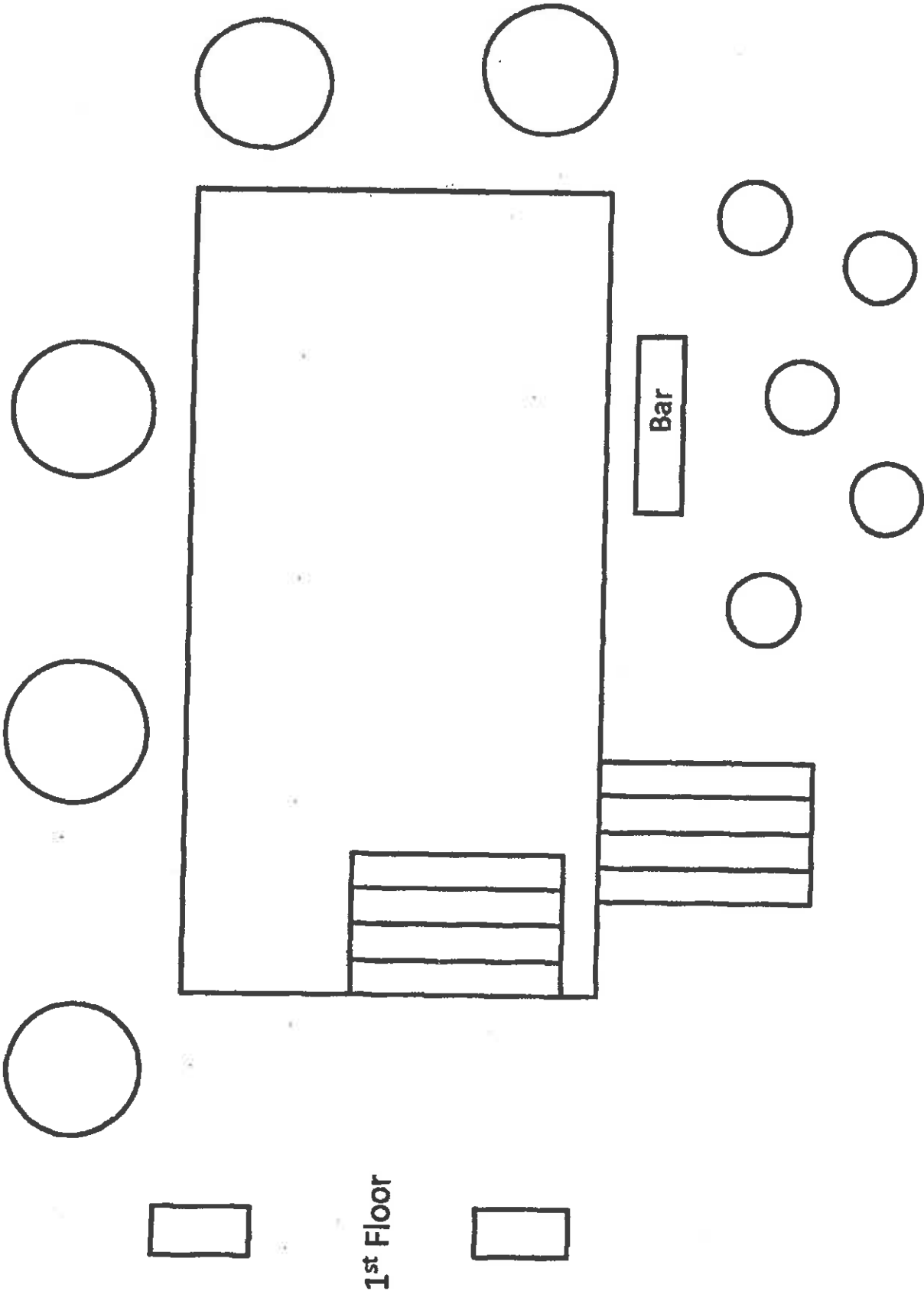
RETURN COMPLETED APPLICATION, FLOOR PLAN AND CHECK FOR FEES TO:

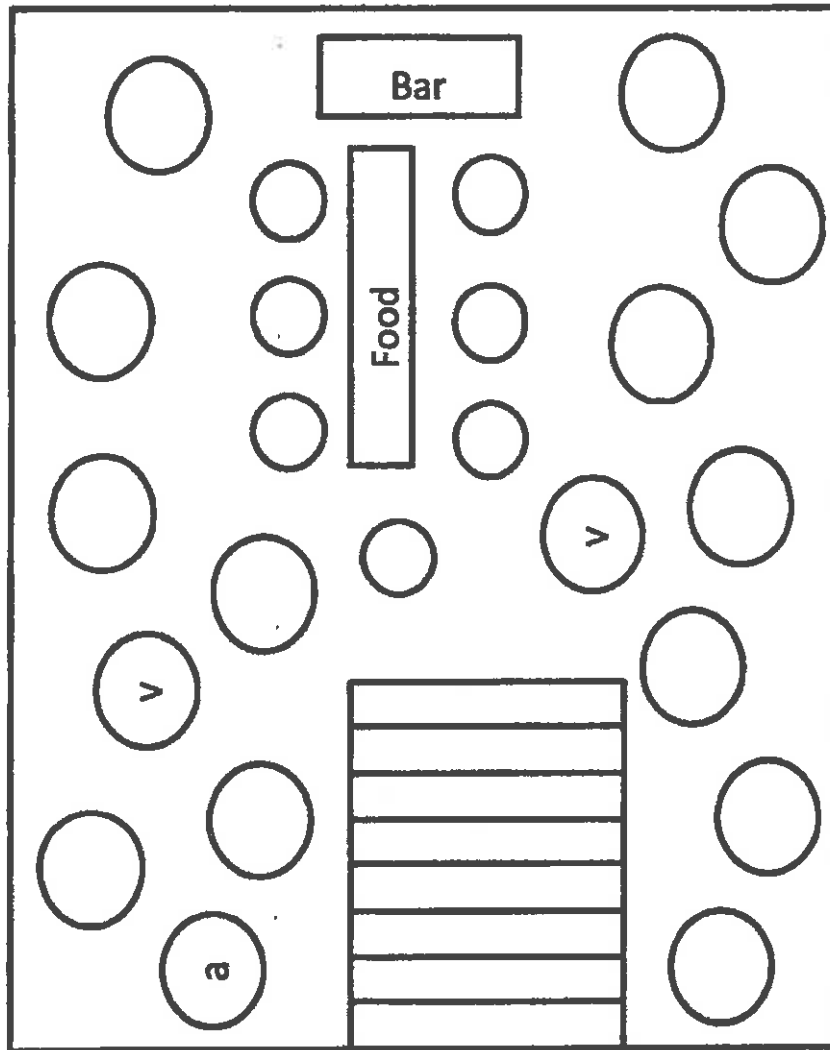
BOARD OF SELECTMEN
525 Washington Street
Wellesley, MA 02482
781-431-1019 ext 2204

ATTACHMENT 1

<u>Name of Event/Date</u>	<u>Location</u>	<u>Floor Plan Number</u>
1. Friends and Family 5/19/17	Olin 1 st Floor	1
2. Friends and Family 5/19/17	Olin Ground Floor	2
3. Friends and Family 5/19/17	Olin Front Patio	3
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		

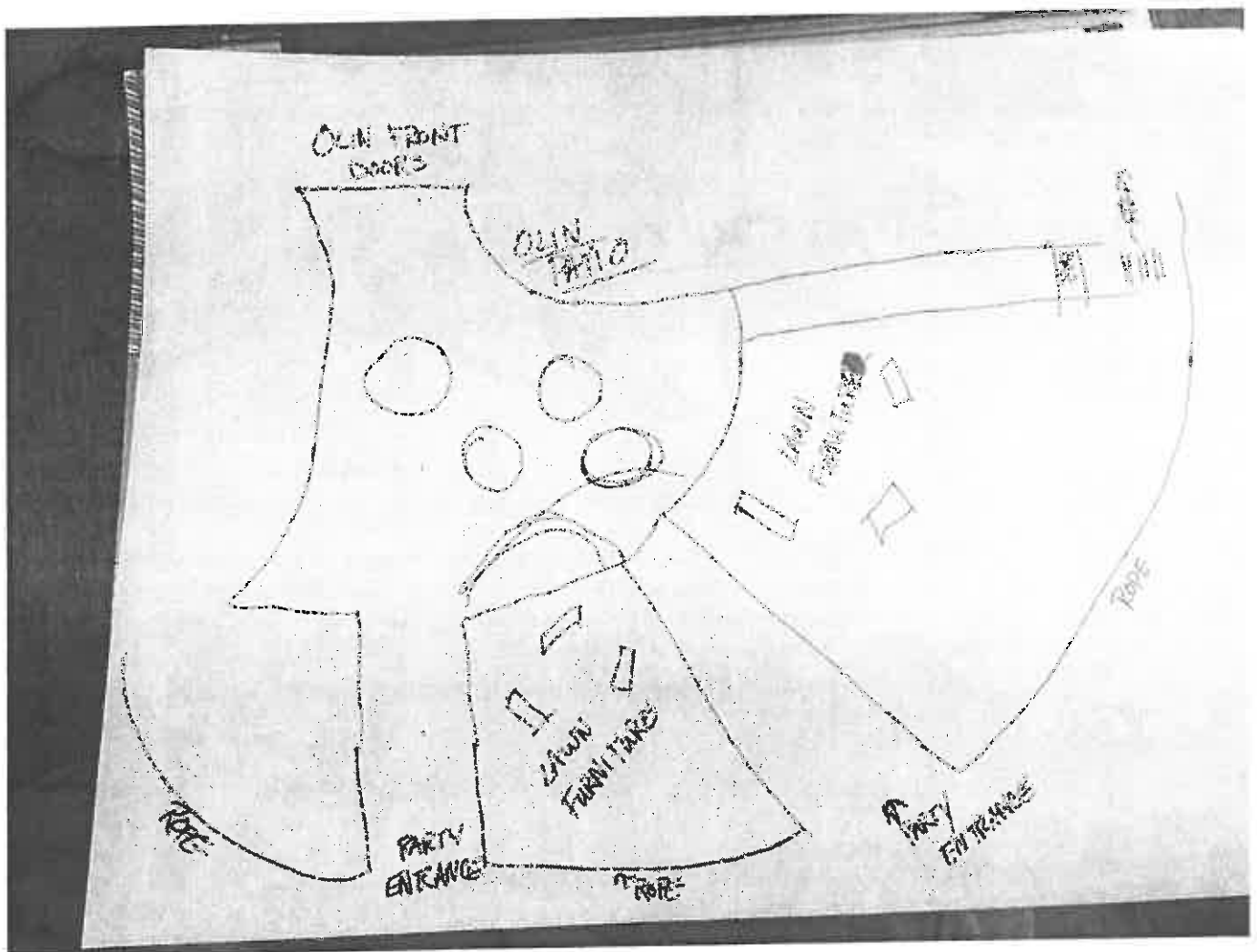
1





Ground Floor

2



Connolly, Terry

From: Vlass, Cricket
Sent: Thursday, April 13, 2017 9:48 AM
To: Connolly, Terry
Cc: Quinn, Mike
Subject: Donation

Hi Terry,

Shiva Rodhani has donated a memorial bench/plaque to the Town to be installed at State Street Pond/Memorial Grove. The donation has been for \$1,290.00.

Thanks,

Cricket

Cricket Vlass, Landscape Planner
Town of Wellesley
Department of Public Works
Park & Highway Division
30 Municipal Way
Wellesley Hills, MA 02481
Tel: (781) 235-7600 X3332
Fax: (781) 431-7569
E-mail: cvlass@wellesleyma.gov
Town Website: <http://www.wellesleyma.gov/>

I am in the office on Mondays, Tuesdays and Thursdays.

When responding please be advised that the Town of Wellesley and the office of the Secretary of State has determined that email could be considered a public record.

Additional Information Below

Hi Terry,

We received permission from the NRC (we do for all benches installed on NRC owned land). The bench has not been installed yet, I am still working with Shiva on the plaque. The DPW will install it sometime this spring, hopefully prior to Memorial Day. It is our standard Kingsley-Bate, 6' Hyde Park Teak bench, used throughout town.

I am currently working with donors on five benches to be installed this spring.

That is all I can think of,

Cricket

#6 – Discuss School Building Committee Membership

6. Discuss School Building Committee Membership

As you know, at the last meeting that was held jointly with the School Committee, one of the topics of discussion was the structure of the future school building committee that will be charged with the construction and/or renovation of the HHU schools. Included in your packet is a copy of the MSBA's structure for projects that they fund, which was referred to by Joe McDonough at the last meeting. This can be a starting point for the board's discussion on whether you believe this is an appropriate structure for this committee, or whether you prefer a different makeup to this committee. As this is intended to be a preliminary discussion, no motion has been scripted for this agenda item.

[PLEASE PRINT ON CITY, TOWN, OR DISTRICT LETTERHEAD]

Date

_____, MSBA Project Coordinator
 Massachusetts School Building Authority
 40 Broad Street, Fifth Floor
 Boston, Massachusetts 02109

Dear _____:

In accordance with 963 CMR 2.00, attached for your review and approval is the membership of the School Building Committee for [insert here] School located in the Town of XXX/City of XXX/XXX Regional School District. The Committee was formed in accordance with the provisions of all applicable statutes, local charters, by-laws and agreements of the Town of XXX/City of XXX/XXX Regional School District. Committee Members include the following:

(Please provide name, title, address and phone number of each member, **and indicate who the Chair of the School Building Committee is**. Also, please indicate whether the member has voting power. Some categories may have more than one name. All members must be included)

Designation	Name and Title	Address	Email Address and Phone Number	Voting Member ?
SBC member who is MCPPO certified*				
Local Chief Executive Officer				
Administrator or Manager**				
School Committee Member (minimum of one)				
Superintendent of Schools				
Local Official responsible for Building Maintenance				
Representative of Office authorized by law to construct school buildings				
School Principal				

Member knowledgeable in educational mission and function of facility				
Local budget official or member of local finance Committee				
Members of community with architecture, engineering and/or construction experience				
Other: Please provide brief background info/expertise				

Listed below is the past performance of the school building committee, the building committee (temporary or permanent), or any other committee responsible for oversight, management, or administration of the construction of public buildings and its individual members:

After approval of this committee by the Authority, the (City, Town or Regional School District) will notify the Authority in writing within 20 calendar days of any changes to the membership or the duties of said committee.

Sincerely,

Authorized Signature for the City, Town, or Regional School District

Approved by MSBA

Date

* Please attach the certification from the Office of the Inspector General demonstrating completion of the MCPPO Program.

** "Administrator or Manager" refers to a Town Administrator, Town Manager, or to an equivalent position.

#7 Annual Town Meeting Preparation

7. Annual Town Meeting Preparation and discussion of articles

Included in your packet is the updated listing of articles. The Board still needs to consider its position on articles #42 and #43.

8. New Business & Correspondence

Other Documents: The Board will find documents the staff is not seeking action on, but is for informational purposes only. Please find the following:

- ❖ Amended motions for Town Meeting (Articles 18 & 30)
- ❖ School Security Project Budget and background on project changes
- ❖ Draft of the Harassment Petition to the State regarding multiple public records requests from Mr. Ronald Alexander

2017 Annual Town Meeting Warrant Articles

	Description	Sponsor	Present (Respond)	
1	Choose Moderator & Receive Reports	BOS	Marjorie	NM
2	Town-Wide Financial Plan & Five Year Capital Budget Program	BOS	Blythe	
	Appropriations - Operating and Outlay			
3	Consent Agenda - Simply Majority vs 2/3	BOS	Tom	
4	Amend Job Classification Plan	HR	(Ellen)	*
5	Amend Salary Plan - Pay Schedule (including union contract settlements)	HR	(Ellen)	
6	Set Salary of Elected Official	BOS	Ellen	Yes-Unan
7	FY17 Budget Supplemental Appropriations	BOS	Marjorie	
8	Omnibus Budget and Capital (FY18)	BOS	Blythe	
9	Special Injury Leave Indemnity Fund	BOS	Ellen	
10	Special Education Reserve Fund	BOS	Ellen	
11	Authorize 1+ new Revolving Funds* (Library Copier Fund)	BOS	Beth	
12	Water Program	BPW	(Tom)	
13	Sewer Program	BPW	(Tom)	*
14	Electric Program	WMLP	(Tom)	
	Appropriations - Special Capital Projects			
15	LED Streetlight Project	WMLP	(Jack)	Yes-Unan
16	Community Preservation Fund Appropriations	CPC	(Jack)	
17	Design Funds - Town Hall Envelope Restoration Project	BOS	Marjorie	
18	School Security Project Construction	SCH	(Marjorie)	Yes-Unan
19	Fire Station Floor	BOS	Jack	*
20	Reconstruction of Cliff Road	BPW	(Beth)	Yes-Unan
21	Hunnewell Field Maintenance/Restroom Facility Project	BPW	(Jack)	Yes-Unan
	Street Acceptance			
22	Granite Street	BOS	Tom	NM
	Authorizations			
23	TPC - Approp avail funds, rescnd debt, assoc with TPC, Name Tolles Parsons Center	COA/BO S	Marjorie	
24	Accept/Abandon Easements	BPW	(Beth)	
25	900 Worcester Street Lease and related zoning changes	BOS	Elen	NM
26	Fourth Amendment to Linden Square Development Agreement	BOS	Marjorie	

27	Transf Inclusionary Zoning Funds to WHDC (978 Wrcstr & 576 Wshngtn)	BOS	Ellen	*
28	Property Acquisitions at WHS and Schofield School	BOS	Tom	
29	OPEB - Amend Spec.Legislation - Ch. 88 of the Acts of 2004	BOS	Tom	
	Amend Zoning Bylaw			
30	Recreational Marijuana	BOS	Jack	Yes-Unan
31	As of Right Solar Zoning (Green Communities)	SEC	(Ellen)	Yes- Unan
32	Large House Review TLAG Definition Amendments	PB	(Marjorie)	Yes-Unan
33	Educational District Amendments	PB	(Ellen)	Yes-Unan
34	Rezoning of NRC Properties - Phase 2	PB	(Jack)	Yes-Unan
35	Amendment of Conservation Districts Bylaw	PB	(Jack)	Yes-Unan
36	Zoning Map Corrections	PB	(Tom)	Yes-Unan
37	Outdoor Lighting Bylaw	PB	(Ellen)	NM
	Amend Town/General Bylaws			
38	Article 14 - Permanent Building Committee / 14.9	PBC	(Jack)	
39	Article 14 - Permanent Building Committee	BOS	(Jack)	
40	Article 46C - Historic Preservation Demolition Review	HC	(Marjorie)	2 - 3
41	Historic Preservation Demolition Review administration	HC	(Marjorie)	2 - 3
	Citizen Petitions			
42	Amend TBL Outdoor Trash Placement	Citizen	(Tom)	
43	Amend ZBL - Prevent Mansionization	Citizen	(Tom)	
	General			
44	Rescind or Transfer Debt; Appropriate Premiums	BOS	Beth	
45	Indemnify Town Employees/Officials	BOS	Beth	NM
46	Expenses Incurred Prior to July 1, 2016	BOS	Jack	NM
47	Settle Claims	BOS	Beth	NM
48	Disposal of Property	BOS	Beth	NM
49	Appoint Fire Engineers	BOS	Beth	*
	* Consent Agenda			

Town of Wellesley



Massachusetts

TOWN MEETING**ARTICLE: 18****MOTION: 1**

To appropriate \$2,128,414 (Two Million One Hundred Twenty-Eight Thousand Four Hundred and Fourteen Dollars) to the Permanent Building Committee for the construction of district-wide security improvements in Wellesley Public Schools;

that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$2,128,414 under Chapter 44, Section ? of the General Laws, or any other enabling authority. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

That the Permanent Building Committee is authorized to take all action necessary to carry out this project, and that said sum shall be available upon this motion becoming final following dissolution of this Town Meeting.

Approved:

Date

Moderator's Signature

Sponsor's Signature

Town of Wellesley



Massachusetts

TOWN MEETING

ARTICLE: 30

MOTION: 1

That the Town vote to amend the Zoning Bylaw by adopting new Section XXII.E. Temporary Moratorium on Marijuana Establishments, precisely as printed in the warrant.

To amend the Zoning Bylaw by adopting new Section XXII.E. Temporary Moratorium on Marijuana Establishments, to read as follows:

A. Purpose. By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, manufacture, processing, distribution, sale, possession, testing and use of marijuana. The law provides that it is effective on December 15, 2016, and that a new state agency, the Cannabis Control Commission (CCC), is required to issue regulations regarding implementation by March 15, 2018.

The regulation of such Marijuana Establishments raises novel and complex legal, planning, and public safety issues. The Town needs time to consider and address these issues, as well as the potential impact of the forthcoming Cannabis Control Commission regulations, by means of a comprehensive planning process to consider amending the Zoning Bylaw to regulate Marijuana Establishments. The temporary moratorium provided in Section XXII.E. is intended to allow sufficient time for the Town to engage in such a planning process and to adopt suitable Zoning Bylaw provisions in a manner consistent with sound land-use planning objectives.

B. Definition. As used in Section 5.6.6, the term "Marijuana Establishment" shall mean a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any other type of marijuana-related business, subject to regulation under Chapter 94G of the Massachusetts General Laws; provided, however, that a Registered Marijuana Dispensary shall not be deemed to be a Marijuana Establishment.

C. Temporary Moratorium. For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures as a Marijuana Establishment. The moratorium shall be in effect through December 31, 2018, unless extended, continued, or modified as a subsequent Town Meeting. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of Marijuana Establishments and other related land uses and structures, consider the Cannabis Control Commission regulations regarding Marijuana Establishments when they are issued, and shall consider adopting new provisions of the Zoning Bylaw governing the location, operation and effects of Marijuana Establishments for consideration by the 2018 Annual Town Meeting.

Approved:

Date

Moderator's Signature

Sponsor's Signature

School Security Project: Reasons for the Significant Cost Reduction

1. **Project Management:** Having an in-house Town of Wellesley employee (FMD's Senior Project Manager) in the Owner's Project Manager (OPM) role is probably the single most significant reason for getting the project back on track and reducing the cost estimate. Examples of steps that the OPM took are:
 - a. **Constructability:** Reviewing the previously submitted plans/spec in detail, with the eyes of a builder, looking for constructability, clarity of scope, consistency and potential change order.
 - b. **Improved Engagement and communication** with WPS (project proponent) and PBC, to make them aware of project progress and key design decisions.
 - c. **Detailed review and adjustment to cost estimate** to ensure it accurately captures the scope of work. Adjusting contingencies and other key cost modifiers based on actual conditions.
 - d. **More regular meetings and communication** with the entire design team (architect, electrical engineer, School IT, WPD, hardware vendors, security firm vendors, FMD maintenance and custodial team).
 - e. **Coordination with the State Attorney General's Bid Unit** to confirm bidding requirements as they relate to this project (including sub-sub bids).
 - f. **Significantly reducing the number of doors** that need to be replaced at HHU schools by working with hardware vendors to find unique, less costly solutions to make interior classroom doors as secure as other schools.
 - g. **Working with WPS to minimize MS hardware changes**
 - h. **Eliminating a filed sub-bid** and thousands of dollars in acoustical ceiling work, and also in painting (by self-forming with FMD custodians)
 - i. **Reducing mark-up costs and improving equipment quality** by having School IT purchase directly (work stations, switches, servers, PoEs, etc).
 - j. **Identifying a DCAMM Certified "Electronic Security Systems" contractor as prime.**
2. **Work Hours:** Accounting for contractor input that summer work is actually more costly than second-shift work during the school year, and revising the bid docs accordingly.
3. **Two Bid Packages:** This reduced GC markup on work (interior doors) that is outside of their typical security work.
4. **In-House OPM and Clerk-of-Works Costs:** Over \$200k was included in previous estimate for outsourced OPM services, for which the costs now \$0. Additionally, we have been able to reduce the Clerk-of-the-Works cost by direct hiring (Town payroll) the retired FMD Maintenance Manager to fill this role on apart-time (non-benefited) position.
5. **Self-Performing Work:** painting, tile wall repairs, cleanup (beyond broom clean), signage, IT equipment. No prevailing wage rates apply and no markups (in fact State discounts)

In summary: The project management model used for this project can be a template for future major capital building projects.

**School Security System Upgrades
Construction Budget
Permanent Building Committee**

4/19/2017

Construction**TOTALS**

Project 1 - Security 7 schools	967,280	
Alternate - High School	60,240	
Project 1 Gen Contractor total		1,027,520
 Project 2 - Doors and Hardware	97,600	
Project 2 - Doors & Hardware total		<u>97,600</u>
 Construction Sub Total		1,125,120
 Other Construction Costs		
ACM Allowance	25,000	
Other Construction Total		25,000

Architect & Other Prof Services

Construction Administration	243,500	
Hazardous Material monitor/Test	25,000	
 Architect & Other Prof Serv Sub Total		268,500

Owner's Project Manager

Construction Administration	0	
Clerk of the Works Allowance	51,300	
 OPM Services SubTotal		51,300

Town & Other Services

School IT Materials	258,000	
School IT Labor OT	10,000	
Radios	33,500	
Work Station Furniture	8,000	
Ceramic Tile	4,000	
Signage	3,000	
Painting FMD labor OT	22,000	
Painting Materials	3,000	
Custodial OT charges	30,000	
PBC Expenses	2,000	
Submittal Exchange	2,000	
Legal	5,000	
 Town & Other Services Total		380,500

Hard Cost Total 1,150,120

Hard Cost Contingency 20% 230,024

Soft Costs Total 319,800

Soft Cost Contingency 15% 47,970

Total Appropriation Request 2,128,414

April XX, 2017

VIA EMAIL TO: pre@sec.state.ma.us

Rebecca S. Murray
Supervisor of Records
One Ashburton Place
Room 1719
Boston, MA 02108

Re: *Petition Pursuant to M.G.L. c.66, §10(c), and 950 CMR 32.06(4)*

Dear Supervisor Murray,

The Town of Wellesley is writing to request: (1) a determination pursuant to 950 CMR 32.06(4)(f) that certain requests submitted to the Town of Wellesley School Department (the "Department") are designed to harass and that such requests are not intended for the broad dissemination of information to the public about actual or alleged government activity; and (2) to be relieved of the obligation to respond to such request. Specifically, the Town seeks this determination in regards to six (6) requests filed by Ronald Alexander on March 28, 2017.¹

Alternatively, if the Town's request to be relieved of the obligation to respond is not allowed, the Town should be granted an extension of time to furnish copies of records pursuant to M.G.L. c.66, §10(c) and 950 CMR 32.06(4).

I. BACKGROUND

A. Targeting of Town Employees by Mr. Alexander

Since 2013, Mr. Alexander has submitted a significant number of public records requests to the Town. The majority of those requests have been submitted to the School Department and School Committee, but Mr. Alexander also regularly submits requests to the Board of Selectmen and the Police Department. Mr. Alexander has submitted approximately one hundred and sixty two (162) requests to the School Department and School Committee, approximately seventy one (71) of which have been filed since August of 2016. Mr. Alexander has also submitted approximately forty (40) requests to the Board of Selectmen, or employees under its supervision since August of 2016, and approximately

¹ Although Mr. Alexander does not explicitly state that such requests are file under the *Public Records Law*, he does request access to documents. Thus, the Town treats these as public records requests.

seven (7) requests to the Police Department since December of 2016. Accordingly, Mr. Alexander's total number of public records requests now exceeds two hundred (200).²

Mr. Alexander utilizes the *Public Records Law* to target and harass specific employees. Many of Mr. Alexander's requests focus on documents related to individual Town employees. For example, Mr. Alexander has requested, among other things, the School Superintendent's resume,³ qualifications,⁴ license,⁵ attendance records,⁶ vacation accruals,⁷ employment contract,⁸ performance evaluations,⁹ performance evaluation dates,¹⁰ calendar,¹¹ and personnel file.¹² Mr. Alexander has targeted other employees as well, including teachers, the School Athletic Director, Labor Counsel and Town Counsel.

Mr. Alexander's pointed requests have typically been preceded by some action taken by an employee by which Mr. Alexander seemingly feels aggrieved. With respect to Town Counsel, Mr. Alexander requested the licenses of all attorneys in Town Counsel's office,¹³ and began submitting regular requests for legal invoices after Town Counsel began assisting Town employees in responding to his numerous records requests.

In each case, Mr. Alexander has followed a similar pattern: a Town employee or office has taken an action of which Mr. Alexander disapproved and Mr. Alexander has responded by filing numerous public records requests targeting that employee or office.

Mr. Alexander has engaged in this practice since 2013, when he specifically targeted an employee of the School Department. Specifically, the School Performing Arts Director transferred a teacher from one school to another. Mr. Alexander, displeased with that

² Notably, these estimates of total submitted records requests does not capture the fact that Mr. Alexander regularly engages in back and forth email communications with Town staff related to his requests and the Town's responses.

³ Requested October 15, 2013, and again on April 5, 2014.

⁴ Requested November 8, 2013.

⁵ Requested November 25, 2013.

⁶ Requested August 11, 2014.

⁷ Requested August 11, 2014.

⁸ Requested August 15, 2014, and again on October 26, 2016.

⁹ Requested August 15, 2014, and again on September 17, 2014.

¹⁰ Requested August 21, 2014; August 26, 2014; and again on September 10, 2014.

¹¹ Requested November 9, 2016; November 28, 2016; January 3, 2017; and January 5, 2017.

¹² Requested March 20, 2017.

¹³ Requested December 9, 2016.

decision, then undertook a public campaign with the apparent goal of having the Performing Arts Director fired.¹⁴ That campaign included the direct harassment of Department employees as well as indirect harassment through Mr. Alexander's use of the *Public Records Law* and the *Open Meeting Law*.¹⁵

As a result of Mr. Alexander's conduct, the Performing Arts Director filed a Complaint in the Dedham District Court requesting a harassment prevention order against Mr. Alexander in 2013.¹⁶ That Complaint resulted in a Settlement Agreement pursuant to which Mr. Alexander agreed to, among other things:

- Cease all efforts to disparage the affected employee;
- Remove online postings disparaging the affected employee;
- Refrain from actions with regard to any Wellesley School Committee members, administration, faculty, and staff that could reasonably be viewed as harassing or intimidating; and,
- Refrain from contacting the employee who filed the Complaint.

A copy of the Settlement Agreement is attached hereto as Attachment A.

On November 9, 2016, in response to renewed attempts by Mr. Alexander to contact the same employee, the School Department issued a cease and desist order prohibiting Mr. Alexander from contacting that employee during work hours or via the employee's work email address. A copy of the cease and desist order is attached hereto as Attachment B.

Mr. Alexander's continues to use the *Public Records Law* to attack Town employees runs counter to the intent of that same law.

B. Pattern of Frivolous and Harassing Requests

Many of Mr. Alexander's prior requests are either frivolous or meant to harass Town staff, both in the substance of the request and in the form in which they have been submitted. For instance, prior to the effective date of the new *Public Records Law* and

¹⁴ Related requests include October 15, 2013 (resume), November 25, 2013 (license), April 5, 2014 (resume), August 11, 2014 (emails), August 11, 2014 (vacation accruals), August 15, 2014 (employment contracts), August 15, 2014 (performance evaluations), and August 21 and 26, 2014 (performance evaluation dates).

¹⁵ Based on conversations with School staff, it is my understanding that Mr. Alexander also informed an Assistant Superintendent that, if she aligned herself with the Performing Arts Director, that she too would be "going down."

¹⁶ In Meghan Jop's petition for fees, dated February 23, 2017, she referenced a temporary restraining order issued to Mr. Alexander as a result of his conduct towards a School employee. After further investigation, I have determined that a School employee did request such an order and that the request resulted in a court approved settlement agreement that operated as a restraining order.

Regulations, records custodians were permitted to charge reasonable fees for responding to records requests, but required custodians to first provide a fee estimate to the requester. Mr. Alexander regularly submitted requests, then declined to pay the fee estimate provided,¹⁷ or declined the opportunity to inspect responsive documents at no charge.¹⁸ He has also scheduled times to inspect records, failed to appear, and later sends an email that he would like to view the documents at another time.¹⁹ This pattern of behavior forces the Town to incur significant costs for no purpose other than drafting responses and fee estimates.

More recently, Mr. Alexander has begun submitting duplicate requests for which he has already received all responsive documents. For example, Mr. Alexander has submitted the following duplicative requests:

- Labor Counsel's job description. On September 7, 2016, Mr. Alexander first requested Labor Counsel's job description. Mr. Hans Larsen responded to this request on September 16, 2016, informing Mr. Alexander that no such document exists. On January 18, 2017, Mr. Alexander submitted an identical request. The Town again responded that no such document exists.
- Labor Counsel's contract. Mr. Alexander requested Labor Counsel's contract on October 2, 2016. Mr. Larsen responded to Mr. Alexander on October 7, 2017, clearly stating that the Town does not have a contract with Labor Counsel and that no such document exists. On January 18, 2017, Mr. Alexander submitted an identical request despite previously being informed that the Town does not have such a contract.
- Labor Counsel's supervisor. On September 7, 2016, Mr. Alexander first requested the name of the board to which Labor Counsel reports. Mr. Larsen provided Mr. Alexander with a copy of the relevant Town Bylaw, the only document responsive to his request, at no charge on October 7, 2016. On January 18, 2017, Mr. Alexander submitted an identical request. Mr.

¹⁷ For example, on October 8, 2016, Mr. Alexander requested all notes and correspondence from when the Board of Selectmen made the decision to employ Miyares and Harrington LLP. Mr. Hans Larsen provided Mr. Alexander with a fee estimate on October 17, 2016, but Mr. Alexander has failed to respond to this fee estimate. Likewise, on October 26, 2016, Mr. Alexander filed a request for bullying complaints received by the School Superintendent. Mr. Alexander was provided with a fee estimate of \$67.34 to respond to the request. Mr. Alexander refused to pay the fee and instead waiting until the new *Public Records Law* went into effect to re-file his request in an attempt to avoid fees.

¹⁸ On December 9, 2016, Mr. Alexander requested to inspect the licenses of all of the attorneys who work for Miyares and Harrington LLP. Mr. Alexander was offered the opportunity to do so free of charge, but declined to do so.

¹⁹ This has occurred twice. Most recently on April 14, 2017.

Alexander has since been informed that he has already been provided with a copy of the only responsive document.²⁰

- Family Educational Rights and Privacy Act annual notifications. On January 26, 2015, Mr. Alexander requested copies of the FERPA Annual Notices which are provided to all parents (including himself) for the following school years: 2012-2013, 2013-2014, and 2014-2015.²¹ On October 3, 14, and 29, 2016, he again requested the 2014-2015, the 2013-2014, and the 2012-2013 FERPA notices, respectively.

These duplicative requests show his intention to harass Town employees and create additional work.

Mr. Alexander has also requested documents that he created. For example, Mr. Alexander requested copies of all public records requests and the Department's responses to those requests. On December 8, in an attempt to reduce the volume of responsive documents by eliminating documents Mr. Alexander created and already had in his possession, the Department asked Mr. Alexander to clarify whether he would "like copies of all public records requests filed by [him] and responses, records, and related communications sent to [him] by the Department." He responded that he wanted all records for all requesters, including his own. At that time, he had filed approximately 133 requests with the Department, approximately sixty-two (62) of which had been submitted since August. His refusal to narrow his request is another example of his intention to harass the Department's staff and cause additional work and stress.

Mr. Alexander also structures his requests to create confusion and increase the potential for accidental violations of the law. For example, Mr. Alexander regularly files multiple requests on a single day all pertaining to the same matter. As described below in detail, on March 28, 2017, Mr. Alexander emailed six (6) public records requests to the Department, all of which related to one document – the Town Meeting book. The manner in which the requests were segmented appears to be a calculated attempt to maximize work for Town staff.

Mr. Alexander also divides his requests for minutes; sending one request for open session minutes and another for executive session minutes for a meeting that occurred on the same day.²² Filing these requests in this manner creates bookkeeping challenges for the

²⁰ A copy of the Town's responses to the requests for Labor Counsel's job description, contract and supervisor was forwarded to your office to the attention of Attorney Angela Puccini.

²¹ The School Department provided Mr. Alexander with an estimate of fees to produce these records. He never paid the fee.

²² September 17, 2014 (two requests for September 16, 2014 minutes); September 25, 2014 (two requests for September 24, 2014 minutes); November 7, 2014 (two requests for November 6, 2014 minutes); December 5, 2014 (two requests for November 24, 2014 minutes); December 31, 2014 (nine separate requests for December 2014 open session and executive session minutes, many of which meetings occurred on the same day); January 16, 2015 (five separate requests for January 2015 meeting minutes, two of which occurred on the same day); January 23, 2015 (two requests for January 21, 2015 minutes); March 12, 2015 (two requests for January 29, 2015 minutes); January

Town, and appears designed to harass Town staff and increase the likelihood that the Town will make a misstep, which Mr. Alexander will use to complain that the Town has failed to comply with the law.

Mr. Alexander also requests School Committee open session minutes within a few days of a meeting. This pattern dates back to 2014:

<u>Date of Request</u>	<u>Open Session Minutes Requested</u>
September 15, 2014	September 11, 2014
September 17, 2017	September 16, 2014
September 25, 2014	September 24, 2014
October 2, 2014	September 30, 2014
October 10, 2014	October 9, 2014
October 15, 2014	October 14, 2014
December 5, 2014	November 24, 2014
December 31, 2014	December 11, 15, 16, 23, and 29, 2014
January 16, 2015	January 9, 12, and 16 2015
January 23, 2015	January 21, 2015
January 12, 2017	January 10, 2017
January 25, 2017	January 23, 2017
March 23, 2017	March 2, 20, and 21, 2017
March 27, 2017	March 24, 2017

The School Committee generally posts minutes online within a few weeks of the meeting, a fact of which Mr. Alexander is well aware.²³ Accordingly, filing these public records requests demonstrates his intent to cause additional stress and pressure on the School Committee and its staff.

Mr. Alexander requests executive session minutes with the same frequency. Recently, he has developed a pattern of requesting executive session minutes the same day the Committee is scheduled to meet.²⁴ The *Open Meeting Law* requires public bodies to review requested minutes "not later than the body's next meeting or 30 days, whichever first occurs."²⁵ By requesting the minutes immediately prior to the meeting, the School Committee is forced to hold an emergency executive session or violate the *Open Meeting*

12, 2017 (two requests for January 10, 2017 minutes); January 25, 2017 (two requests for January 23, 2017 minutes).

²³ Mr. Alexander's request for March 2, 2017 minutes was made after the Committee had already posted these minutes online.

²⁴ For example, Mr. Alexander filed a request on March 21, 2017, which forced the Committee to call an emergency executive session to review its February 27, 2017 executive session minutes at its meeting that night. Likewise, on March 23, he requested March 21 executive session minutes, and on March 27, he requested the March 24 executive session minutes.

²⁵ *M.G.L. c.30A, §22(g)(2)*.

Law. The Town strongly believes that Mr. Alexander is taking such actions for the sole purpose of harassment.²⁶

C. Cost to the Town's Taxpayers

Due to the extraordinary volume of Mr. Alexander's requests, the manner in which he breaks apart requests to avoid fees, and the need for Town Counsel's involvement in responding, the Town has incurred substantial costs for staff time and legal advice necessary to respond to Mr. Alexander's requests. Expenses incurred by the Town to respond to Mr. Alexander are now regularly in the thousands of dollars per month. The intent of the law is to foster transparency. Permitting an individual to file numerous requests for the sole purpose of harassing the Town and driving up costs does not further the intent of the Act. Moreover, it hinders the Town ability to reply to other public records requests.

II. PETITION

A. Covered Requests

This Petition relates to six (6) requests that the School Department received from Mr. Alexander on March 28, 2017, all of which relate to Town Meeting. Specifically, Mr. Alexander filed the following requests:

Request 1:

Please provide the list of school employees that are included under each of the categories of "Instruction", "Administration", "Operations", and "Special Education" as shown in the Wellesley Public Schools budget summary chart at the top of page 66 of the Reports to the Annual Town Meeting book. Please provide all invoices for add-on keyboards that have been purchased for use with iPads.

Request 2:

Please provide all the backing information for the "major new items" and "major replacement items" in the FY18 budget as shown on page 75 of the Town Meeting book. Primarily, I need the types and quantities of equipment being purchased in each of the categories listed.

Request 3:

On page 83 of the Town Meeting book, paragraph 2 states "The School Department states that Chromebooks are not as reliable and cannot handle the software programs that the High School currently uses." Please provide the following information to support this statement: All "reliability" information that shows that Chromebooks are not as reliable as Apple devices (laptops, desktops, ipads, etc.). List of all of the software programs that the High School currently uses, and specifically those programs that

²⁶ Mr. Alexander filed fewer requests than usual in early 2017. During that period, Mr. Alexander ran for School Committee and refrained from filing public records requests during his campaign.

cannot run on a Chromebook and the percentage of the High School students that use such programs.

Request 4:

On page 110 of the Town Meeting book, paragraph #3 regarding cameras states "All footage would be stored for 30 days per SC policy." Please provide a copy of the referenced SC policy that governs storage of camera footage.

Request 5:

Please provide a detailed breakdown of the \$2,553,134 School Security Project Cost (Article 18). In particular, what portion of this cost is for the 126 new cameras to be installed at the schools?

Request 6:

Please provide all documentation that supports the need for a 0.50 FTE Athletics Asst Director as shown on page 70 of the Town Meeting book.

B. Petition to be Relieved of Obligation to Respond

Pursuant to 950 CMR 32.06(4) a municipal records access officer may petition the Supervisor for an extension of time.²⁷ Any such petition "shall include a brief narrative detailing why an extension of time is necessary." 950 CMR 32.06(4)(e). "[I]f, when reviewing a petition for extension of time described in 950 CMR 32.06(4)(d), the Supervisor determines that the request is part of a series of contemporaneous requests that are frivolous or designed to intimidate or harass, and the requests are not intended for the broad dissemination of information to the public about actual or alleged government activity, the Supervisor may grant a longer extension or relieve the custodian of its obligation to provide copies of the records sought." 950 CMR 32.06(4)(f). Accordingly, the Town requests that the Supervisor find that these requests are designed for the sole purpose to harass and relieve the Town of its obligation to respond.

i. Intended to Harass

Mr. Alexander filed all six of these requests on the same day which Town Meeting was considering the School Department's budget. He requested that the Town respond immediately for this reason. However, Mr. Alexander had had access to the Town Meeting book since March 18. He could have reviewed it early and contacted the Department with his questions. Moreover, the matters addressed by his requests have been the subjects of discussion at School Committee meetings for several months as the Committee has prepared for Town Meeting. Filing these requests on the day of Town Meeting was calculated to maximize work for Town staff and to make the School Department look unresponsive in front of Town Meeting.

²⁷ Pursuant to *M.G.L. c.66, §10(b)(vi)*, I provided Mr. Alexander with a response to his requests on March 29, 2017, notifying him that additional time will be required. Given the volume of requests from Mr. Alexander, however, I anticipate that the additional time provided by that provision is insufficient for the Town to respond to these requests.

Furthermore, Mr. Alexander divided these requests into six separate emails, notwithstanding the fact that they all pertain to the same matter (i.e., Town Meeting and the Department's budget). As stated above, Mr. Alexander has developed a pattern of segmenting his requests. This is a strategic move by Mr. Alexander to cause additional stress and complication in responding to his requests.²⁸

These six requests continue Mr. Alexander's pattern of harassment towards Town employees.

ii. Not Intended for Broad Dissemination

With the exception of a recent request related to Apple computer products and Town Counsel's legal bills,²⁹ the Department has no knowledge of Mr. Alexander disseminated any of the information that he has collected from the Town to the public at large. The Town has no reason to believe that Mr. Alexander would broadly disseminate any information gleaned from obtaining the responsive documents.

The intent of this request is solely to harass Town and Department staff.

C. Petition for Extension of Time

If the Town's Petition to be relieved of the obligation to respond is not allowed, the Supervisor should allow this petition for an extension of time. Responding to the requests identified above will require coordination with multiple departments within the Town. For example, the Permanent Building Committee and not the School Department, maintains information regarding the referenced School Security Project. This added coordination requires additional time to respond to his request.

The process of responding to these requests is made more difficult by the continuous influx of requests from Mr. Alexander to which the Town must respond. In addition to the requests that are the subject of this Petition, Mr. Alexander has filed a request to inspect and make copies of all settlement agreements, both in-district and out-of-district, reached between Wellesley Public Schools and parents of students with special education needs for Calendar Year 2016.³⁰

This large (and steady) volume of requests makes it extraordinarily difficult for the Town to respond to all of Mr. Alexander's requests within the time provided by the *Public*

Commented [IF1]: Laura Judy commented that this request was for executed between January 1, 2016 and April 6, 2017. However, the request I have states Calendar Year 2016. Is there another request?

²⁸ In addition to the six requests submitted on March 28, Mr. Alexander had five (5) outstanding requests with the School Department, and at least one (1) request with the Board of Selectmen.

²⁹ Mr. Alexander regularly asserts that the Town pays too much for Town Counsel. He makes these statements during School Committee and Selectmen meetings. Mr. Alexander also shared that he believes the Town spends too much on Apple computer products.

³⁰ Notably, Mr. Alexander had previously requested copies of such agreements for the time period between 2006 and December 5, 2016. The Department provided Mr. Alexander with a fee estimate. He never paid the estimated fee.

Records Law and Regulations. Given the frequency of Mr. Alexander's requests,³¹ it is only reasonable to assume that the Town will be receiving more requests soon. As such, the Town will be unable to respond within the time provided by *M.G.L. c.66, §10(b)(vi)*.

If the Town's Petition to be relieved of the obligation to respond is not allowed, the Town requests an extension of five (5) business days to respond to Mr. Alexander's requests.

CONCLUSION

In sum, Mr. Alexander has adopted a highly adversarial position towards the Town. The Town has attempted, and continues to attempt, to respond to Mr. Alexander in accordance with its obligations under the *Public Records Law* and Regulations. As described above, Mr. Alexander regularly files a significant number of requests with the Town, files requests that are duplicative of prior requests to which he has already received responses, and structures his requests in a manner that is designed to harass Town staff and to impose an undue financial burden on the Town.

The requests covered by this Petition are no different. Mr. Alexander has filed six (6) separate requests on the same day, all of which pertain to the same matter. Instead of consolidating these requests into one email, he has separated the requests to cause confusion and increase the likelihood of non-compliance. There is simply no manner in which these requests can be said to have been filed in good faith.

At best, these requests are frivolous. Given Mr. Alexander's history and continued pattern of behavior towards the Town, however, the Town thinks it is clear that Mr. Alexander has submitted these requests for no reason other than to harass. As such, the Town respectfully requests that it be relieved of responding to his March 28 requests identified above.

Best Regards,

Judy Belliveau

Meghan Jop

cc: R. Alexander (via email)
B. Robinson (via email)
T. Harrington (via email)

³¹ Mr. Alexander also submitted two (2) requests on March 9, 2017; one (1) on March 13, 2017; one (1) on March 15, 2017; one (1) on March 16, 2017; one (1) request on March 21, two (2) requests on March 23; and one (1) request on March 27 to which the Town has already responded.