

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF SELECTMEN

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

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JACK MORGAN, VICE CHAIR
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BLYTHE C. ROBINSON
EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

SELECTMEN'S MEETING

TENTATIVE AGENDA

Wellesley Town Hall – Juliani Room
7:00 P.M. Monday, October 16, 2017

1. 7:00 Citizen Speak
2. 7:05 Fire Department – Lieutenant Promotion
3. 7:20 Facilities Management Department FY19 Capital Review
4. 8:00 Delanson Circle Site Eligibility Modified Plan Review
5. 8:30 Executive Director's Update
 - Approval of Minutes
 - Babson One Day License
 - Acceptance of Gifts
6. 8:40 Marijuana Bylaw Update
7. 8:50 Animal Control Bylaw Update
8. 9:05 Discuss Liaison Assignment to Town Hall Interior Project
9. 9:10 New Business/Correspondence

Next Meeting Dates: Monday, October 23, 2017 7:00 p.m.
Monday, October 30, 2017 7:00 p.m.

MOTIONS- OCTOBER 16, 2017:

2. **MOVE** that the Board vote to promote Firefighter James R. Claflin to the rank of Fire Lieutenant as recommended by Chief Richard DeLorie.
4. **MOVE** to approve the response from the Town to the Mass Housing Partnership regarding the revised project proposal for the development at Delanson Circle.
5. **MOVE** to approve the regular session minutes of September 18, 2017.
5. **MOVE** to approve a One Day License for Babson College on November 4, 2017 in Olin Hall for the AKPSI Alumni Reunion.
5. **MOVE** to accept a gift of \$8,730 from the Hills Garden Club to install a cobblestone labyrinth in the west end of Clock Tower Park.
8. **MOVED** that Marjorie Freiman participate as the Selectmen's Liaison to the Town Hall Visioning and Space Utilization Study.

10/13/2017

Black regular agenda items

Board of Selectmen Calendar – FY17

<i>Date</i>	<i>Selectmen Meeting Items</i>	<i>Other Meeting Items</i>
<i>10/23 Monday</i>	Meeting Joe McDonough - Middle School Projects B Good - Entertainment License NRC - update on gas leaks - vernal pools North 40 Review Model Designer Selection Document Fire Chief & Assistant Fire Chief Contracts Green Communities Program Final Approval Sweet Greens OPEB Legislation - Final Change Vote	<i>Wednesday 10/18/17- MassBay College Meeting 7:30am</i> <i>Sunday 10/22/17- Grand Opening of Tolles Parsons Center</i> <i>Friday 10/27/17- Wellesley College Meeting 7:30am</i>
<i>10/30 Monday</i>	Meeting If needed 135 Great Plain Avenue 40B Issue Boston Marathon Parade Permit HHU Update Whole Foods- Retail Sale License (7:15)	
<i>11/6 Monday</i>	Wellesley Club	
<i>11/7 Tuesday</i>	Meeting Whole Foods - Retail Sale License 135 Great Plain - if needed. Joe McDonough - Town Hall and Library	
<i>11/13 Monday</i>	Meeting Joe - FMD Capital Presentation	
<i>11/20 Monday</i>	NO Meeting	
<i>11/27 Monday</i>	Meeting Tax Classification - 5 Year Review	
<i>12/4 Monday</i>	Meeting Tax Classification Hearing (7:15 - Advertised)	
<i>12/9 Saturday</i>	BUDGET Meeting	
<i>12/11 Monday</i>	Meeting	
<i>12/18 Monday</i>	Meeting	
<i>12/25 Monday</i>	TOWN HALL CLOSED	
<i>1/1/18 Monday</i>	TOWN HALL CLOSED	
<i>1/8 Monday</i>	Meeting	
<i>1/15 Monday</i>	Town Hall Closed – MLK	
<i>1/16 Tuesday</i>	Meeting	
<i>1/22</i>	Meeting	

10/13/2017

Black regular agenda items

<i>Date</i>	<i>Selectmen Meeting Items</i>	<i>Other Meeting Items</i>
<i>Monday</i>		
<i>1/29 Monday</i>	Possible STM Date	
<i>1/30 Tuesday</i>	Possible STM Date	
<i>2/5 Monday</i>	Possible STM Date	
<i>2/6 Tuesday</i>	Possible STM Date	
<i>2/12 Monday</i>	Meeting	
<i>2/19 Monday</i>	Town Hall Closed – President’s Day	
<i>2/20 Tuesday</i>	Meeting	
<i>2/26 Monday</i>	Meeting	
<i>3/5 Monday</i>	Meeting	
<i>3/12 Monday</i>	Meeting	
<i>3/19 Monday</i>	Meeting	
<i>3/26 Monday</i>	ATM Starts	
<i>3/27 Tuesday</i>	ATM	
<i>4/2 Monday</i>	ATM	
<i>4/3 Tuesday</i>	ATM	

Notes

Quarterly updates

- *Traffic Committee (Deputy Chief Pilecki)*
- *Facilities Maintenance (Joe McDonough)*
- *Wellesley Club Dates 9/25/17, 11/6/17, 1/22/18, 3/5/18*

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Our regularly scheduled meeting at the normal time of **Monday at 7:00 PM** in the Juliani Room.

1. **Citizen's Speak**

2. Fire Department – Lieutenant Promotion

As a result of the retirement of Lt. Bob Lyons from the Fire Department, the department held a promotional process to fill the vacancy. Included with your packet is a memo from Chief DeLorie outlining the process to fill the position and his reasoning behind recommending that Firefighter James R. Claflin be promoted. Chief DeLorie, candidate Claflin and his family will be present at the meeting for the board to review this and take action to appoint him.

MOVE that the Board vote to promote Firefighter James R. Claflin to the rank of Fire Lieutenant as recommended by Chief Richard DeLorie.



TOWN OF WELLESLEY

457 WORCESTER ST.
WELLESLEY, MA 02481
Fax 781-237-3161

FIRE RESCUE

RICHARD A. DeLORIE
FIRE CHIEF
Telephone 781-235-1300

RE: Promotion to Fire Lieutenant

October 02, 2017

Dear Board of Selectmen/ Fire Engineers,

This recommendation for promotion represents the second time our department has exercised our promotional process since leaving civil service in 2012. We followed the process outlined in the collective bargaining agreement Article 26 Promotional Process.

I want to take a moment to express my sincere appreciation to Human Resources Director Szczebak for his time observing the interviews, and candidate evaluation process for the position of Fire Lieutenant. It was important to have the input and oversight of H.R. to underscore the integrity and fairness of this new promotional process.

Each candidate received scores for the written test (25%), the assessment center (50%), and the Chiefs evaluation (25%). I have provided H.R. with the scoring results from each component of the process and presented the ranking of candidates based upon their final score. I requested that the Director of Human Resources review the scoring information provided, and sign to confirm the ranking as presented by the Fire Chief prior to my posting a public promotional list (no scores) of ranked candidates for the position of Fire Lieutenant. We have completed the review process and based upon the ranking of candidates will recommend the promotion from the 3 highest ranked candidates as provided by the process.

I am requesting to be on the next available Selectmen's agenda and look forward to presenting my recommended candidate for promotion at that time. This Lieutenant will fill the vacancy that resulted from the retirement of Lt Bob Lyons after 32 years of dedicated service, effective Oct 11th. I have included background information on the Lieutenant Promotional Candidate.

Lieutenant Promotional Candidate Background:

Firefighter James R. Claflin

- Highest ranked of six candidates on our promotional process which included three components: a written exam, assessment center, and Chiefs overall evaluation of each candidate's personnel file/ departmental activities and an interview.
- Appointed as a Wellesley Firefighter, June 2013, previously served as a firefighter paramedic with Ashland Fire 2007-2013, and as a Wellesley dispatcher 2000-2006.
- Acting Lieutenant spring / summers 2017
- Completed the Fire Officer I supervisory and Fire Instructor training at the Mass Fire Academy.
- Jim participates in almost every departmental and or union sponsored community event such as the Annual Senior Citizens/Veteran Dinner, MDA, and Open Houses, he's always involved and willing to help out.
- Firefighter James R. Claflin has demonstrated the knowledge, skills, and abilities to perform the functions of a Fire Lieutenant. I respectfully recommend that the Board of Selectmen/Fire Engineers promote Firefighter James R. Claflin to the rank of Fire Lieutenant.

Regards,



Chief Richard A. DeLorie

Cc: Blythe Robinson, Executive Director

3. Facilities Management Department FY19 Cash Capital Review

As we discussed last week, we have invited Joe McDonough to review with you the details that make up FMD's recommended cash capital budget for work across the organization in FY19. In light of the guideline to reduce the capital budget town-wide next year to \$5.3 million, Joe and I have agreed on the enclosed list of projects that total \$1.875 million which results in level funding from FY18. As you may recall, in prior years the plan had been to increase FMD's budget for this type of work to \$2.0 million in FY19 and then hold it steady.

Separately, our plan is to have Joe back on several other occasions to review in more detail the "stand alone" larger capital projects we are pursuing for next year. Those include:


October 23rd – Middle School steam pipes and parking lot
November 7th – Town Hall exterior and Library interior renovation
November 13th – all other capital projects

Once we've had a chance to review all of the projects and have the full picture of capital requests from all of our departments, a vote by the Board on the final package is in order.

NO MOTION



MEMORANDUM

DATE: October 4, 2017
TO: Blythe Robinson, Executive Director
FROM: Joseph F. McDonough, P.E. 
CC: S. Strother, S. Gagosian, D. Gariepy, File
SUBJECT: **DRAFT FMD FY19 Cash-Capital Budget**
Filing No.: WPS18.05, .37

FMD-M-18391

As requested, I've prepared the attached Draft cash-capital budget for review by you and the Board of Selectmen (BOS). Also as requested, I am planning to attend the October 16th BOS meeting to answer any questions the Board may have regarding this document. Please keep in mind that this cash-capital budget has not been finalized, and there may be some minor revisions prior to the October 22nd submittal date; however, I do not expect the total budget amount to change.

The budget totals to \$1,875,000, which is the same amount as our FY18 cash-capital budget, rather than the \$2,000,000 target that had been established for FY19 in previous Town Wide Financial Plans (TWFP). *FY19 is also the first year that FMD has included DPW buildings in our plan, so these costs had not previously been accounted for by FMD.* There are forty (40) individual requests, which can be broadly categorized as follows:

Energy Conservation Projects	\$1,080,000
Maintenance Projects	\$417,000
Studies	\$230,000
Equipment & Contingencies	\$148,000

Please note that there are several presentations scheduled for major (non cash-capital) projects, which will be of interest to the BOS:

Middle School Paving and Heating Distribution Projects:	October 23rd
Library Space Utilization Study Project:	November 7th

I am currently scheduled to make the annual **FMD Capital Presentation** to the BOS and other invited boards and committees on **November 13th**. The plan will be finalized by then and I will cover the projects in more detail. Please me know if you'd like to discuss this memo.

Town of Wellesley ■ Facilities Management Department
■ 888 Worcester Street, Suite 370 ■ Wellesley, MA 02482
■ (781)489-4254 tel ■ (781)489-4266 fax ■

WFMD FY19 Draft Cash Capital Budget Summary

10/3/2017

Project No.	Building	Budget	Description	Comments
1	Town Wide	5,000	Office Equipment	Annual non-project request
2	Town Wide	15,000	Custodial Equipment	Annual non-project request
3	Town Wide	4,000	Grounds Equipment	Annual non-project request
4	Districtwide	14,000	Environmental Testing and Mitigation	Annual non-project request
5	Districtwide	40,000	Space Contingency	Annual non-project request
6	Districtwide	50,000	Custodial Equipment	Annual non-project request
7	Districtwide	10,000	Grounds Equipment	Annual non-project request
8	Districtwide	10,000	Maintenance Equipment	Annual non-project request
9	Town Hall	8,000	Bi-Annual Painting	
10	Police	15,000	Data Cooling Study	
11	Police	10,000	Replace Duplex Ejector Pumps in Basement	
12	Fire Central	8,000	Interior painting	
13	Warren	5,000	Annual Painting	
14	Morses Pond	4,000	Bi-Annual Painting	
15	Library Main	35,000	Carpet Replacement	
16	Library Main	7,500	Annual Painting	
17	Fells Library	13,500	Exterior Painting	
18	Fells Library	26,000	Supplemental Budget for Roof Replacement	
19	DPW Ops Bldg	165,000	ECM: Exterior Lighting Upgrades (Campuswide)	
20	DPW Ops Bldg	25,000	HVAC Recommissioning	
21	DPW W&S	40,000	HVAC Recommissioning	
22	DPW H&P	55,000	HVAC Recommissioning	
23	DPW H&P	50,000	Feasibility Study: Support Space	
24	DPW H&P	65,000	Study: Envelope & Structural Assessment	
25	DPW H&P	40,000	Install 18 Garage Door Sensors	
26	DPW RDF	65,000	Study: Envelope Assessment	
27	DPW RDF	20,000	HVAC Recommissioning	
28	DPW RDF	35,000	Study: Sprinkler System Assessment	
29	Bates	8,000	Steam Trap Replacement	
30	Bates	10,000	Smoke Detector Replacement	
31	Bates	100,000	ECM: Lighting Upgrades	
32	Field House	62,000	Roof Replacement	
33	Hardy	50,000	HVAC Recommissioning	
34	Hunnewell	44,000	HVAC Recommissioning	
35	Sprague	100,000	ECM: Lighting Upgrades	
36	Upham	31,000	HVAC Recommissioning	
37	Middle School	22,000	D'Auria Way Fence Replacement & Wall Repair	
38	Middle School	450,000	ECM: Lighting Upgrades	
39	Middle School	30,000	Replace Room Signs	
39	Middle School	128,000	Locker Room Partition Replacement	
	Total =	1,875,000	FY19 Budget = \$1,875,000	

**Town of Wellesley
Fiscal Years 2018 - 2027 Townwide**

Capital Budget Request

Department	Facilities	Project Title	Office Equipment	
		Project		
Prepared by	J. McDonough	Reference #:	TW-1	
Date	10/13/2017	Project Cost	5,000 30,000	
Previously Requested? Yes				
FY2019 Priority # 1 out of 3 Requests				
Project Type: Recurring				

This request is for the planned replacement of regularly used office equipment in our central office including furniture, computers, scanners, copiers, printers and other related office equipment.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General fund-cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment	5,000	6,000	6,000	6,000	7,000	30,000
Energy Conservation						-
Other: Engineering/Design						-
Safety						-
Totals	5,000	6,000	6,000	6,000	7,000	30,000

Town of Wellesley
Fiscal Years 2019 - 2028 Townwide
Capital Budget Request

Department	Facilities	Project Title	Custodial Equipment	
Prepared by	J. McDonough	Project Reference #:	TW-3	
Date	10/13/2017	Project Cost	15,000	65,000
		Previously Requested?	Yes	
		FY2019 Priority # 2 out of 3 Requests		
Project Type: Recurring				

The Facilities Maintenance Department maintains an inventory of custodial equipment needed to properly clean and maintain the municipal buildings. This proposed request allows for the planned and orderly replacement of such significant pieces of equipment as they reach the end of their service life. For FY19, equipment requests have been made which include the following items: carpet extractors and spotters, backpack and upright vacuums cleaners, wet vacuum, motor scrubber and wax applicators. Equipment requests for subsequent years are based on the current inventory and expected service life remaining.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund-cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment	15,000	15,000	10,000	10,000	15,000	65,000
Energy Conservation						-
Other: Engineering/Design						-
Safety						-
Totals	15,000	15,000	10,000	10,000	15,000	65,000

Town of Wellesley
Fiscal Years 2019 - 2028 Townwide
Capital Budget Request

Department	Facilities	Project Title	Grounds Equipment	
Prepared by	J. McDonough	Project Reference #:	TW-4	
Date	10/13/2017	Project Cost	4,000	19,000
Previously Requested? Yes				
FY2019 Priority # 3 out of 3 Requests				
Project Type: Recurring				

The Facilities Maintenance Department maintains an inventory of grounds equipment needed to properly maintain the municipal walkways and landscaped areas around the buildings. This proposed request allows for the planned and orderly replacement of such significant pieces of equipment as they reach the end of their service life. For FY19, the largest equipment request is for a walk-behind leaf blower. Equipment requests for subsequent years is based on the current inventory and expected service life remaining.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund-cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building and Improvements						-
Vehicle(s)						-
Equipment	4,000	3,000	4,000	4,000	4,000	19,000
Infrastructure						-
Information technology						-
Other: Engineering/Design						-
Safety						-
Totals	4,000	3,000	4,000	4,000	4,000	19,000

Town of Wellesley
Fiscal Years 2019 - 2028 Districtwide
Capital Budget Request

Department	Facilities	Project Title	Environmental Testing and Mitigation
Prepared by	J. McDonough	Project Reference #:	DW-1
Date	10/13/2017	Project Cost	14,000
		Previously Requested?	Yes
FY2019 Priority # 1 out of 5 Requests			
Project Type: Recurring			

This proposed request is part of an program established by the School Department to address and correct unanticipated environmental issues, including indoor air quality, hazardous material abatement and any other related problems.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund-cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
Safety	14,000	14,000	14,000	16,000	16,000	74,000
Totals	14,000	14,000	14,000	16,000	16,000	74,000

**Town of Wellesley
Fiscal Years 2019- 2028 Districtwide**

Capital Budget Request

Department	Facilities	Project Title	Space Contingency
Prepared by	J. McDonough	Project Reference #:	DW-2
Date	10/13/2017	Project Cost	40,000
Previously Requested? Yes			
FY2019 Priority # 2 out of 5 Requests			
Project Type: Recurring			

This proposed request is part of a program established by the School Department to address increases/changes in enrollment or school programming/function which may require small scale reconfiguration of existing spaces or other similar building modifications to accommodate the learning environment.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General fund-cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
Safety	40,000	40,000	40,000	42,000	42,000	204,000
Totals	40,000	40,000	40,000	42,000	42,000	204,000

Town of Wellesley
Fiscal Years 2019 - 2028 Districtwide
Capital Budget Request

Department	Facilities	Project Title	Custodial Equipment
Prepared by	J. McDonough	Project Reference #:	DW-3
Date	10/13/2017	Project Cost	50,000
Previously Requested? Yes			
FY2019 Priority # 3 out of 5 Requests			
Project Type: Recurring			

The Facilities Maintenance Department maintains an inventory of custodial equipment needed to properly clean and maintain the school buildings. This proposed request allows for the planned and orderly replacement of such significant pieces of equipment as they reach the end of their service life. For FY19, equipment requests include the following items: Autoscrubbers, burnisher, backpack and upright vacuums cleaners, carpet extractors/spotters, motoscrubbers, wet vacuums and wax applicators. Equipment requests for subsequent years are based on the current inventory and expected service life remaining.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund-cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment	50,000	45,000	45,000	50,000	50,000	240,000
Energy Conservation						-
Other: Engineering/Design						-
Safety						-
Totals	50,000	45,000	45,000	50,000	50,000	240,000

Town of Wellesley
Fiscal Years 2019 - 2028 Districtwide
Capital Budget Request

Department	Facilities	Project Title	Grounds Equipment
Prepared by	J. McDonough	Project Reference #:	DW-4
Date	10/13/2017	Project Cost	10,000 Yes
Previously Requested?			
FY2019 Priority # 4 out of 5 Requests			
Project Type: Recurring			

The Facilities Maintenance Department maintains an inventory of grounds equipment needed to properly maintain the school walkways and landscaped areas around the buildings. This proposed request allows for the planned and orderly replacement of such significant pieces of equipment as they reach the end of their service life. For FY19, equipment requests have been made for the following items: lawn mowers, snow blowers, leaf blowers, weed whackers and hedge trimmers. Equipment requests for subsequent years are based on the current inventory and expected service life remaining.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund-cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment	10,000	20,000	15,000	10,000	15,000	70,000
Energy Conservation						-
Other: Engineering/Design						-
Safety						-
Totals	10,000	20,000	15,000	10,000	15,000	70,000

Town of Wellesley
Fiscal Years 2019 - 2028 Districtwide
Capital Budget Request

Department	Facilities	Project Title	Maintenance Equipment
Prepared by	J. McDonough	Project Reference #:	DW-5
Date	10/13/2017	Project Cost	10,000
Previously Requested? Yes			
FY2019 Priority # 5 out of 5 Requests			
Project Type: Recurring			

The Facilities Management Department maintains an inventory of maintenance equipment for its plumber, electrician, HVAC technician, maintenance craftsman and mechanic. This proposed request allows for the planned and orderly replacement of such significant pieces of equipment as they reach the end of their service life. Equipment requests for subsequent years are based on the current inventory and expected service life remaining.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund-cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment	10,000	10,000	11,000	11,000	11,000	53,000
Energy Conservation						-
Other: Engineering/Design						-
Safety						-
Totals	10,000	10,000	11,000	11,000	11,000	53,000

**Town of Wellesley
Fiscal Years 2019 - 2028 Town Hall
Capital Budget Request**

Department	Facilities	Project Title	Bi-Annual Painting
Prepared by	J. McDonough	Project Reference #:	TH-8
Date	10/13/2017	Project Cost	8,000
		Previously Requested?	Yes
		FY2019 Priority # 1 out of 1 Requests	
Project Type: Recurring			

This request is part of an annual program to repaint key portions of the interior of the building, assuming a ten-year cycle. Estimated cost includes material, labor and equipment. FY17 focused of stairways, corridors and common areas. The estimated project cost includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General Fund - Cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building and Improvements	8,000		10,000		10,000	28,000
Vehicle(s)						-
Equipment						-
Infrastructure						-
Information technology						-
Other: specify						-
Totals	8,000	-	10,000	-	10,000	28,000

Town of Wellesley
Fiscal Years 2019 - 2028 Police
Capital Budget Request

Department	Facilities	Project Title	Data Center Cooling Study
Prepared by	J. McDonough	Project Reference #:	PD-7
Date	10/13/2017	Project Cost	15,000

Previously Requested? Yes

FY2019 Priority # 1 out of 2 Requests

Project Type: Non-Recurring

An electrical/mechanical consultant will be engaged for this study to evaluate an HVAC issue at the Police Station: on-going problems with providing adequate and reliable cooling for the WPD's IT rooms. The existing data room(s) have increased significantly in size and amount of heat-generating computer equipment over the last several years. A 2015 project to replace most of the HVAC system in the building did not adequately address the cooling of these spaces. Recent recommissioning work determined that the main air-handling unit (AHU-1) and the dedicated data room cooling unit (ACCU-3) are both needed to cool these spaces. There have still been numerous shut-downs and overheating reported by the WPD since the 2015 work was completed. This project would evaluate options such as a dedicated variable-refrigerant flow (VRF) system or possibly changes in space, to allow creation of one larger data room with a new dedicated cooling system, instead of three smaller rooms. \$15,000 is carried in FY19 for the study, and a "placeholder" amount of \$100,000 is included in FY20 for a new VRF system for the existing data rooms.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 Cash

Impact on Annual Operating Budget
 NA

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction		100,000				100,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design	15,000					15,000
						-
Totals	15,000	100,000	-	-	-	115,000

**Town of Wellesley
Fiscal Years 2019 - 2028 Police Station**

Capital Budget Request

Department	Facilities	Project Title	Replace Duplex Sump Pumps
Prepared by	J. McDonough	Project Reference #:	PD-6
Date	10/13/2017	Project Cost	10,000
		Previously Requested?	No
		FY2019 Priority # out of Requests	
Project Type:			

The existing duplex sump (ejector) pumps in the basement are original to the station (20 years old) and have had significant repairs. They are at or near the end of there service life. There is concerns that if both pumps were to fail simultaneously there could be flooring problems. This project would remove and replace these two pumps. The estimated project cost includes a contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General fund - cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment	10,000					10,000
Energy Conservation						-
Other: Engineering/Design						-
						-
Totals	10,000	-	-	-	-	10,000

Town of Wellesley
Fiscal Years 2018 - 2027 FD Central
Capital Budget Request

Department	Facilities	Project Title	Repaint Interior
Prepared by	J. McDonough	Project Reference #:	FDC-5
Date	11/7/2016	Project Cost	8,000
		Previously Requested?	Yes
FY2019 Priority # 2 out of 2 Requests			
Project Type: Non-Recurring			

The sleeping quarters and apparatus bay ceiling have been painted within the last three years; however the remainder of the station has not been painted since the last major renovations in 2001. This project would paint all walls, ceilings and stairways throughout the station that have not been painted within the last 16 years. The estimated project cost includes a contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
Possibly CPC or HC
General Fund - Cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction	8,000					8,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design		-	-	-		-
						-
Totals	8,000	-			-	8,000

Town of Wellesley
Fiscal Years 2019 - 2028 Warren Building
Capital Budget Request

Department	Facilities	Project Title	Bi-Annual Painting
Prepared by	J. McDonough	Project Reference #:	W-6
Date	11/13/2017	Project Cost	5,000
		Previously Requested?	Yes
		FY2019 Priority # out of Requests	
Project Type: Recurring			

This request is part of an bi-annual program to repaint key portions of the interior of the building, assuming a ten-year cycle. Estimated cost includes material, labor and equipment. The estimated project cost includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General Fund - Cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction	5,000		6,000		6,000	17,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
						-
Totals	5,000	-	6,000	-	6,000	17,000

Town of Wellesley
Fiscal Years 2019 - 2028 Morses Pond
Capital Budget Request

Department	Facilities	Project Title	Bi-Annual Painting
Prepared by	J. McDonough	Project Reference #:	MP-1
Date	10/13/2017	Project Cost	4,000
Previously Requested? No			
FY2019 Priority # 1 out of 1 Requests			
Project Type: Recurring			

This request is part of an bi-annual program to repaint key portions of the interior and exterior of the building, assuming a ten-year cycle. Estimated cost includes material, labor and equipment. The estimated project cost includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General Fund - Cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction	4,000		4,500			8,500
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
Totals	4,000	-	4,500	-	-	8,500

**Town of Wellesley
Fiscal Years 2019 - 2028 Main Library
Capital Budget Request**

Department	Facilities	Project Title	Carpeting Replacement
Prepared by	J. McDonough	Project Reference #:	ML-3
Date	10/13/2017	Project Cost	35,000
		Previously Requested?	Yes
		FY2019 Priority # 1 out of 2 Requests	
Project Type: Recurring			

This request is part of an annual program to replace carpeting throughout the building as it reaches the end of its service life. The priority area identified by the Library and FMD for FY19 is the approximate 3,300 sf Circulation Area. A major replacement project for most of the second floor carpeting is assumed for FY20 to coincide with a functional need to reorganize book shelves, although this may change based on the results of the Space Utilization Study. The 6,000 sf Children's Room carpet is assumed to be replaced in FY21. The estimated project costs includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General Fund - Cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction	35,000	275,000	65,000	50,000	50,000	475,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
						-
Totals	35,000	275,000	65,000	50,000	50,000	475,000

**Town of Wellesley
Fiscal Years 2019 - 2028 Main Library
Capital Budget Request**

Department	Facilities	Project Title	Annual Painting
Prepared by	J. McDonough	Project Reference #:	ML-7
Date	10/13/2017	Project Cost	7,500
Previously Requested? Yes			
FY2019 Priority # 2 out of 2 Requests			
Project Type: Recurring			

This request is part of an annual program to repaint key portions of the interior of the building, assuming a ten-year cycle. Estimated cost includes material, labor and equipment. The estimated project cost includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General Fund - Cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction	7,500	8,000	8,000	8,500	8,500	40,500
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
Totals	7,500	8,000	8,000	8,500	8,500	40,500

Town of Wellesley
Fiscal Years 2019 - 2028 Fells Library
Capital Budget Request

Department	Facilities	Project Title	Exterior Painting
Prepared by	J. McDonough	Project Reference #:	FL-2
Date	10/13/2017	Project Cost	13,500
		Previously Requested?	Yes
FY2019 Priority # 2 out of 2 Requests			
Project Type: Recurring			

The exterior siding and trim is approaching the point at which it should be repainted. The anticipated roofing work will be completed ahead of the painting. The estimated project cost includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)

General Fund - Cash

Impact on Annual Operating Budget

N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction	13,500					13,500
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design		-	-	-		-
						-
Totals	13,500	-	-		-	13,500

Town of Wellesley
Fiscal Years 2019 - 2028 Fells Library
Capital Budget Request

Department	Facilities	Project Title	Supplemental Funding for Roof Replacement
Prepared by	J. McDonough	Project Reference #:	FL-5
Date	10/13/2017	Project Cost	26,000
		Previously Requested?	No
FY2019 Priority # 1 out of 2 Requests			
Project Type: Non-Recurring			

The asphalt shingle roof for this building was installed circa 1988 and is approaching the end of its service life and in need of replacement. The building experienced localized damaged from ice dams in winter 2014-2015. The proposed request includes removal and replacement of the roof with new asphalt shingles and a waterproofing underlayment, new gutters and repairs to the chimney. The estimated project cost includes a construction contingency and design services. \$24,000 was approved for this work as part of an FY17 project and the project was bid in 2017; however the low bid was significantly over the budget. The additional \$26,000 requested as part of this project is intended to cover the larger than expected total cost for the work.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)

General Fund - Cash

Impact on Annual Operating Budget

N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction	26,000					26,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design		-	-	-		-
						-
Totals	26,000		-		-	26,000

**Town of Wellesley
Fiscal Years 2019 - 2028 DPW Operations
Capital Budget Request**

Department	Facilities	Project Title	Campus Wide Exterior Lighting Upgrades
Prepared by	J. McDonough	Project Reference #:	DPWO-1
Date	10/13/2017	Project Cost	165,000
		Previously Requested?	Yes
		FY2019 Priority # 2 out of 2 Requests	
Project Type:			

The FMD's Operations Manager has identified lighting as one of the most attractive Energy Conservation Measures (ECMs) from a life-cycle analysis and pay-back perspective. There are significant potential benefits to replacing or retrofitting lighting fixtures with light emitting diode (LED) fixtures and adding sensors/controls. In 2017 the DPW engaged a consultant to perform an exterior lighting study of the entire Municipal Way campus, including DPW, MLP and Fire Station buildings. This proposed project would remove and replace all pole and building mounted exterior lights with new or retrofitted LED lights, which adhere to zoning requirements, reduce energy use and improve lighting quality. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
Cash
* Possible grants to supplement costs

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2022	
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	130,000					130,000
Other: Engineering/Design	35,000					35,000
						-
Totals	165,000	-	-	-	-	165,000

**Town of Wellesley
Fiscal Years 2019 - 2028 DPW Operations
Capital Budget Request**

Department	Facilities	Project Title	HVAC Recommissioning
Prepared by	J. McDonough	Project Reference #:	DPWO-2
Date	10/13/2017	Project Cost	25,000
		Previously Requested?	Yes
		FY2019 Priority # 1 out of 2 Requests	
Project Type: Recurring			

This request is part of a program to perform re-commissioning services, including extraordinary repairs and preventative maintenance, to the heating, ventilating and air-conditioning (HVAC) systems at FMD buildings on a regular cycle to ensure that the systems are working to their optimum capacity. The goal of this program is to improve indoor air quality and reduce energy consumption. The HVAC system for DPW Operations building has not been recommissioned since it was built in 2009. If recommissioned in 2018, it will have been 9 years since construction (5 years for the addition). Our recommended cycle for recommissioning is 5 to 7 years, so this project is within these parameters. This timing takes into account the relatively new age of the system and also its complicated HVAC and control systems. Work includes inspections, cleaning, lubrication, calibration and repair/replacement of certain elements. The work must be performed during the heating season and will be done on a room-by-room basis, possibly requiring the temporary relocation of offices for part of a day. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General fund - cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	25,000					25,000
Other: Engineering/Design						-
						-
Totals	25,000	-	-	-	-	25,000

**Town of Wellesley
Fiscal Years 2019 - 2028 DPW W&S
Capital Budget Request**

Department	Facilities	Project Title	HVAC Recommissioning
Prepared by	J. McDonough	Project Reference #:	DPWW-1
Date	10/13/2017	Project Cost	40,000
Previously Requested? Yes			
FY2019 Priority # 1 out of 1 Requests			
Project Type: Recurring			

This request is part of a program to perform re-commissioning services, including extraordinary repairs and preventative maintenance, to the heating, ventilating and air-conditioning (HVAC) systems at FMD buildings on a regular cycle to ensure that the systems are working to their optimum capacity. The goal of this program is to improve indoor air quality and reduce energy consumption. The HVAC system for DPW Water & Sewer building has not been recommissioned since it was built in 2009. If recommissioned in 2018, it will have been 9 years since construction (5 years for the addition). Our recommended cycle for recommissioning is 5 to 7 years, so this project is within these parameters. This timing takes into account the relatively new age of the system and also its complicated HVAC and control systems. Work includes inspections, cleaning, lubrication, calibration and repair/replacement of certain elements. The work must be performed during the heating season and will be done on a room-by-room basis, possibly requiring the temporary relocation of offices for part of a day. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General fund - cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	40,000					40,000
Other: Engineering/Design						-
						-
Totals	40,000	-	-	-	-	40,000

Town of Wellesley
Fiscal Years 2019 - 2028 DPW H&P
Capital Budget Request

Department	Facilities	Project Title	HVAC Recommissioning
		Project	
Prepared by	J. McDonough	Reference #:	DPWH-4
Date	10/13/2017	Project Cost	55,000
		Previously Requested?	Yes
		FY2019 Priority # 2 out of 4 Requests	
Project Type: Recurring			

This request is part of a program to perform re-commissioning services, including extraordinary repairs and preventative maintenance, to the heating, ventilating and air-conditioning (HVAC) systems at FMD buildings on a regular cycle to ensure that the systems are working to their optimum capacity. The goal of this program is to improve indoor air quality and reduce energy consumption. The HVAC system for DPW Highway & Parks building has not been recommissioned since it was renovated in 2013. If recommissioned in 2018, it will have been 5 years since construction. Our recommended cycle for recommissioning is 5 to 7 years, so this project is within these parameters. This timing takes into account the relatively new age of the system and also its complicated HVAC and control systems. Work includes inspections, cleaning, lubrication, calibration and repair/replacement of certain elements. The work must be performed during the heating season and will be done on a room-by-room basis, possibly requiring the temporary relocation of offices for part of a day. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund - cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	55,000					55,000
Other: Engineering/Design						-
						-
Totals	55,000	-	-	-	-	55,000

**Town of Wellesley
Fiscal Years 2019 - 2028 DPW H&P
Capital Budget Request**

Department	Facilities	Project Title	Support Space Study
Prepared by	J. McDonough	Project Reference #:	DPWH-1
Date	10/13/2017	Project Cost	50,000 888,000
		Previously Requested?	No
FY2019 Priority # 3 out of 4 Requests			
Project Type: Non-Recurring			

Key staff support spaces consisting of the men's locker room, the kitchen, and the lunch/break/training rooms have had no updating since they were built almost 70 years ago in 1947. These facilities are inadequate from a perspective of age, functionality, circulation, adjacencies and layout. *The women's locker room was updated within the past 10 years, but is undersized.* This proposed study would include an existing conditions phase, programming phase and development of new layout options that better support the DPW's operations and staff for their current operations. The results will be included in a summary report with recommendations with estimated costs. \$50,000 is requested for the study in FY19 and a \$888,000 "placeholder" has been established for potential construction work in FY21 that may be needed as a result of the study.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)

Cash

Impact on Annual Operating Budget

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction			888,000			888,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design	50,000					50,000
						-
Totals	50,000	-	888,000		-	938,000

Town of Wellesley
Fiscal Years 2019 - 2028 DPW H&P
Capital Budget Request

Department	Facilities	Project Title	Envelope & Structural Assessment
		Project	
Prepared by	J. McDonough	Reference #:	DPWH-3
Date	10/13/2017	Project Cost	65,000
		Previously Requested?	No
		FY2019 Priority # 4 out of 4 Requests	
Project Type: Non-Recurring			

The brick masonry walls, concrete floor slabs (elevated and slab-on-grade) and the Wash Bay are original, 70 year old construction. There are numerous age-related deficiencies that have been observed in the walls and slabs, such as cracks and mortar loss. The elevated structural slab in the Park Maintenance Bay and Tool Area was deemed to be structurally inadequate several years ago and currently has large steel plates covering the opening (above Electrical Room). The approx. 570 sf Wash Bay has drainage problems which will likely require removal of large sections of slab-on-grade to install a new drainage basin and piping. This project would engage a professional engineer/architect to investigate these problems and make recommendations to correct. The results will be included in a summary report with estimated costs. \$65,000 is requested for the study in FY19. A "placeholder" amount has been established for potential construction work in FY20 and FY23 that may be needed as a result of the study. \$167,000 is carried in FY20 for the Wash Bay renovation and the Maintenance Bay slab repair. \$150,000 is carried in FY23 for masonry repairs.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 Debt

Impact on Annual Operating Budget
 NA

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction		167,000			150,000	317,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design	65,000					65,000
						-
Totals	65,000	167,000	-	-	150,000	382,000

Town of Wellesley
Fiscal Years 2019 - 2028 DPW H&P
Capital Budget Request

Department	Facilities	Project Title	Install Garage Bay Door Sensors
		Project	
Prepared by	J. McDonough	Reference #:	DPWH-5
Date	10/13/2017	Project Cost	40,000
		Previously Requested?	No
		FY2019 Priority # 1 out of 4 Requests	
Project Type: Non-Recurring			

There are twenty-nine (29) overhead (garage) doors in this building, but 18 of the doors do not have electronic sensors that prevent the doors from accidentally closing on a vehicle or person. This project is to furnish and install the sensors and for an electrician to provide power for each door. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 Debt

Impact on Annual Operating Budget
 NA

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction	40,000					40,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
Totals	40,000	-	-	-	-	40,000

**Town of Wellesley
Fiscal Years 2019 - 2028 DPW RDF
Capital Budget Request**

Department	Facilities	Project Title	Building Envelope & Space Assessment
Prepared by	J. McDonough	Project Reference #:	DPWR-1
Date	10/13/2017	Project Cost	65,000
		Previously Requested?	No
		FY2019 Priority # 2 out of 3 Requests	
Project Type: Non-Recurring			

The last major renovation at the RDF was in 1997. The building "envelopes", including roofing, walls, windows, foundation waterproofing and doors of the Baler Building, Administration Building and part of the Paper/Wood Processing Building are in need of repair or replacement. Single-ply roofing is at the end of its service life, wall panels are corroding in areas, and doors & windows need significant repair or replacement. Groundwater infiltrates the lower level of the Baler building's foundation walls, and upper roof deck of the building has such severe corrosion that it has been deemed to be off-limits. Sliding snow study by Weston & Sampson at Paper/Wood Processing and Book Exchange/Recycling Drop-off areas to be incorporated into study. The study would also have a minor "programming" component to evaluate the function of the Administration building under its current configuration. This project would engage a professional architectural consultant to perform a detailed assessment, including field investigations, of these systems. The assessment would include the preparation of a summary report with recommendations with estimated costs. \$65,000 is requested for the study in FY19 and two \$125,000 "placeholder" amounts have been established for potential construction work in FY20 and FY21 that may be needed as a result of the study. FY20 work is assumed to be replacement of the Baler building upper roof and part of the structural deck.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
Debt

Impact on Annual Operating Budget
NA

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction		125,000	125,000			250,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design	65,000					65,000
						-
Totals	65,000	125,000	125,000	-	-	315,000

Town of Wellesley
Fiscal Years 2019 - 2028 DPW RDF
Capital Budget Request

Department	Facilities	Project Title	HVAC Recommissioning
Prepared by	J. McDonough	Project Reference #:	DPWR-4
Date	10/13/2017	Project Cost	20,000
		Previously Requested?	Yes
		FY2019 Priority # 3 out of 3 Requests	
Project Type: Recurring			

This request is part of a program to perform re-commissioning services, including extraordinary repairs and preventative maintenance, to the heating, ventilating and air-conditioning (HVAC) systems at FMD buildings on a regular cycle to ensure that the systems are working to their optimum capacity. The goal of this program is to improve indoor air quality and reduce energy consumption. The HVAC system for DPW Admin building has not been recommissioned since it was built in 1997. If recommissioned in 2018, it will have been 21 years since construction. Our recommended cycle for recommissioning is 5 to 7 years, so this project is well beyond these parameters. Work includes inspections, cleaning, lubrication, calibration and repair/replacement of certain elements. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund - cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	20,000					20,000
Other: Engineering/Design						-
						-
Totals	20,000	-	-	-	-	20,000

**Town of Wellesley
Fiscal Years 2019 - 2028 DPW RDF
Capital Budget Request**

Department	Facilities	Project Title	Sprinkler System Evaluation	
Prepared by	J. McDonough	Project Reference #:	DPWR-5	
Date	10/13/2017	Project Cost	35,000	125,000
		Previously Requested?	No	
		FY2019 Priority # 1 out of 3 Requests		
Project Type: Non-Recurring				

The last major renovation to the Baler Building at the RDF was in 1997, which included the installation of the existing sprinkler system. The RDF Director is concerned that existing 20+ years old sprinkler system is functionally adequate and appropriate for the building. This project would be to engage a professional fire protection engineering consultant to evaluate the existing system and then prepare of a summary report with recommendations with estimated costs. \$35,000 is requested for the study in FY19 and a \$125,000 "placeholder" has been established for potential construction work in FY21 that may be needed as a result of the study.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
Debt

Impact on Annual Operating Budget
NA

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction			125,000			125,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design	35,000					35,000
						-
Totals	35,000	-	125,000	-	-	160,000

Town of Wellesley
Fiscal Years 2019 - 2028 Bates
Capital Budget Request

Department	Facilities	Project Title	Steamtrap Replacement
Prepared by	J. McDonough	Project Reference #:	B-7
Date	10/13/2017	Project Cost	8,000
		Previously Requested?	Yes
FY2019 Priority # 2 out of 3 Requests			
Project Type: Recurring			

This request is part of a district-wide program to replace steam traps throughout all schools. There are approximately 120 traps in the school. The costs assume in-house maintenance staff performing the work on overtime. The estimated project cost includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund - cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction	8,000					8,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
Totals	8,000	-	-	-	-	8,000

Town of Wellesley
Fiscal Years 2019 - 2028 Bates
Capital Budget Request

Department	Facilities	Project Title	Smoke Detector Replacement
		Project	
Prepared by	J. McDonough	Reference #:	B-8
Date	10/13/2017	Project Cost	10,000
Previously Requested?			
FY2019 Priority # 1 out of 3 Requests			
Project Type: Recurring			

This request is part of a district-wide program to replace smoke detectors throughout all schools. A ten-year life cycle is assumed for replacement. There are approximately 80 smoke detectors in the school. The costs assume in-house maintenance staff performing the work on overtime. The estimated project cost includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund - cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction	10,000					10,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
Totals	10,000	-	-	-	-	10,000

Town of Wellesley
Fiscal Years 2019 - 2028 Bates
Capital Budget Request

Department	Facilities	Project Title	ECM: Lighting Upgrades
		Project	
Prepared by	J. McDonough	Reference #:	B-5
Date	10/13/2017	Project Cost	100,000

Previously Requested? Yes

FY2019 Priority # 3 out of 3 Requests

Project Type:

The FMD's Energy Manager has identified lighting as one of the most attractive Energy Conservation Measures (ECMs) from a life-cycle analysis and pay-back perspective. Although the Bates was renovated in 2004, there are still significant potential benefits to replacing or retrofitting lighting fixtures with light emitting diode (LED) fixtures. Some interior LED lighting upgrades began in 2015-2016 (corridors). FY19 is the first year of a more significant multi-year plan to retrofit or replace all other interior lighting through the building. Initial phases will focus on the interior lights that are most used, such as common areas including gymnasiums and cafeterias. Subsequent years will address other interior spaces, including classrooms and offices where the payback benefits are good, but not currently as attractive. We expect technology for interior lighting to improve even more over the next few years and prices to come down as well. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund - debt
 * Possible grants to supplement costs

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	100,000	154,000				254,000
Other: Engineering/Design						-
						-
Totals	100,000	154,000	-	-	-	254,000

Town of Wellesley
Fiscal Years 2019 - 2028 Field House
Capital Budget Request

Department	Facilities	Project Title	Roof Replacement
Prepared by	J. McDonough	Project Reference #	FH-2
Date	10/13/2017	Project Cost	62,000
		Previously Requ	No
FY2019 Priority # 1 out of 1 Requests			
Project Type: Non-Recurring			

The 6,200 sf asphalt shingle roof for this building was installed circa 1995 and is approaching the end of its service life and in need of replacement. The proposed request includes removal and replacement of the roof with new asphalt shingles and waterproofing underlayment for the lower 5 ft edge from the fascia. The estimated project cost includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)

General Fund - Cash

Impact on Annual Operating Budget

N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction	62,000					62,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design		-	-	-		-
						-
Totals	62,000	-	-		-	62,000

Town of Wellesley
Fiscal Years 2019 - 2028 Hardy
Capital Budget Request

Department	Facilities	Project Title	HVAC Recommissioning
Prepared by	J. McDonough	Project Reference #:	HA-1
Date	10/13/2017	Project Cost	50,000
		Previously Requested?	Yes
		FY2019 Priority # 1 out of 1 Requests	
Project Type: Recurring			

This request is part of a program to perform re-commissioning services, including extraordinary repairs and preventative maintenance, to the heating, ventilating and air-conditioning (HVAC) systems at FMD buildings on a 5 to 7 year cycle to ensure that the systems are working to their optimum capacity. The goal of this program is to improve indoor air quality and reduce energy consumption. Bates was last commissioned in the 2013-2014 heating season as part of an FY14 project. Work includes inspections, cleaning, lubrication, calibration and repair/replacement of certain elements. The work must be performed during the heating season and will be done on a room-by-room basis, possibly requiring the temporary relocation of classes for part of a day. *The project is assumed to take place in FY2019 (5 year cycle) based on the age and condition of the Hardy system.* The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund - cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	50,000					50,000
Other: Engineering/Design						-
						-
Totals	50,000	-	-	-	-	50,000

Town of Wellesley
Fiscal Years 2019 - 2028 Hunnewell
Capital Budget Request

Department	Facilities	Project Title	HVAC Recommissioning
Prepared by	J. McDonough	Project Reference #:	HU-1
Date	10/13/2017	Project Cost	44,000
		Previously Requested?	Yes
		FY2019 Priority # 1 out of 1 Requests	
Project Type: Recurring			

This request is part of a program to perform re-commissioning services, including extraordinary repairs and preventative maintenance, to the heating, ventilating and air-conditioning (HVAC) systems at FMD buildings on a 5 to 7 year cycle to ensure that the systems are working to their optimum capacity. The goal of this program is to improve indoor air quality and reduce energy consumption. Bates was last commissioned in the 2013-2014 heating season as part of an FY14 project. Work includes inspections, cleaning, lubrication, calibration and repair/replacement of certain elements. The work must be performed during the heating season and will be done on a room-by-room basis, possibly requiring the temporary relocation of classes for part of a day. *The project is assumed to take place in FY2019 (5 year cycle) based on the age and condition of the Hunnewell system.* The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund - cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	44,000					44,000
Other: Engineering/Design						-
						-
Totals	44,000	-	-	-	-	44,000

Town of Wellesley
Fiscal Years 2019 - 2028 Sprague
Capital Budget Request

Department	Facilities	Project Title	ECM: Lighting Upgrades
		Project	
Prepared by	J. McDonough	Reference #:	SP-2
Date	10/13/2017	Project Cost	100,000
Previously Requested? Yes			
FY2019 Priority # out of Requests			
Project Type:			

The FMD's Energy Manager has identified lighting as one of the most attractive Energy Conservation Measures (ECMs) from a life-cycle analysis and pay-back perspective. Although the Sprague was renovated in 2001, there are still significant potential benefits to replacing or retrofitting lighting fixtures with light emitting diode (LED) fixtures. FY17 was the first year of a multi-year plan to retrofit or replace interior lighting through the building. Initial phases focused on the interior lights that are most used, such as common areas including corridors, gymnasiums and cafeterias. It is assumed in FY19 that we will address other interior spaces, including classrooms and offices where the payback benefits are good, but not currently as attractive. In FY19 (2018) the classroom and office lights will be about 17 years old. The ballasts for these fixtures typically last between 10 and 20 years, so we'd likely be replacing these ballasts soon regardless. Therefore this is an ideal time to change out the fixtures to LEDs. We expect technology for interior lighting to continue to improve even more over the next 2 years and prices to come down as well. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund - debt
 * Possible grants to supplement costs

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					
	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	100,000	100,000	125,000			325,000
Other: Engineering/Design						-
						-
Totals	100,000	100,000	125,000	-	-	325,000

Town of Wellesley
Fiscal Years 2019 - 2028 Upham
Capital Budget Request

Department	Facilities	Project Title	HVAC Recommissioning
		Project	
Prepared by	J. McDonough	Reference #:	U-1
Date	10/13/2017	Project Cost	31,000
Previously Requested? yes			
FY2019 Priority # 1 out of 1 Requests			
Project Type: Recurring			

This request is part of a program to perform re-commissioning services, including extraordinary repairs and preventative maintenance, to the heating, ventilating and air-conditioning (HVAC) systems at FMD buildings on a 5 to 7 year cycle to ensure that the systems are working to their optimum capacity. The goal of this program is to improve indoor air quality and reduce energy consumption. Upham was last commissioned in the 2013-2014 heating season as part of an FY14 project. Work includes inspections, cleaning, lubrication, calibration and repair/replacement of certain elements. The work must be performed during the heating season and will be done on a room-by-room basis, possibly requiring the temporary relocation of classes for part of a day. *The project is assumed to take place in FY2019 (5 year cycle) based on the age and condition of the Upham system.* The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
 General fund - cash

Impact on Annual Operating Budget
 N/A

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	31,000					31,000
Other: Engineering/Design						-
						-
Totals	31,000	-	-	-	-	31,000

**Town of Wellesley
Fiscal Years 2019 - 2028 Middle School
Capital Budget Request**

Department	Facilities	Project Title	D'Auria Way Fence and Wall Repair
Prepared by	J. McDonough	Project Reference #	MS-1
Date	10/13/2017	Project Cost	22,000

Previously Requested? yes

FY2019 Priority # 4 out of 4 Requests

Project Type: Non-recurring

The approximate 250 ft long concrete retaining wall along D'Auria Way has many areas of spalling and deterioration which need repair. *Approximately 125 LF of wall and fence was replaced in 2014 after a severe storm knocked down much of the fence.* Additionally, the 6 ft high chain link fence cored into the wall is in need of replacement as it is near the end of its service life. This fence also provides fall protection from the adjacent neighbor's yards due to the large grade change. This request would repair the damaged concrete, fill old post holes and install a new, vinyl coated chain link fence into the grassy area adjacent to the wall (to prevent further wall damage). The fence work is assumed to be performed by the DPW. The estimated project cost includes a construction contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General fund - cash

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction						-
Site Construction	22,000					22,000
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
Totals	22,000	-	-	-	-	22,000

**Town of Wellesley
Fiscal Years 2019 - 2028 Middle School
Capital Budget Request**

Department	Facilities	Project Title	ECM: Lighting Upgrades
		Project	
Prepared by	J. McDonough	Reference #:	MS-9
Date	10/13/2017	Project Cost	450,000
Previously Requested? Yes			
FY2019 Priority # 1 out of 4 Requests			
Project Type: Non-recurring			

The FMD's Energy Manager has identified lighting as one of the most attractive Energy Conservation Measures (ECMs) from a life-cycle analysis and pay-back perspective. Although the Middle School was renovated in 2006, there are still significant potential benefits to replacing or retrofitting lighting fixtures with light emitting diode (LED) fixtures. FY15 was the first year of a multi-year plan to retrofit or replace interior and exterior lighting in the building. Initial phase has been completed and replaced all exterior lighting. In FY18 we plan to start work on interior lights with the greatest payback and benefit to users. LED lights will replace existing lighting in common areas including: corridors, stairwells, gymnasiums, kitchen and cafeteria. Emergency exit lights will also be replaced as part of this initial phase. Remaining interior lights are planned to be replaced in two phases over FY20 and FY21. During this phase we will address other interior spaces, including: classrooms and offices where the payback benefits are good, but not currently as attractive, as most of these spaces have occupancy sensors and are not used as frequently as other spaces. We expect technology for interior lighting to continue to improve even more over the next few years and prices to continue to come down. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General fund - debt
* Possible grants to supplement costs

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation	450,000	450,000		375,000		1,275,000
Other: Engineering/Design						-
						-
Totals	450,000	450,000	-	375,000	-	1,275,000

**Town of Wellesley
Fiscal Years 2019 - 2028 Middle School
Capital Budget Request**

Department	Facilities	Project Title	Replace Room Signs
		Project	
Prepared by	J. McDonough	Reference #:	MS-14
Date	10/13/2017	Project Cost	30,000

Previously Requested? No

FY2019 Priority # 3 out of 4 Requests

Project Type: Non-recurring

Over 300 plastic room signs/placards with Braille lettering were installed as part of the 2006 renovations. Lettering on many of the signs has faded off such that the signs cannot be read and many of the room numbers in the North and South wings do not make sense, so teachers have created their own per room signs. This project would be to purchase new signs of the same type and color as installed by FMD in the elementary schools in 2013. It is assumed that the signs will be installed by FMD custodial staff. The estimated project cost includes a contingency.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
General fund - debt

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					5 Year Total
	FY2019	FY2020	FY2021	FY2022	FY2023	
Building Construction						-
Site Construction						-
Vehicle(s)						-
Equipment	30,000					30,000
Energy Conservation						-
Other: Engineering/Design						-
						-
Totals	30,000	-	-	-	-	30,000

**Town of Wellesley
Fiscal Years 2019 - 2028 Middle School
Capital Budget Request**

Department	Facilities	Project Title	Locker Room Partition Replacement
Prepared by	J. McDonough	Project Reference #	MS-4
Date	10/13/2017	Project Cost	128,000
		Previously Requested?	Yes
		FY2019 Priority # 2 out of 4 Requests	
Project Type: Non-recurring			

The Boys and Girls Lockers rooms have forty-six (46) marble changing partitions, which are of original construction. Repair and replacement parts can't be found and as a result maintenance is difficult on these units. This request proposes to replace the marble partitions with standard, phenolic (plastic) partitions and to patch the epoxy flooring in the areas where the new partitions will be placed. The estimated project cost includes a contingency to account for the lack of design documents to price the work and contingency for soft cost, including design, bidding assistance and construction administration services. 2016 cost is \$114,000 and FY19 cost was determined by escalating at 4% per year.

Funding Source (i.e. grants, CPA, trade-in, debt, general fund-cash)
Debt

Impact on Annual Operating Budget
N/A

Category	Total Amount Requested					
	FY2018	FY2019	FY2020	FY2021	FY2022	5 Year Total
Building Construction	128,000					128,000
Site Construction						-
Vehicle(s)						-
Equipment						-
Energy Conservation						-
Other: Engineering/Design						-
Totals	128,000	-	-	-	-	128,000

Town of Wellesley Fiscal Years 2019 - 2028 ALL FMD REQUESTS Summary Departmental Cash Capital Budget Request													
Department: <u>FACILITIES MANAGEMENT</u>													
Dept #: <u>192</u>													
Date: <u>10/13/2017</u>													
		Expenditures per Fiscal Year											
Building Reference #:	Building Description	FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total	FY2024	FY2025	FY2026	FY2027	FY2028	10 Year Total
TW	Townwide (Municipal)	24,000	71,000	20,000	70,000	26,000	211,000	21,000	22,000	5,000	88,000	28,000	375,000
TH	Town Hall	8,000	-	10,000	65,000	10,000	93,000	65,000	10,000	-	12,000	-	180,000
PD	Police	25,000	219,500	225,000	30,000	140,000	639,500	65,000	10,000	-	52,000	-	766,500
FDM	Fire Department Main (Headquarters)	0	90,000	65,000	200,000	100,000	455,000	-	-	-	40,000	-	495,000
FDC	Fire Department Central (Station 1)	8,000	63,000	-	32,000	25,000	128,000	-	-	-	-	-	128,000
W	Warren (Recreation and Health)	5,000	24,000	331,000	4,000	46,000	410,000	70,500	-	11,500	-	5,000	497,000
MP	Morse's Pond	4,000	65,000	4,500	-	-	73,500	-	5,500	-	6,000	-	85,000
ML	Main Library	42,500	564,000	73,000	358,500	130,500	1,168,500	60,500	65,000	91,000	74,000	76,000	1,535,000
HL	Hills Library	0	45,000	130,000	-	-	175,000	15,000	-	-	-	-	190,000
FL	Fells Library	39,500	20,000	-	-	-	59,500	15,000	-	-	-	-	74,500
DPWO	DPW Operations	190,000					190,000		30,000				220,000
DPWW	DPW Water & Sewer	40,000		-	75,000	-	115,000	-		-	-	-	115,000
DPWH	DPW Highway & Park	210,000	167,000	75,000		150,000	602,000	65,000		-	-	-	667,000
DPWR	DPW RDF	120,000	200,000	390,000	-	-	710,000	-		-	-	-	710,000
Subtotal Townwide Requests		716,000	1,528,500	1,323,500	834,500	627,500	5,030,000	377,000	142,500	107,500	272,000	109,000	6,038,000
DW	Districtwide (Schools)	124,000	129,000	241,500	179,000	134,000	807,500	202,400	148,500	482,900	141,000	208,000	1,990,300
P	Preschool at Wellesley (PAWS)	-	-	5,000	45,000	-	50,000	-	-	-	-	-	50,000
B	Bates Elementary	118,000	219,000	185,000	-	-	522,000	-	-	-	-	-	522,000
FH	Field House	62,000	75,000	-	-	-	137,000	-	-	-	-	-	137,000
F	Fiske Elementary	-	-	-	8,000	-	8,000	55,000	-	-	-	8,000	71,000
HA	Hardy Elementary	50,000	35,000	-	-	-	85,000	-	-	-	-	-	85,000
HU	Hunnewell Elementary	44,000	35,000	-	-	-	79,000	-	-	-	-	-	79,000
SP	Sprague Elementary	100,000	211,000	150,000	211,000	-	672,000	9,000	-	69,000	15,000	9,000	774,000
SC	Schofield Elementary	-	-	-	-	-	-	50,000		-	-	-	50,000
U	Upham Elementary	31,000	35,000	-	-	-	66,000	-	-	-	-	-	66,000
MS	Middle School	630,000	550,000	8,000	450,000	-	1,638,000	-	30,000	109,000	-	-	1,777,000
HS	High School	-	8,000	500,000	125,000	459,000	1,092,000	450,000	-	460,000	-	140,000	2,142,000
Subtotal Districtwide Requests		1,159,000	1,297,000	1,089,500	1,018,000	593,000	5,156,500	766,400	178,500	1,120,900	156,000	365,000	7,743,300
Other Unidentified Cash Capital Projects		-			147,500	779,500	927,000	856,600	1,679,000	771,600	1,572,000	1,526,000	7,332,200
Total FMD Cash Capital Requests		1,875,000	2,825,500	2,413,000	2,000,000	2,000,000	11,113,500	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	21,113,500
FMD Debt Funded Capital Requests ¹		FY2019	FY2020	FY2021	FY2022	FY2023	5 Year Total	FY2024	FY2025	FY2026	FY2027	FY2028	10 Year Total
TH	Town Hall Exterior Envelope Restoration Project ²	6,000,000					6,000,000						6,000,000
TH	Town Hall Interior Renovation Project ³		2,000,000	15,000,000			17,000,000						17,000,000
FDC	Fire Station 1 (Central) Roofing Project					525,000	525,000						525,000
W	Warren HVAC Upgrade Project		500,000				500,000						500,000
ML	Main Library Roof Replacement Project			705,000			705,000						705,000
ML	Main Library Space Utilization Renovation Project ⁴	3,000,000					3,000,000						3,000,000
HL	Hills Library Envelope Project						-				1,300,000		1,300,000
MS	Middle School Projects ^{5,6,7,8,9,10,10}	1,500,000	3,000,000	4,890,000		3,000,000	12,390,000						12,390,000
MS	Sprague School Projects ¹²				650,000	550,000	1,200,000						1,200,000
B	Bates School Projects ¹³					1,350,000	1,350,000						1,350,000
HA/HU/U	Hardy/Hunnewell/Upham: New and Reno/Add ¹⁴	2,500,000		27,000,000	27,000,000	27,000,000	83,500,000	27,000,000					110,500,000
TH	Veteran's War Memorial ¹⁵			150,000	600,000	-	750,000						750,000
DPWH	DPW Highway & Park Locker Room Renovation ¹⁶			888,000	-	-	888,000						888,000
Total Debt Funded Requests		13,000,000	5,500,000	48,633,000	28,250,000	32,425,000	127,808,000	27,000,000	0	0	1,300,000	0	156,108,000

Notes:

1. These Debt Funded Projects NOT Included in Cash Capital above
2. Town Hall Exterior Envelope Restoration: \$6,000,000 (FY19)
3. Town Hall Interior Renovation: \$2,000,000 (FY20) and \$15,000,000 (FY21)
4. Main Library: \$3,000,000 Renovations (FY19)
5. MS: \$1,000,000 Repaving Project (FY19)
5. MS: \$830,000 HVAC Replacement in Gyms, Kitchen & Auditorium (FY21)
6. MS Steam Piping Replacement: \$500,000 (FY19) \$3,000,000 (FY20)
7. MS: \$1,850,000 Façade Repairs (FY21)

9. MS: \$2,210,000 Door & CR Cabinetry Replacement (FY21)
10. MS: \$500,000 Kitchen Equipment Replacement (FY23)
11. MS: 2,500,000 Roof Repairs (FY23)
12. Sprague: \$550,000 Paving (FY23) and \$650,000 Roof (FY22)
13. Bates: \$1,350,000 Roof (FY23)
14. Hardy/Hunnewell/Upham: \$108,000,000 (FY21/FY24). Feasibility Study: \$2,500,000 (FY19)
15. War Memorial Restoration: \$150,000 design (FY21) and \$600,000 construction (FY22)
16. DPW Highway & Park Locker/Break Room Renovation: \$888,000 (FY21)

Townwide Analysis for Cash Capital

FY19 Cash Capital Budget for Municipal = \$716,000

Townwide Project Totals

Number of FY19 Construction Projects = 20 (10 DPW Projects)

Number of FY18 Construction Projects = 11

Districtwide Analysis for Cash Capital

FY19 Cash Capital Budget for Schools = \$1,159,000

Districtwide Project Totals

Number of FY19 Construction Projects = 12

Number of FY18 Construction Projects = 12

4. Delanson Circle Site Eligibility Modified Plan Review

Based upon the Board's comments and questions at last week's meeting, and further investigation and follow up by staff, you will find a revised version of the comment letter to MHP regarding the Delanson Circle project. This version strengthens the language to properly convey the Board and the Town's concerns over the size, mass, scale and density of the project. It also provides more details on the stormwater management concerns, highlights that Hollis Street is a private way, and adds the list of past/present affordable housing efforts. We received two letters from abutters that are also included for your review.

MOVE to approve the response from the Town to the Mass Housing Partnership regarding the revised project proposal for the development at Delanson Circle.

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF SELECTMEN

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EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

October 13, 2017

Katharine Lacy
Massachusetts Housing Partnership
160 Federal Street
Boston, MA 02110

RE: 1-8 Delanson Circle, Wellesley, MA Site Eligibility Response to Revised Plans

Dear Ms. Lacy:

On behalf of the Town of Wellesley Board of Selectmen and Planning Board, please find the following comments with respect to the Revised Comprehensive Permit Site Approval Application recently revised by Delanson Realty Partners, LLC for the reduction in the proposed development from a 95-unit to a 90-Unit residential housing development at 1-8 Delanson Circle within the Town of Wellesley.

The Town remains steadfast in its view that the project as proposed is much too intense for a site less than 1.5 acres in size. The revised plans include the developer's unproductive revision, purporting, yet failing, to address Massachusetts Housing Partnership's (MHP's) peer review concerns. The revision minimally decreases the number of units from 95 to 90, and the Town's initial comments are all still relevant. Based upon email communication between MHP and the developer, the Town is aware that MHP's peer reviewer, Steven A. Heikin, of Icon Architecture, agreed with much of the Town's concerns (Attachment A) including the following specific concerns detailed below. The proposed development has not been responsive in modifying the plans to address these concerns. Icon's recommendation was to reduce the number of units to 66. The minimally revised proposal of 90 units, still nearly 50% greater than Icon's recommendation, continues to be unacceptable concerning the level of density, site grading and design, pedestrian circulation, parking, access, stormwater design, building design, and transition to abutters.

Vehicular Access and Parking

The parking ratio continues to be low for the project at 1.11 with a significant portion of the parking being usable only with 46 stacker parking spaces that are also tandem parking spaces. The required level of parking management to verify continuously successful operation is extraordinary and the **parking configuration continues to raise significant concerns that it is unworkable**. To further limit the parking, the developer proposes to work with Zipcar, which could only be accommodated within the parking area further reducing tenant parking spaces to an unknown level. The concept of Zipcar seems favorable, however, Zipcar is accessible to the greater public generally and is not limited to tenants. To meet the parking demand on site, the unit count must be decreased. At present, there is also no traffic data or turning radius analysis to assess the impact the additional vehicle trips, including additional EMS calls,

from the project would have on Hollis Street or Linden Street. The Town's original comments concerning traffic, parking, and access all continue to be of significant concern.

The Town would like to reiterate a critical point of clarification in the plans submitted. Hollis Street is a **PRIVATE** way. The plans submitted to MHP list Hollis Street **incorrectly** as a Public Way. The right of way has never been accepted by the Town of Wellesley Town Meeting, and therefore is under the control and ownership of the abutters with frontage along Hollis Street. The Town does not have jurisdiction over the way with regards to widening the exceptionally narrow road. The developer may be able to widen the right of way by granting a portion of their property to the right of way layout, but concerns over access and impingement on private property remains high with abutters given the narrow nature of the existing right of way and paved area.

Pedestrian Site Circulation

The Town disagrees with the assessment from Icon Architecture that the pedestrian circulation is "well thought out". The pedestrian access around the building on Hollis Street is lacking on a well-traveled pedestrian route to the Sprague School. The minimal 30-foot right of way (13-18 foot paved area), scale of the building and increase in vehicular volume precludes the ability to construct safe, buffered pedestrian access in spring, summer, and fall conditions. Pedestrian concerns will escalate during winter conditions as snowbanks further decrease the width of the travel way and force pedestrians into the road, as there are no sidewalks. The Town's initial comments on sidewalk construction and pedestrian activity remain.

Stormwater Management

Icon Architecture noted **"the proponent should provide at least basic information on the proposed stormwater management system for the project, which should be subject to independent peer review"**. There has been no additional information provided on stormwater for a project where the site is predominantly ledge and the usable area has been decreased to comply with concerns over the construction of a 30-foot retaining wall. With the removal of the 30-foot retaining wall, the amount of usable open space declines as well as the opportunity for any subsurface infiltration chambers. A reduction in density may allow for a better site design.

The Town's Municipal Stormwater Drainage System Rules and Regulations require that "[o]n-site stormwater management BMP's shall be used to infiltrate, disperse, and retain stormwater runoff onsite to the maximum extent practicable." These rules and regulations further require the applicants to "submit runoff calculations substantiating the anticipated volume of discharge" and "[i]n the case of development or redevelopment projects, discharge quantity shall be limited to preconstruction amounts." The project has not yet provided any information as to how it intends to address these requirements.

In addition, the Town continues to analyze the potential impact on the Town's stormwater system in this area. Three potential 40B (Wellesley Crossing, 16 Stearns Road, and 680 Worcester Street) projects could potentially direct overflow discharge to the McCracken Brook Culvert which runs from Route 9 through Sprague Fields, across Linden Street by 151 Linden Street, under the railroad tracks to daylight at Town Hall. This complex system was near capacity with the Linden Square redevelopment in 2006. Alternatives to directing stormwater from the Delanson site include directing the overflow towards Crest Road. In discussions with the DPW, this alternative system discharges onto MBTA land and currently experiences flooding with the existing stormwater discharges. The project has not indicated **ANY** plans for stormwater management, and the Town continues to raise serious concern over disturbing over an acre of land with no current plans for stormwater retention or management.

Building Design

The reduction in scale by five units **does not** decrease the significant impact the size, scale, and mass of the structure continues to have on the surrounding neighborhood which is described by Icon Architecture as "modestly-scaled single and two-family dwellings". Icon further agrees that abutting housing, **"Those that remain, to the north and west, and across Hollis Street, will be significantly impacted by a development of this scale"**. Icon additionally reiterates the Town's concerns that the project **"does**

not...achieve a comfortable or sensitive transition to its immediate abutters.” Icon further agrees with the Town’s findings with its comments that the **“overall height and bulk of the building, and the near-leveling of the site...represent an uncomfortable and excessive intrusion on the adjacent properties.”**

Icon Architecture concluded that the major issues with the proposed project are the scale and height of the building, and the approach to site design. The Town agrees. A reduction in height, footprint, and density would assist with mitigating the significant impacts the currently project proposes.

Affordability

The project continues to raise concerns with the use of 50% of the median income, thus requiring only 20% of the units to be affordable in a project in a high-end market. If the goal of 40B is to increase affordable housing, particularly in a project that is aggressively increasing density incongruous to the neighborhood, the Town requests that MHP require 25% of the units be affordable at 80% of the median income. This would not preclude tenants making less than 80% from qualifying, and would decrease the gap between the market rate and affordable pricing.

The Town urges MHP to consider current and previous concerns (Attachment B) raised for this site and to consider the goals of the project relative to the intent of the 40B statute and MHP’s mission. MHP’s mission is to “to significantly expand the supply of affordable housing throughout the Commonwealth”. The current proposal creates 18 affordable units, while allowing a developer to construct 72 units at market rate, at a considerable cost to the Town and direct abutters. A far less dense project at 25% affordability would far better serve those in need of affordable housing, and the Town of Wellesley.

Wellesley’s Progress on Affordable Housing

The Town has recently been inundated with 40B Site Eligibility notices. The Town has not met its 10% threshold; but would like to convey the efforts it has continually made to increase the Town’s affordable housing inventory. The Town of Wellesley has been making steady progress over the last 15 years in increasing the Subsidized Housing Inventory and consistently passing zoning provisions to assist with affordable housing as redevelopment opportunities in Wellesley’s commercial districts occur. The Town as of August 24, 2017 is at 6.3% of its 10% goal, with upwards of 38 units in the process of being added to the Subsidized Housing Inventory within the next several months. Below are the Town’s actions that have supported development of affordable housing:

- The 2007-2017 Comprehensive Plan was adopted in 2007 with actions for affordable housing.
- The Inclusionary Zoning Bylaw (IZB) was adopted in 2004 which requires residential projects in commercial districts to provide 20% affordable housing, and commercial projects over 10,000 square feet to provide 2% affordable housing (1 unit for every 50,000 square feet constructed).
- 2004: the Town’s Community Preservation Committee funded \$65,000 in addition to HUD funds to create a DMR house at 4 Marshall Road (SHI).
- 2005: the IZB was modified to require subdivisions having more than 5 lots to comply with the Bylaw at 20% threshold.
- 2007: the definition of Floor Area Ratio in the Zoning Bylaw was modified to exclude affordable units developed under the IZB from being included in the FAR to increase density and increase opportunities for affordable housing units in commercial districts.
- 2007: the Linden Square project was completed, wherein 7 affordable housing units were created under the IZB (Units have recently be found to be missing from the Town’s SHI, but are being added now).
- 2007/2008: permitting began for projects at 978 Washington Street and the former Wellesley Inn site at 576 Washington Street in Wellesley Square; these projects were delayed due to the recession, but both have now been completed, resulting in 7 SHI-eligible units at 978 Worcester and 5 SHI-eligible units at 576 Washington Street. Both projects were developed under the

Town's Zoning and subject to the IZB; 978 Worcester St. also resulted in payment in-lieu funds for 1 unit.

- 2009: the permitting of a CVS resulted in the payment of in-lieu funds under the IZB.
- 2011: a 40B project was approved at 65-71 Washington Street resulting in 1 SHI-eligible unit.
- 2012: a project was permitted at 27 Washington Street, resulting in the development of 82 SHI-eligible units, as well as 7 assisted living units not SHI-eligible but permanently deed restricted to be affordable.
- 2012: the Wellesley Housing Development Corporation purchased a two-family dwelling at Peck Ave and a single-family dwelling at 6 Mellon Road, renovating the homes and creating 3 affordable units; at this time the Town also purchased 9 Highland Road, although it is not on SHI, but it is affordable due to deed restriction not complying with DHCD requirements (Must wait to add on resale per DHCD).
- 2013/2014: a 40B project was approved at 139 Linden Street providing 2 SHI units (to be added to SHI).
- 2013: Wellesley Square Zoning District was amended to create a special permit to increase density; this benefited and allowed the previously stalled Wellesley Inn project to proceed.
- 2016: the Planning Board approved a Definitive Subdivision plan for 135 Great Plain Ave. that included a payment in-lieu for 2.4 units.
- 2016 to present: the Town is developing a new Comprehensive Plan; known as the Unified Plan, the Plan is combining typical land use planning with all aspects of the Town's government to serve as a master strategic plan for the Town. The Plan is expected to be adopted in the Winter/Spring 2018. www.wellesleyunifiedplan.com
- July 2016 to present: the Planning Board, Board of Selectmen, and Housing Development Corporation, have aggregated \$35,000 for the creation of a Housing Production Plan for the Town. An RFP was released September 25, 2017.

More affordable housing opportunities are necessary in the Town of Wellesley and the Town is currently working on a Housing Production Plan as noted above.

For reference, 40B projects currently in Project Eligibility are:

1. 680 Worcester Street (20 Units)- ~.05 miles from proposed project
2. 16 Stearns Road (36 Units) ~2100 feet from proposed project
3. 148 Weston Road (55 Units) ~ 1500 feet from proposed project
4. 135 Great Plain Avenue (44 Units) ~ 1.3 miles from proposed project

Other 40B projects being considered in Wellesley

1. 136 Worcester Street (44 Units) ~3 miles from proposed project

Sincerely,

Ellen F. Gibbs, Chair

Jack Morgan, Vice Chair

Marjorie F. Freiman

Beth Sullivan Woods

Thomas Ulfelder

Jop, Meghan

From: William FitzPatrick <bill@success.org>
Sent: Thursday, October 12, 2017 4:02 PM
To: Jop, Meghan; Richard Juliani; Daniel Fitzpatrick
Subject: Concerning Delanson Circle 40B Project

Meghan

My brother and I own the two houses directly behind the proposed Delanson 40B development at 12-18 Hollis Street.

As from the developer's own admission, their project will significantly negatively impact my unit, my brother's and those of my two tenants.

I would like to present two important points:

1. Hollis Street is a PRIVATE way and NOT a public way as stated in the Icon report to MHP.
2. The proposed developers do NOT own the property on Delanson Circle - they bought 2-4 Delanson Circle and they "claim" to have agreements to buy the remaining units - however, they have failed to produce the documents showing their purchase agreements with Charles DiSchino to acquire the other four properties.

Of course, it is my contention that this project is way out of scale, will have a significant negative impact on my units and I will vigorously pursue my rights to the quiet enjoyment of my home.

One example, since Hollis Street IS a PRIVATE way - I see no way that the developers will be able to bring their construction equipment on site without encroaching on my property - I will hire police details to block their trucks/cranes, etc. from using Hollis Street.

Regards

Bill FitzPatrick
18 Hollis Street

Wellesley Real Estate
Shamrock Equity, LLC
868 Worcester Street
Wellesley, MA 02482

Bill@Success.org

Cell or text 508-420-1800

Jop, Meghan

From: Louise Mitchell <lmitchell2202@gmail.com>
Sent: Thursday, October 12, 2017 5:06 PM
To: Jop, Meghan
Subject: Re: Revised Delanson Circle (Wellesley Crossing) 40B Plans

Dear Ms Jop

Thank you for your email regarding the changes to the proposed development of Delanson Circle. Also I appreciate the extent to which you are keeping the residents up to date. It is obvious that you are all working hard to protect the area if possible from this onerous development.

I understand from attending the meetings about a 40B development, that considerations of Safety have the most weight in bringing about a moderation of a project, so I wanted to express my opinion from that perspective

I live in the units at 21 Westerly St which sits at the top of Hollis St. We use this undersized private way multiple times daily either by car or on foot.

As it stands in perfect weather, without all the construction vehicles currently working on the 2 condo site on Hollis street, 2 cars can safely pass each other, but pedestrians must be particularly cautious and move onto the properties (there being no sidewalks). During a snowy winter it is often that only one car at a time can travel safely and pedestrian access is treacherous.

To add the need for an extra 100 cars to enter and exit onto this thin little road from the garage seems unworkable to say nothing of these cars trying to enter Linden St at the busiest times of the day.

The proposed garage system does not seem to allow for delivery vehicles, moving trucks etc to access off street areas-where will any of these non resident vehicles park?

The construction of this large a project will also cause huge disruption in terms of the machinery and worker vehicles. Again where will they all park-most likely they will block Hollis /Westerly St. If these vehicles block our driveway that will cause a safety issue to our residents.

Also will noise pollution be an issue, not just during construction but from the air conditioning and ventilation units for the building and the garage?

Another concern is access for emergency vehicles -Hollis Street is just too small for turning vehicles of this size especially as more than 1 vehicle attends any emergency.

It is a shame that developers like this use 40B developments as an opportunity to bypass town building requirements under the guise of providing affordable housing

Regards

Louise Mitchell
21 Westerly St #7
Wellesley MA 02482

5. **Executive Director's Update**

Approval of Minutes - the minutes of the following meetings are included in your packet for approval. These include edits received from Marjorie and Ellen.

- September 18, 2017

MOVE to approve the regular session minutes of September 18, 2017.

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF SELECTMEN

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

ELLEN F. GIBBS, CHAIR
JACK MORGAN, VICE CHAIR
MARJORIE R. FREIMAN, SECRETARY
BETH SULLIVAN WOODS
THOMAS H. ULFELDER

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BLYTHE C. ROBINSON
EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

MEMORANDUM

DATE: October 13, 2017
TO: Board of Selectmen
FROM: Blythe C. Robinson, Executive Director
SUBJECT: Weekly Report

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

- Believe it or not plans for the MMA's annual meeting in January are already underway. The two-day meeting will be held at the Hynes Convention Center on January 19th and 20th, 2018. We have funds in the budget for board members to attend, so please let Heidi know if you would like to and we can sign you up. As I recall, last year Marjorie and Ellen participated, as well as a number of staff.
- I attended the Wellesley Service League's meeting earlier this week and spoke at Wellesley Friendly Aid to a group of gentlemen with various questions about topics that interested them in Wellesley. As you can imagine 40B, HHU and taxes dominated the questions, and they had good questions!
- A lunch volunteer at TPC suffered a minor injury this week when a heavy door between the multi-purpose room and the kitchen caught her hand. The volunteer was taken to the hospital by ambulance as a precautionary measure and is doing well. The Town's insurance will cover some out of pocket medical expenses so we are following up on that.
- Brian DuPont has drafted the RFQ necessary to invite vendors to submit their qualifications for our electronic permitting process. Our goal is to have a vendor on board early in 2018 to start the transition process to a town-wide system.

- At the last meeting Selectman Sullivan Woods had asked about the reasoning behind adding the Town of Needham to the litigation involving the Water Management Act registration when our original strategy had been to include towns in different water basins. She correctly recalls that, although Town Counsel reminds me that the Board had also encouraged him to see if any other Towns would be interested in joining us and the Town of Hamilton. Town Counsel reviewed the ethics of this request and determined it was appropriate to add communities and hence reached out to Needham.
- At the department head meeting yesterday, we learned that of the approximately 9,000 surveys sent out about the MLP streetlight pilot program, just about 100 have been returned, with the deadline today. Conversely, the food waste recovery pilot program at the RDF has attracted about 300 people according to DPW.
- We held this month's department head meeting at the TPC on Thursday. It was a great change of venue and staff who hadn't been there before received a tour. The building was quite busy which was wonderful to see.
- Next week I am kicking off meetings with individual department heads under the umbrella of the board to meet with them and discuss their plans for their operating budgets in FY19. We will present these budgets to you for review at the December 2nd meeting, so I want to touch base with everyone to understand their priorities and needs, and find a way to meet these within guideline.
- You may notice that there is no action on the agenda for Monday to address the conflict of interest mentioned in my report last week regarding the Parking Clerk. We've made an internal decision not to hire the individual, thus not bring it to you for action.
- Today was the deadline to receive proposals from consultants interested in developing our housing production plan. I will update you on Monday as to the number of proposals received.
- As we are doing monthly, included in the correspondence is an updated version of the work plan for October. The major change this month was to move the budget manual to the completed list of activities. I do want to bring your attention to the yellow highlighted topic of alcohol in town buildings. We are approaching a point in the year where we need to decide to move forward or perhaps wait on topics such as this are begun in order to have sufficient time to draft and put forward a bylaw for town meeting. It might be helpful to put the work plan on an upcoming agenda for discussion so we can make sure we are making the progress you would like to see on various items. Certainly when the work plan was developed, topics such as 40B applications weren't contemplated and have impacted the office.
- As an FYI, I am headed to the International City/County Management Association annual conference in San Antonio, Texas. I'm departing next Friday, and returning on Wednesday the 25th, and will be back in the office on the 26th. Unfortunately, I will miss the TPC grand opening and the meeting on the 23rd.

1 **Board of Selectmen Meeting: September 18, 2017**

2 **Present: Gibbs, Morgan, Freiman, Ulfelder, Sullivan Woods**

3 **Also Present: Robinson, Jop**

4 **Minutes Approved: October 16, 2017**

6 **Warrants approved: 2018-010 in the amount of \$4,234,010.95**

8 **Meeting Documents:**

- 9 1. Agenda
- 10 2. Agenda Background Memorandum
- 11 3. Weekly Report
- 12 4. BOS Calendar
- 13 5. Draft Minutes of August 22 and 29, 2017
- 14 6. Memo Requesting Babson Special Police Officer Appointment
- 15 7. Application for Grant of Location 29 Wynnewood Road
- 16 8. FY 19 Budget Guideline Scenarios Models
- 17 9. PowerPoint presentation- Overview of Chapter 40B
- 18 10. Memo of Revisions to the OPEB Trust Legislation
- 19 11. Proposed Engagement Letter for Special Counsel Attorney Kevin Feeley
- 20 12. Feeley & Brown, P.C. Biography
- 21 13. Veterans Service District August, 2017 Report
- 22 14. Budget Manual Feedback
 - 23 a. Board of Library Trustees Letter
 - 24 b. Board of Public Works- Email from Beth Sullivan Woods
 - 25 c. NRC- Email from Jack Morgan
- 26 15. Petition to the State Supervisor of Records Regarding Mr. Ron Alexander (2)
- 27 16. Email from Anne Marie Cronin – 6 Juniper Road
- 28 17. Board/Committee Liaison Assignments – FY18 updated
- 29 18. Selectmen's Office FY18 Work plan – September, 2017
- 30 19. Draft 16 Stearns Comments to Masshousing
- 31 20. 135 Great Plain Avenue Plans
- 32 21. Memo Regarding 25 Shaw Road Update

34 **1. Call to Order**

36 Ms. Gibbs, Chair, called the meeting to order at 7:00 p.m. It was announced that Jill Sheehan, who was
37 working part-time in the Finance department for the Town of Wellesley, will replace James Ryan as the
38 Finance & Budget Analyst. Ms. Sullivan arrived to the meeting at 7:14 pm.

40 **2. Citizen's Speak**

42 None.

44 **3. Executive Director's Update**

46 Ms. Robinson noted that the Tolles Parsons Center has received a Temporary Certificate of Occupancy on
47 Friday, September 15, 2017 and the Council on Aging has started moving. Ms. Robinson provided an
48 update on the sewer back up that happened on Thursday, September 14, 2017 in the Town Hall. She also
49 provided a brief update on the Kingsbury/Route 9 work including discussion of the lights and timing.

52 Minutes

53
54 **Upon a motion by Ms. Freiman and seconded by Mr. Morgan, the Board voted (4-0, Ms. Sullivan**
55 **was absent from the vote) to approve the regular session minutes of August 22, 2017 and August 29,**
56 **2017.**

57
58 Babson Special Police Officer Appointment

59
60 **Upon a motion by Ms. Freiman and seconded by Mr. Morgan, the Board voted (4-0, Ms. Sullivan**
61 **was absent from the vote) to appoint Babson Police Officer Christine Verdolino as a Special Police**
62 **Officer for the Town of Wellesley for a term to expire June 30, 2018.**

63
64 Ms. Robinson reviewed the proposed agenda for the Inter-Board meeting that is scheduled for Thursday,
65 September 28, 2017.

66
67 **4. 29 Wynnewood Road – Grant of Location**

68
69 Ms. Gibbs invited Ms. Barbara Kelleher from National Grid to join the Board. Ms. Jop gave a brief
70 overview of the application for the grant of location for 29 Wynnewood Road noting that the Engineering
71 Division had requested a condition for the road to be milled and overlaid with new paving.

72
73 **Upon a motion by Ms. Freiman and seconded by Mr. Morgan, the Board voted (4-0, Ms. Sullivan**
74 **was absent from the vote) to approve a grant of location to National Grid to install and maintain**
75 **approximately 190 feet of 4-inch gas main on Wynnewood Road for the purpose of providing gas**
76 **serviced to a house located at 29 Wynnewood Road, subject to the mill and overlay of the frontage**
77 **of 29 Wynnewood to the existing paved surface width of the roadway.**

78
79 **5. Preliminary Discussion FY19 Budget Guideline**

80
81 Ms. Gibbs noted that this was a preliminary discussion of the FY19 Budget guidelines and that further
82 discussion and vote of the guidelines would occur at the Board's next meeting on September 26, 2017.
83 Ms. Robinson reviewed the four potential models of the FY19 budget that were prepared by her and Ms.
84 Sheryl Strother, Finance Director. She discussed potential capital adjustments for the Board to consider.
85 Ms. Robinson discussed efforts to reduce cash capital for the Facilities Management Department, and
86 efforts to determine whether projects can be postponed to later years. There are large capital projects
87 needed at the Middle School, Town Hall, and Library, and the Board will need to discuss whether a debt
88 exclusion should be considered in FY20. Ms. Robinson discussed the health insurance projections that
89 include a 7% increase. She noted that work is being done to try to reduce that anticipated increase;
90 however, this expense is unpredictable. Ms. Robinson explained the options to balance the budget
91 including working to reduce operating budget guidelines or considering a debt exclusion for one or more
92 of the projects. Ms. Robinson indicated that she would like guidance on how the Board would like to
93 proceed.

94
95 Mr. Morgan was concerned the Town continues to do long term planning showing a \$2 million shortfall.
96 At the present time, he is not in favor of seeking reductions in capital, but was willing to give caution to
97 departments of the potential for reduction.

98
99 Ms. Freiman noted that the Town does not have extra free cash this year and reserve levels are low. Ms.
100 Freiman asked Ms. Robinson to update the projects in the levy graph to show future years added to the
101 models. She noted that if the Town is looking at \$4 million of "inside the levy" debt service, the Board
102 will need to determine sequencing of projects.

Ms. Sullivan Woods stated that it would be helpful to understand the alternative prices of health insurance plans that are being considered given that health insurance has such a significant impact on the budget. She noted that the Board needs to be thoughtful on what is put out to the employees in terms of affordability to the Town and value to the employees. Ms. Sullivan Woods asked about the comfort level of the numbers for OPEB. Ms. Robinson responded that those numbers are not scheduled to go up and therefore she was comfortable with them as presented. Mr. Morgan commented on the pension receiving a revised actuarial projection. It was discussed that the Retirement Board sets the rate on investments and that this is not within the Selectmen's purview.

Mr. Ulfelder commented that he is attracted to model number three, noting his concern with how realistic the cash capital reductions can be. He stated that it would be helpful to have firmer answers. He also suggested the Board needs to be willing to look at everything as moving parts, noting that the anticipated school building project impacts the request of an override from the taxpayers.

Ms. Gibbs suggested that before the Board entertain an override, the Town needs to do its best to bring capital and expenses down. Ms. Gibbs noted that she is an advocate of supporting planned overrides, but at this time there are too many unknowns at present in the budget.

Ms. Freiman noted that there are items in the work plan that are not even considered in the models such as North 40 and the Unified Plan, reinforcing the need to include more years and information in the graphs.

Ms. Gibbs concluded by noting that the schools are going to the Advisory Committee on September 27, 2017, to provide their annual overview.

6. Town Counsel Overview- 40B Legal Process

Mr. Tom Harrington and Mr. Chris Heep, Town Counsel from Miyares & Harrington LLP, joined the meeting to provide the Board with an overview of the legal aspects of addressing affordable housing projects regulated by Chapter 40B. They discussed the process from the time a project has been determined to be eligible by a state agency to a comprehensive permit issuance by the Zoning Board of Appeals. It was noted that if a town has three or more pending projects where the total units add up to more than 300 or the Board approves a project that will increase the housing stock by 2%, the Town can hold on holding a hearing for a year. This applies only to new applications, not pending applications. Regarding density, it was noted there is not a hard and fast rule on what is too dense. It would be more helpful to look at impacts of density, for example parking, traffic concerns, and sewer capacity. Mr. Heep discussed how the applicants need to address each provision. A project can be considered uneconomic if the reasonable return for a sale is less than 15% and for a rental project the return drops below 4.5%.

Mr. Ulfelder noted the Town of Medfield case where the state decided that a smaller project was more appropriate. Mr. Heep responded that the Town can address issues, they just need a good reason to do so. The ZBA needs to articulate a strong enough local concern that does not make the project uneconomic. The applicant is not required to provide a pro forma until ZBA announces the waivers denied or any conditions proposed. If the developer says the conditions proposed or waivers are "uneconomic" then the developer must provide a pro forma to show that and prove their case to the ZBA. Every project is different; the ZBA will need to look at the impacts of each project. The abutters to a proposed project do have the ability to appeal; however, this will be stayed during the HAC appeal. The applicant's appeals go first in the process. Mr. Heep also noted during the presentation that units are added to the Subsidized Housing Inventory the moment the comprehensive permit is issued.

Ms. Jop informed the Board that the presentation of Town Counsel Overview of 40B legal process will be posted under the Planning Board current projects 40B link as well as a link to the 40B handbook.

Ms. Gibbs opened the meeting up to comments from the public.

Ms. Mary Jane Kubler, 95 Crest Road, came before the Board and stated that the Board structure and volunteer work was not established to take on the work needed for the 40B projects. The Town is now confronted with a potentially overwhelming workload for volunteer boards. Ms. Kubler asked two questions; 1) What options are you looking at for staff to support the ZBA? 2) Where is the Town in creating a plan for affordable housing? Ms. Kubler further stated that it is sad to be concerned about the 40B projects so that Town employees can afford to live in Town. She mentioned the Delanson Circle project and stated it is a perversion of what the law intended. She is concerned the community will not be able to respond in a thoughtful way, and is looking for creativity and leadership to look outside the box.

Ms. Gibbs discussed the Town's full assessment of investigating resources at every level. If there are some additional needs or concerns, the Town will make every effort to address those concerns.

Ms. Freiman stated that for the past 15 months the Town has been working on the Unified Plan. The draft just came in a few days ago. Selectmen, Planning Board, and Wellesley Housing Development Corporation are finalizing an RFP for a housing production plan. The Board understands that the Town needs to move in a number of directions at the same time.

Ms. Tamara Sielecki, 14 Waban Street, asked the Board if the ZBA takes into account the non-profit housing in Town in their calculation? She further asked specifically about properties such as Wellesley College housing. Ms. Jop noted that the non-profit housing properties are not included in the housing count, which is currently at 6.3%. There are specific criteria for counting on the Subsidized Housing Inventory. Mr. Heep further clarified that to be included in the housing inventory count for 40B, the properties must be restricted to a deed restriction on affordability.

Mr. Lewis Collins, 14 Summit Road, came before the Board to asked the Board to prioritize the comprehensive plan with regards to the 40B component with as much urgency as possible so the Town is not in reaction mode. He stated that he agrees with the comments from Ms. Kubler and noted that it is desired to create 40B in a thoughtful way. Mr. Collins asked how long the RFP process will take. Ms. Jop responded that the Town is looking at an aggressive six-month timeline for completion of the Housing Production Plan.

7. Approve OPEB Trust Legislation Modifications

Ms. Gibbs invited Mr. Marc Waldman, Treasurer, and Mr. Tom Harrington, Town Counsel, to join the meeting to discuss the OPEB Trust legislation. Mr. Waldman noted that after speaking to the legislative committee in third read they agreed to consider special legislation with the Board's approval of a minor amendment.

Mr. Harrington informed the Board that he met with the Trustees of the Contributory Retirement Board. The Trustees were concerned over their role in the process and their liability. A simpler way was proposed that would have the Treasurer designated as Trustee of the Trust, with the Retirement Board serving as overseers.

Mr. Ulfelder raised a question regarding the Trustees of the Contributory Retirement Board and if they were authorized to stop funding if the fund reached a certain level. Mr. Waldman clarified that the

Original Act is from 2004 which vested the Retirement Board with the oversight of the investments into the fund.

Ms. Freiman noted that the Trustees have some level of liability. If they no longer functioned as Trustee, their liability is reduced. She questioned how does the Trustees level of liability for oversight of investments change with the revisions. Mr. Waldman noted that the Town does not have these assets held in trust currently. The Town is trying to create the trust and Trustees to satisfy the Government Accounting Standards Board requirements. Mr. Waldman noted that OPEB does not have legislation that governs the liability, protections, etc. As Treasurer there are several provisions in state law that protect and bond him with the existing insurance policy. When looking to buy that protection separately for the Retirement Board, it was determined that it would be an easier and more affordable task to appoint the position to the Treasurer.

Mr. Harrington mentioned that errors and omission insurance is needed if any errors or omissions occur to make the beneficiary of the Trust whole. There is a statutory process for this; however, the Town is different because we have special legislation which makes quoting for insurance more difficult. In calculating cost of the insurance the companies also account for the unfunded liability of the Town. Under the statute the Town Treasurer as Trustee is a viable option.

Ms. Sullivan Woods asked how this fund is different than the special purpose funds such as injured on duty funds. Mr. Waldman responded that those funds are stabilization funds that are not held in a trust that has legislation to support them. Those funds would be subject to creditors during bankruptcy. He further noted that the Town does have trust funds, for example the Library has a number of trust funds.

Ms. Robinson noted that the Contributory Retirement Board is made up of two residents and the other members are employees of the Town. The issue is that the two residents are experienced with this type of work and the concern would be to lose those valuable members if they feel they can no longer serve. What is being proposed is a good compromise to shift the day to day responsibility to the person who is already doing it and leave the oversight of the investments to the members. Ms. Freiman noted that transferring these responsibilities to the Treasurer does not change the way funds are appropriated. Mr. Harrington clarified that by setting this up the funds would be protected. The Treasurer would be the Trustee, but the investment advice would come from the Contributory Retirement Board.

After discussion the Board was comfortable in the change.

Upon a motion by Ms. Freiman and seconded by Mr. Morgan, the Board voted (5-0) to approve the revisions to the OPEB trust legislation as proposed.

8. Approval to Retain Special Counsel – Health Insurance Negotiations

The Board was joined by Mr. Kevin Feeley, Attorney from Feeley & Brown, Mr. Scott Szczebak, Human Resources Director, and Mr. Marc Waldman, Town Treasurer. Ms. Robinson noted that the current health insurance plans will be sunseting in June 2018. While going through negotiations the Board was asked to approve the retention of Special Counsel. Mr. Feeley was hired by the Town the last time these negotiations took place.

Mr. Waldman briefly reviewed the Informal Coalition Bargaining, noting that in prior negotiations the Town walked a fine line between the two provisions of state statute. He noted that Mr. Feeley worked with the Town three years ago on the process and was asking the Board to engage Mr. Feeley again. Mr. Szczebak endorsed Mr. Feeley to continue the negotiation process this year. Ms. Robinson noted she

typically does not request special counsel, but that this case is a specialized instance where special counsel is needed.

Mr. Feeley noted that in the past he has assisted the Town with the health care issues as well as several retirement health insurance and benefit issues.

Ms. Freiman asked Mr. Feeley what about the differences in the negotiation atmosphere now versus three years ago. Mr. Feeley responded that it is hard to say without sitting down with the Wellesley employee groups to know about specifics for Wellesley. In general, since 1990 every two to three years there have been considerable changes in the municipal health care cycle. The goal is to do the best we can for the best rate for the Town and the taxpayer. He noted that many towns are moving toward wellness and increasing deductible issues to create better consumers. Ms. Freiman also questioned the process Mr. Feeley negotiated last time and whether it is a feasible approach this time. Mr. Feeley responded yes, however it is a negotiation so it will depend on what the parties say. He noted that he has done this type of work in 25 communities noting that in the past the negotiations went smoother in Wellesley versus other towns.

Upon a motion by Ms. Freiman and seconded by Mr. Morgan, the Board voted (5-0) to authorize the engagement of Attorney Kevin Feeley as Special Counsel to represent the Town in health insurance negotiations.

9. New Business/ Correspondence

No new business was noted.

10. Executive Session

Ms. Gibbs declared the Board would enter into Executive Session.

Upon a motion by Ms. Freiman and seconded by Mr. Morgan, the Board was polled all aye (Mr. Ulfelder –Aye, Ms. Sullivan Woods – Aye, Ms. Freiman – Aye, Mr. Morgan – Aye, and Ms. Gibbs-Aye) that the Board vote to enter into Executive Session under M.G.L. c 30A, §21 exception # 3a to discuss strategy with regards to collective bargaining. Furthermore, that Attorney Kevin Feeley, Treasurer/Collector Marc Waldman, HR Director Scott Szczebak, Blythe Robinson and Meghan Jop be invited to participate in the meeting.

See Executive Session Minutes.

At 10:08 pm, the Executive Session was adjourned and the Board reconvened in open session.

The meeting was adjourned at 10:08 p.m.

Approve Babson One-Day License -

Included in your packet is an application from Babson College for a one-day license to serve beer and wine at the AKPSI Alumni Reunion on November 4th in Olin Hall. The event attendance is anticipated to be 150 people. Given the details in the application and the responsible manner in which Babson has handled these events in the past I recommend approval.

MOVE to approve a One Day License for Babson College on November 4, 2017 in Olin Hall for the AKPSI Alumni Reunion.



TOWN OF WELLESLEY

Application for Special License(s)

Date of Application: 10/4/17

Date of Event: 11/4/17

A special License is a temporary license issued pursuant to Chapter 635 of the Acts of 1982 to the responsible manager of any nonprofit organization conducting any indoor or outdoor activity or enterprise for the sale of alcoholic beverages.

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

The undersigned hereby applies for a Special License for:

☐ All Alcoholic Beverages ☒ Wine and Malt Beverages Only

APPLICANT INFORMATION

Name of Non-Profit Organization: Babson College

Address: 231 Forest Street, Babson Park, Wellesley, MA 02457-0310

Name of Event Manager: Rob Sternstein Address: Babson College

Assistant Event Manager: Molly Joyce Address: Babson College

EVENT INFORMATION

Event Name & Description (If multiple events; See Attachment1): AKPSi Alumni Reunion

Event Contact: Steve Persico

Event Date: 11/4/17

Event Location: Old Hall Needham/Wellesley Room

Occupancy: 200 Estimated Attendance: 100 (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

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

Stephen Persico

Printed Name of Applicant

Its Scheduling Coordinator

[Signature]

Applicant's Signature

10/4/87

Date

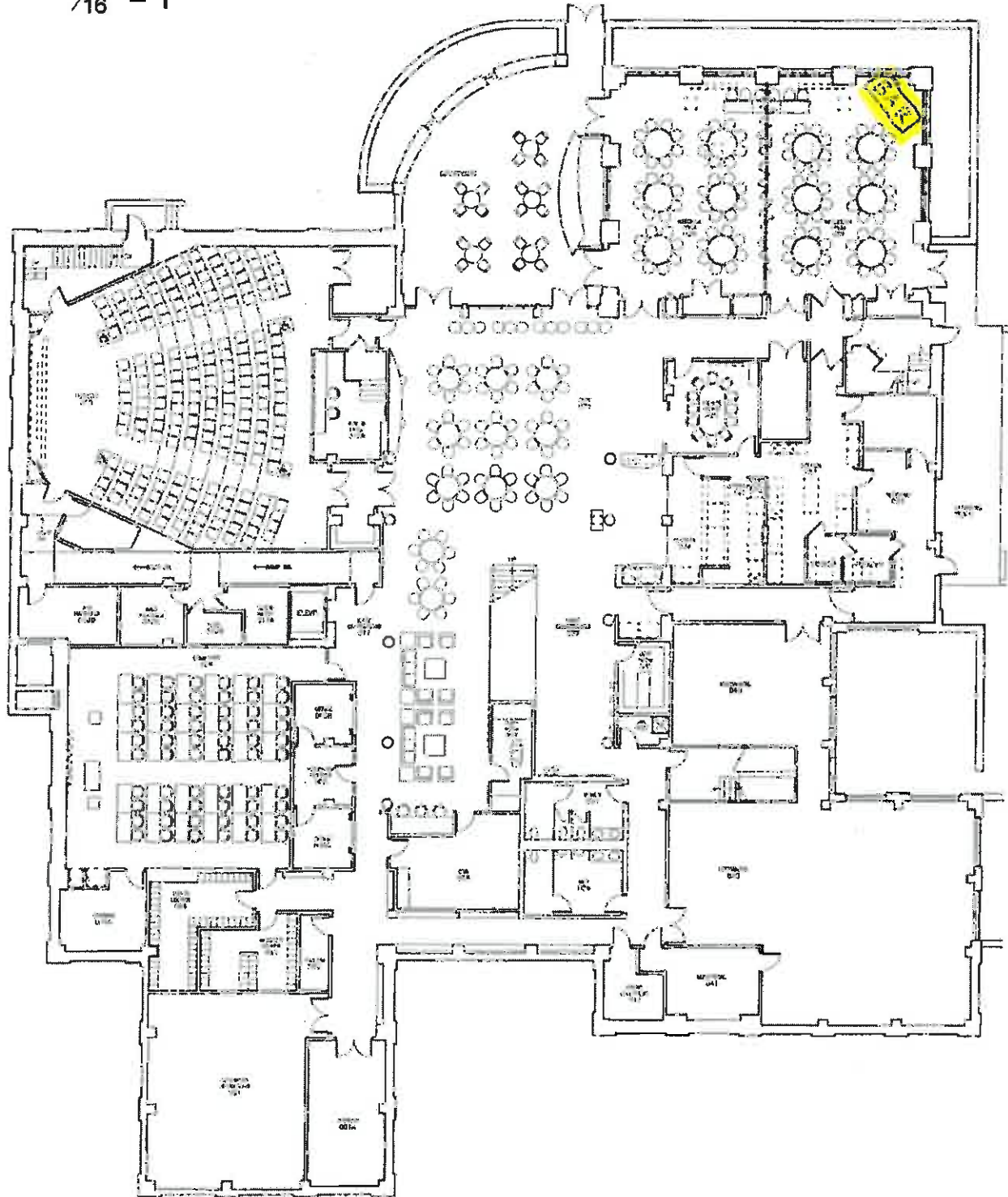
RETURN COMPLETED APPLICATION, FLOOR PLAN AND CHECK FOR FEES TO:

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

OLIN HALL

Ground Floor

$\frac{1}{16}" = 1'$



Acceptance of Gifts

In your agenda packet is an email from Cricket Vlass making us aware of a significant gift from the Hills Garden Club of \$8,730.00 which will enable the Town to install a cobblestone labyrinth in the west end of Clock Tower Park. Also enclosed is a history of this project and a copy of the design that will be installed. As you will note from the chronology, this is the fourth and final step in a plan for the park, for which we are very grateful for the tremendous support from the Garden Club.

MOVE to accept a gift of \$8,730 from the Hills Garden Club to install a cobblestone labyrinth in the west end of Clock Tower Park.

At the September 26th meeting the Board accepted a gift of \$1,160 from Mr. Paul Wood for a bench to be installed at Fuller Brook Park in memory of his wife Bette. We recently learned that the cost of the gift is actually \$1,290 because the plaque needed for the bench is \$130. As the difference in the gift is within the amount allowed to be accepted by staff I have not included a motion on this point. However, we did want to make you aware of the difference. We've asked DPW to try and ensure that they report the full gift when it is known, unless doing so would inhibit installation or the process.

Jop, Meghan

From: Connolly, Terry
Sent: Tuesday, October 10, 2017 12:44 PM
To: Jop, Meghan
Subject: FW: Donation for Labyrinth

From: Vlass, Cricket
Sent: Tuesday, October 10, 2017 12:37 PM
To: Connolly, Terry <tconnolly@wellesleyma.gov>
Cc: Quinn, Mike <mquinn@wellesleyma.gov>
Subject: Donation for Labyrinth

Hello Terry,
The Hills Garden Club of Wellesley has made an \$8,730.00 donation to fund a cobblestone labyrinth for Clock Tower Park. The labyrinth will be located in the west of the park and the DPW will begin installation mid-October.
Take care,
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.

Connolly, Terry

From: Vlass, Cricket
Sent: Thursday, October 12, 2017 12:58 PM
To: Connolly, Terry
Cc: Quinn, Mike
Subject: Donation of Labyrinth
Attachments: Design Concepts for Labyrinth at CT Park Update for country club presentation.docx; Time Line Phase 1 - 4.docx

Hi Terry,

Building the labyrinth will be the culmination of a multiphase joint project between the Hills Garden Club of Wellesley, the Natural Resources Commission and the Department of Public Works Park & Tree Division.

I have attached two documents that explain the Labyrinth project and provides the timeline for the four Phases.

Let me know if you need any additional information,

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.

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Clock Tower Park Improvements

Time Line: Phases One thru Four

The Department of Public Works, Park & Tree Division has been very lucky to have a partnership with such a dedicated garden club. The Hills Garden Club of Wellesley has been a significant supporter of the Elm Park (Clock Tower Park) and the gardening efforts for at least the 35 years I have been here and probably well before that. They have put their efforts behind fund raising as well as getting their hands dirty with the business of gardening.

The park's location makes it a very important open space in Wellesley Hills Square. In 2002 we began a concerted effort to build the presence of the landscape by creating better access with a new patio, paths, benches, picnic tables, and gardens. In 2004, the east side of the park became the focus by removing the bus shelter and accenting the new garden space with an ornamental fence and beautiful stone pillars built from stone from Wellesley. This has been accomplished in three phases with many people throughout town involved in the effort. Phase Four is in design phase and will continue with a similar focus at the west side. This work has been done with the approval of the Natural Resources Commission as owners of the land.

The time-line:

Phase One - 2004: focused on the east side and included the installation of a new brick patio with granite medallion and three benches, stone pillars with lights, ornamental fencing and new trees, shrubs and perennials. Phase One was funded in part by the club's Garden Tour of 2004.

Phase Two - 2005: included installation of a brick path with cobble edge to connect the new patio with an existing patio, 3 picnic tables with brick pads, ornamental fencing along the west side and two more stone pillars with lights. Phase Two was funded through a joint application to the CPC by the GC and DPW.

Phase Three - 2008: included a continuation of the brick and cobble path to connect to the stairs at the base of the Clock Tower funded in part by the clubs Garden Tour of 2008.

Phase Four: includes the installation of a cobble and grass labyrinth funded in part by the Hills Club Garden Tour of 2015.

Other: The club has helped to fund multiple planting projects at the park between the four phases.

Updated: April 27, 2017

NRC has approved Labyrinth

Design Concepts for Labyrinth at Clock Tower Park

The Hills Garden Club of Wellesley, in conjunction with the Park & Tree Division, has designed and will build a labyrinth located within the green space located to the west side of the Clock Tower Park. The design embraces an interweaving of stone and grass within the existing plane, creating a compelling, low-maintenance space. The labyrinth will be built according to the decisions below.



Design decisions include:

- **Location of labyrinth within park:** The exact location is in the West end in front of the Rice House, to the West of the picnic table/crabapple and to the East of a Sugar Maple.
- **Diameter:** 35 feet accommodates the sites and path width of all seven circuits.
- **Pattern:** Seven Circuit Classical – Modified. See design below.
- **Materials & Layout:** Jumbo grey cobble edge with grass paths.
- **Centerpiece:** Possible addition in future.



Seven Circuit
Classical - Modified



6. Marijuana Bylaw Update

Earlier this year the State made significant changes to the law regulating medical marijuana that was signed into law at the end of July. Included in your packet is the legal advice from Town Counsel provided to us in August which outlined Wellesley's authority in this area given the Town's vote in opposition to allowing such establishments.

This item is on the agenda for Selectman Morgan to provide an update and begin the discussion with the Board about the steps we may want to take to put a bylaw before annual town meeting to ban such establishments through December 31, 2019.

NO MOTION

J. Raymond Miyares
Thomas J. Harrington
Christopher H. Heep
Donna M. Brewer
Jennie M. Merrill

Rebekah Lacey
Ivria Glass Fried
Eric Reustle
Blake M. Mensing
Katherine E. Stock

August 16, 2017

Blythe Robinson, Executive Director
Office of the Board of Selectmen
525 Washington Street
Wellesley, MA 02482

Re: Municipal Regulation of Recreational Marijuana Establishments

Dear Blythe:

This letter will provide an outline of the significant changes to Massachusetts' law regulating recreational marijuana (Recreational Marijuana Law), with a focus on the mechanisms and procedures available to Wellesley to regulate recreational marijuana establishments within the Town's borders. Governor Baker signed Chapter 55 of the Acts of 2017 into law on July 28, 2017. The new law made significant changes to the voter-approved version that preceded it, with many of the changes directly impacting a municipality's regulatory authority.

Specifically, the Recreational Marijuana Law has provisions that affect Wellesley's power to exert local control over recreational marijuana establishments:

- The new recreational marijuana tax can be up to 20% of the sale price and is broken down as follows: a 6.25% sales tax; a 10.75% state excise tax; and a local-option tax of up to 3% that cities and towns may set.
- Wellesley's voters disapproved Question 4 during the 2016 election by a margin of 58.3% (8,507 votes against), and 41.7% (6,074 votes in favor). Towns, such as Wellesley, where a majority of voters in the 2016 Referendum voted against marijuana legalization may also ban or limit the number of marijuana establishments by operation of its legislative body. Town Meeting is Wellesley's legislative body and in order to impose a ban or limit on marijuana establishments within Wellesley's borders, a Town Meeting vote with a two-thirds majority is required from now through December 31, 2019.
- After December 31, 2019, all cities and towns, irrespective of the results of their vote on Question 4, will be required to obtain voter approval by a referendum vote in order to ban or limit the number of marijuana establishments. Note that a referendum vote after December 31, 2019 will

Blythe Robinson, Executive Director
August 16, 2017
Page 2 of 3

only require a simple majority to pass, as opposed to the two-thirds majority required for a Town Meeting vote held anytime prior to that date.

- The referendum vote will be required if Wellesley seeks to implement any of the following restrictions by bylaw:
 - (i) prohibit the operation of 1 or more types of marijuana establishments (which includes a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business) within the town;
 - (ii) limit the number of marijuana retailers to fewer than 20 per cent of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under section 15 of chapter 138; or (iii) limit the number of any type of marijuana establishment to fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the town.

The Recreational Marijuana Law prescribes a set of specific procedures for local ballot questions to authorize ordinances or bylaws that ban or limit the number of marijuana establishments. If Wellesley seeks to ban or otherwise limit recreational marijuana establishments within its borders on or after January 1, 2020, it must adhere to the following procedural requirements for the referendum vote to be held during a town-wide regular, or, special election:

1. The town counsel shall prepare a fair and concise summary of the proposed bylaw, which shall clarify the number and types of marijuana establishments that will be permitted to operate under the proposed bylaw;
2. The ballot question must state: "Shall this town adopt the following bylaw?" Town counsel's summary and the full text of the proposed bylaw shall also be included with the ballot.
3. A simple majority of affirmative votes will be required in order for Wellesley to adopt the bylaw. Similarly, if a simple majority of the votes are negative, then Wellesley will not be permitted to adopt the bylaw.

Here are several other relevant provisions of the law to keep in mind:

- Cities and towns are required to enter into a host community agreement with any new recreational marijuana establishment or medical marijuana treatment center prior to their licensure. The Agreement must set forth all stipulations of responsibilities between the community and the marijuana establishment or treatment center. Host communities may impose a "community impact fee" of up to 3% of gross sales, provided that it is reasonably related to the costs imposed on the municipality by operation of the marijuana establishment or medical marijuana treatment center. The

Miyares and Harrington LLP

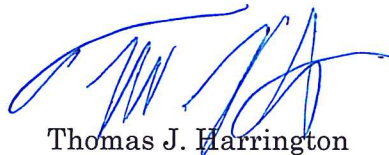
Blythe Robinson, Executive Director
August 16, 2017
Page 3 of 3

community impact fee may only be imposed for up to five years from the date of execution of the host community agreement.

- The Cannabis Control Commission (CCC) will consist of five members, who must be appointed by September 1, 2017. The Governor may appoint one member with a background in public health, mental health, substance use or toxicology. The Attorney General may appoint one member with a background in public safety. The State Treasurer may appoint one member with a background in corporate management, finance, or securities. The Governor, the Attorney General, and the State Treasurer shall appoint the final two members by majority vote, with one member having a background in oversight or industry management, including commodities, production or distribution in a regulated industry, and one of whom shall have a background in legal, policy, or social justice issues related to a regulated industry. The State Treasurer shall designate the chair of the CCC.
- The CCC must promulgate regulations governing testing facilities by May 1, 2018. All other CCC regulations must be adopted by March 15, 2018.

The CCC will begin issuing recreational marijuana establishment licenses on June 1, 2018. Wellesley should consider having a plan for local regulation in place well before that date. We will provide an update on the impact that the CCC's regulations have on local regulation of marijuana establishments once they are released in the spring of 2018.

Sincerely,



Thomas J. Harrington

7. Animal Control Bylaw Update

In 2012 the State significantly updated the laws pertaining to dogs and animal control through Chapter 193 of the Acts of 2012. Wellesley's bylaws have not been updated since then, and ought to be modified to be in concert with the laws on this subject. Included in your packet is a memo from me outlining the reasoning for the bylaw change, the staff committee that has been working on this, and the salient points regarding the changes and areas to discuss further. At this meeting I would like to begin the conversation by going over this in general, followed by a more detailed first read and discussion at a subsequent meeting.

The items included for your review are:

- Cover memo on the topic
- Memo from the Animal Control Association about the legislative changes
- Copy of Chapter 193 of the Acts of 2012
- Draft animal control bylaw

NO MOTION

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF SELECTMEN

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

ELLEN F GIBBS, CHAIR
JACK MORGAN, VICE CHAIR
MARJORIE R. FREIMAN, SECRETARY
BETH SULLIVAN WOODS
THOMAS H. ULFELDER

FACSIMILE: (781) 239-1043
TELEPHONE: (781) 431-1019 x2201
WWW.WELLESLEYMA.GOV

BLYTHE C. ROBINSON
EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

DATE: October 13, 2017

TO: Board of Selectmen

FROM: Blythe C. Robinson, Executive Director

SUBJECT: Animal Control Bylaw – Proposed Revisions

For a number of years, the Town has had regulations regarding animal control in its general bylaws within Article 47. In 2012, the State passed a number of changes to the laws regarding dogs that have rendered our bylaws out of date. The purpose of this memo is to inform you about those changes, and provide you with the bylaw that has been drafted which we recommend be taken up at the Annual Town Meeting in 2018. The bylaw was drafted by Town Counsel, with Chief Pilecki, Sue Webb, Kathy Nagle, Lenny Izzo and myself providing review and recommendations that resulted in this proposed draft.

Chapter 193 of the Acts of 2012 made a number of changes to laws related to dogs and other animals. Among other things, the law prohibits declaring a dog dangerous solely based on the breed of dog. It also regulates health certificates for dogs and cats brought into or sold in Mass, kennel licenses, nuisance and dangerous dogs, euthanasia, animal cruelty, protection for animals in domestic violence restraining orders and more. A memo from the State Animal Control Association providing more detail on these changes is included for your reference. These changes result in Wellesley's bylaw references to a dog officer, a "miscreant dog or pet", and the violation process now must be corrected. It also added topics not covered by our bylaw, or matters that previously were handled outside the bylaw in Wellesley. Examples include the references to personal kennels, and our fee structure.

The more significant changes include:

- Replacing the title Dog Officer with Animal Control Officer
- Replacing the references to miscreant dogs with "nuisance" dogs and "dangerous" dogs
- Inserting a fee structure for dog licensing and kennel licenses

- Inserting the penalties that will be assessed when enforcement is required

There are a couple of areas I would like to highlight:

One of the most contentious areas of animal control in communities can be leash laws. In this area we've sought to keep the spirit of Wellesley's current bylaw because we believe that it has been effective. In essence, dogs must be on a leash on streets or sidewalks. In the case of public property, Wellesley has left the decision of what to do to the "owners" or "managers" of that property. For example, the NRC allows dogs at their various properties and with a permit more than two can be off leash at one time. Perrin Park however has restrictions which are posted on NRC's website. Whereas the schools do not allow dogs on campus during school hours or for school events. Outside of that dogs can be present, but they must be leashed.

The statutes are silent on the matter of dog litter, and Wellesley's bylaw does not currently address it. It is the committee's recommendation not to address this going forward. While we acknowledge that this is an issue now and again, we believe that because enforcement or the ability to issue penalties is virtually impossible, there is little value to having it as a bylaw. The Animal Control Officer does answer calls about this, hands out signs for people to place to encourage good behavior, speaks to residents when she observes a situation, and that seems to generally resolve most situations. We recommend continuing on this course.

We have added two sections not called for in the law, but which Town Counsel recommends and have been approved by the Attorney General for other towns regarding temporary confinement and restraining orders. In situations where the hearing officer must make arrangements for a hearing, often times these can take a few days, and in some cases it may be prudent to issue a temporary restraining order to confine an animal before that can happen. The most likely case would be for a potentially "dangerous" dog who has been accused of biting a person, and there is cause to believe it may happen again until the outcome of a hearing and an enforcement order has been issued.

Finally, the law requires that the Board of Selectmen be the hearing officer, and the bylaw as drafted so states this. I am aware that this role has been performed by the Executive Director in the past. The statute does open up the possibility for a Town to designate a different board or officer as the Hearing Authority but Town Counsel has only seen this done by Town Meeting in a bylaw. Because I anticipate the Board might prefer to open up the possibility of the Selectmen delegating this duty to an officer, I've asked him to first run it by the Attorney General to confirm that we may.

I look forward to discussing this with you at the next meeting. The full text of the changes to the law in 2012 is included for your information.

Cc: Chief Pilecki
Sue Webb
Kathy Nagle
Leonard Izzo

Animal Control Officers' Association of Massachusetts (ACOAM)

Cheryl L. Malone
Director of Advocacy and Legislative Affairs

Phone (508)385-2808
Email: dogwench@comcast.net

Date: September 19, 2012

To: Town Administrators, Chiefs of Police, Animal Control Officers and other municipal parties

From: Animal Control Officers Association of Massachusetts (ACOAM) in conjunction with the MSPCA, Animal Rescue League of Boston, Massachusetts Animal Coalition, Massachusetts Veterinary Medical Association

Re: Changes to state laws governing animal control (Senate Bill 2192)

Senate Bill 2192, An Act Further Regulating Animal Control, passed into law in August 2012; it will become effective on October 31, 2012. This law will affect many aspects of the animal control function in our municipalities. ACOAM, along with many other stakeholders, worked to draft and pass this legislation. We believe that, while it may require some changes to local bylaws and procedures, it will provide long term benefits to the animals and the public in your community and to the role of your ACOs, while saving your city or town money, too.

In broad terms, the law will update many of the statutes pertaining to animals in the Mass. General Laws Ch. 140 to reflect the current state of animal control in our municipalities today. For example, the changes remove references to the outdated and unused county system. Cities and towns can make bylaws that aren't inconsistent with the provisions of MGL Ch. 140 sec. 136A through 174E.

We hope this summary will provide an introduction to these changes and we welcome the opportunity to discuss these with you and/or your municipal government. We hope you will view the law in its entirety at www.malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter193 and share with the officials in your town that would benefit from this information. A document showing the changes between the current and new law can be found at www.acoam.com

There are trainings being held by Commonwealth Police Service on October 4th in N. Grafton and November 12th in Taunton that your ACO and/or your municipal officials may find useful. These trainings are not hosted by or affiliated with ACOAM; for more information on the trainings visit www.commonwealthpolice.net. Training offered by ACOAM on this topic are being formed and will be announced.

Following is a summary of key changes:

1. Definitions

The law updates definitions in Ch. 140 sec. 136A. For example, the term “dog officer” is replaced with the modern term “animal control officer.” The new law also breaks the definition of kennel into more specific types.

2. Dangerous Dog provisions

The new law sets forth a statewide dangerous dog law, and specifically prohibits regulations based on breed alone. It also prevents “banishing” a dog to another community, recognizing that this does not address the underlying issues regarding the dog’s behavior. After lengthy discussions with professionals who enforce the dangerous dog laws and those engaged in the administrative process involved with dangerous dog issues, as well as those involved in defending dogs that have been deemed dangerous, the following provisions were drafted:

Definition of dangerous (§136A): An issue that many communities have struggled with is which behaviors or actions constitute a “dangerous” disposition. Based on studies published in respected periodicals such as the Journal of the American Veterinary Medical Association, as well as consultation with certified animal behaviorists, §136A provides cities and towns with a working, objective and fair definition of “dangerous.”

Procedural (§157): This section clearly defines the steps that must be taken in order to initiate an investigation into the dangerousness of a dog. This section also spells out the authority of the local jurisdiction to hold an administrative hearing and offers recommendations for disposition (restrictions on care and control or euthanasia). The appeal process afforded to the owner of the dog in question is defined. Section 157 also provides local officials with the discretion to seek a court order to impound a dog if necessary, and the ability to recover costs for housing the animal if the order is not successfully appealed by the dog owner.

Preventive measures/requirements for future confinement (§157): This section offers cities and towns recommendations to order the future confinement and other provisions for a dog deemed dangerous. A comprehensive list is provided so that a local authority can order any combination, at their discretion, of what they feel is necessary to properly and safely confine a dangerous dog in order to protect the public from future harm.

Penalties for violations (§157A): Previous fines had been not been updated in many years. The low level did not serve as a deterrent nor did it represent the true severity of violating these orders.

3. Stray hold period

The stray hold period is now a statewide standard 7 days (only Suffolk County had previously been at 7 days). Given that almost all stray dogs who are reclaimed go back home within 3 days of impoundment, this will allow dogs to be adopted or sent to another placement organization sooner, rather than having to wait 10 days as previously required. There are organizations in Massachusetts and neighboring states that will take dogs from municipal facilities when their stray hold is up; see MAC’s PILOT program, for example,

<http://www.massanimalcoalition.com/programs/pilot-program.html>, and breed rescues (see list at <http://www.crdtc.org/ne-rescu.html>). Communication about dogs that need to be transferred to other organizations may begin during the stray hold period, so that dogs can be moved as soon as the hold period is complete. Please make sure you know, and work with, shelter and rescue organizations in your area. For questions on these groups, please contact the Mass. Animal Coalition at info@massanimalcoalition.org. See also #9 below.

4. ACO training

The new law sets up a statewide Homeless Animal Prevention and Care Fund that will offer a spay/neuter and vaccination program and also provide training to Animal Control Officers. Once the Fund has enough money to provide training to ACOs, this training will become mandatory. The law states: “Each animal control officer shall, within 24 months of the effective date of this act if serving as an animal control officer before the effective date of this act or within 12 months from the officer’s date of hire if such date of hire is on or after the effective date of this act, complete a training course offered under section 151C of chapter 140 of the General Laws; provided, however, that such training requirement shall be subject to the availability of funds in the Homeless Animal Prevention and Care Fund, established in section 35TT of chapter 10 of the General Laws, as determined by the commissioner of the department of agricultural resources. Priority for training animal control officers serving in such capacity before the effective date of this act shall be given to those officers having served for 12 months or less.”

5. Euthanasia

A dog or cat whose killing is authorized under this chapter shall be euthanized only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia or as allowed in section 151A (for emergencies). Nothing in the law changes who can perform euthanasia; please share this information with those who perform euthanasia for your city or town.

6. Differential licensing

The law now requires a differential fee for dog licensing, providing a reduced fee incentive for owners who have their dog altered and therefore don’t potentially contribute to the homeless animal population. The law states “The license fee for a spayed or neutered dog shall be less than the license fee of an intact dog.”

7. Spay/neuter deposit

As you know, Section 139 of Chapter 140 requires shelters and municipal animal control facilities to collect a deposit if an animal is adopted without being spayed or neutered. Ideally, all animals would be altered before they leave the facility. If they are not, the deposit law (originally passed in 1987) is designed to help ensure the animal is spayed or neutered and that shelters and animal control facilities are not inadvertently participating in the a problem – too many homeless animals -- they seek to solve. Adopters must sign an agreement to have the surgery performed; if the owner does not get the surgery performed, the deposit is forfeited. Changes to this section

increase the deposit fee from \$10-30 to not less than \$40. The law allows the Commissioner of the Department of Agricultural Resources to impose fines for non-compliance. Animal control officers and shelters can also petition for the forfeiture and relinquishment of the animal from owners who do not comply with the law. The increased spay/neuter deposit raises the incentive for owners to comply with the law, as adopters will be more likely to get their animal spayed or neutered in order to get their deposit back. The imparting of violations will also help raise compliance levels as the risk of being fined or losing the pet gives more weight to the agreement.

8. Reporting

In Section 151A, the reporting has become more specific and applies to both dogs and cats and also requires ACOs to forward a copy of the record to the city or town clerk within 30 days.

9. Microchip or tattoo scanning

In Section 151, the law requires that, before euthanizing any animal or giving or turning over an animal to anyone else, and ACO must examine the animal for a microchip and a tattoo. To thoroughly scan for microchips, a universal scanner, such as Home Again, should be used. We are researching group purchase options for universal scanners; email info@massanimalcoalition.org if you do not have one and need help obtaining one.

10. Tethering

An amendment to the bill in the House of Representatives provides restrictions on how dogs are kept outdoors and limits the manner and time a dog can remain outside. This section (174E) will provide ACOs with tools to address “filthy and dirty” conditions when a dog is kept outside, such as ensuring access to clean water, appropriate shelter and addressing exposure to excessive animal waste.

11. Statewide oversight

The Chapter 140 laws now fall under the Commission or the Department of Agricultural Resources and not Public Health (except for Section 174D). The Commissioner may appoint an ACO if a municipality fails to do so (having an ACO has always been required, but there has been no enforcement if a city or town failed to do this). The Commissioner can also inspect places where stray animals are detained.

As noted above, the new law creates a Homeless Animal Prevention and Care Fund; the money in this fund will come from donations via a check-off on state income tax forms. Please help spread the word to people who appreciate your efforts; the more they donate, the sooner all ACOs will be trained and funds will be available for spaying/neutering and vaccinating animals in Massachusetts.

We’d be happy to help with the implementation of this new law. If you have any questions please contact me.

Acts (2012)

Chapter 193

AN ACT FURTHER REGULATING ANIMAL CONTROL.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35VV the following section:-

Section 35WW. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Homeless Animal Prevention and Care Fund. The fund shall be used by the department of agricultural resources to offset costs associated with the vaccination, spaying and neutering of homeless dogs and cats, to offset costs associated with the vaccination, spaying and neutering of dogs and cats owned by low-income residents and to assist with the training of animal control officers consistent with section 151C of chapter 140. The department may use the fund for necessary and reasonable administrative and personnel costs related to the specific purposes of the fund. The commissioner of agricultural resources shall establish rules and regulations relating to the fund.

The fund shall consist of all revenues received by the commonwealth pursuant to the voluntary check-off donation indicated on the department of revenue's annual income tax return authorized by section 6L of chapter 62 and from public and private sources as gifts, grants and donations to further reduce the population of homeless animals.

The state treasurer shall deposit amounts in the fund in accordance with section 34 of chapter 29 in a manner that will secure the highest interest rate available consistent with the safety of the fund and with the requirement that all amounts on deposit shall be available for immediate withdrawal at any time. The fund may be expended by the commissioner of agricultural resources without further appropriation for the purposes stated in this section and any funds remaining at the end of any fiscal year shall not revert to the General Fund and shall be available for use in subsequent fiscal years.

SECTION 2. Chapter 62 of the General Laws is hereby amended by inserting after section 6L the following section:-

Section 6M. (a) A person filing an individual or a joint return may voluntarily contribute all or part of any refund to which they are entitled, or may voluntarily add an amount on to any amount due, to be credited to the Homeless Animal Prevention and Care Fund established in section 35WW of chapter 10.

A contribution under this section may be made with respect to any taxable year at the time of filing a return of the tax established by this chapter for such taxable year. The commissioner shall prescribe the manner in which the contribution shall be made on the face of the return required by section 5 of chapter 62C; provided, however, that the commissioner shall assure that taxpayers filing any such forms are made clearly aware of their ability to make the contributions provided for by this section.

The commissioner shall annually report the total amount designated under this section to the state treasurer, who shall credit such amount to the Homeless Animal Prevention and Care Fund.

SECTION 3. Chapter 129 of the General Laws is hereby amended by inserting after section 39F the following section:-

Section 39G. (a) A dog or cat brought or shipped into the commonwealth shall be accompanied by an official health certificate issued by an accredited veterinarian, a copy of which shall be sent to the commissioner of agricultural resources.

(b) For purposes of this section, an “official health certificate” shall mean a legible certificate or form issued by an accredited veterinarian and approved by the chief livestock official of the state or county of origin and shall contain the name and address of the consignor and consignee. The official health certificate shall also show the age, sex, breed and description of each dog or cat and certify that the dog or cat is free from visual evidence of infectious or contagious disease. An official health certificate shall show proof of rabies vaccination within the previous 12 months. If a dog or cat is imported into the commonwealth with an official health certificate that reflects that the dog or cat is not currently vaccinated for rabies, the dog or cat shall be vaccinated as required under section 145B of chapter 140.

(c) A dog or cat purchased within the commonwealth for resale by a commercial establishment or pet shop shall be accompanied by an official health certificate.

(d) A commercial establishment, pet shop, firm or corporation shall not import into the commonwealth, for sale or resale in the commonwealth, a cat or dog less than 8 weeks of age.

(e) A dog or cat sold in the commonwealth by a commercial establishment, pet shop, firm or corporation shall be accompanied by a health record indicating the date and type of each vaccine administered to each such dog or cat.

(f) No commercial establishment, pet shop, firm, corporation or person shall sell a dog or cat that has been surgically devocalized, as defined in section 80½ of chapter 272, unless written notice that such devocalization has been conducted on the animal is provided to a prospective purchaser before the purchaser enters into an agreement to purchase that animal. In addition to the penalties set forth in this section, failure to provide such notice shall render a purchase agreement void. A violation of this subsection shall constitute an unfair or deceptive act or practice in the conduct of a trade or commerce under chapter 93A.

(g) The commissioner may, after notice and hearing, revoke or suspend a license issued under section 137A of chapter 140 or section 39A of this chapter for a violation of this section.

(h) Whoever is aggrieved by an order issued under this section may appeal within 30 days to the superior court in the county wherein the aggrieved party resides or where the aggrieved party’s kennel or pet shop, which is the subject of the license, is located. The appellant shall state the findings by the commissioner and the grounds of appeal therefrom. The court shall consider the proceedings de novo and the parties shall have right of exception and appeal.

SECTION 4. Chapter 140 of the General Laws is hereby amended by striking out sections 136A to 137A, inclusive, as appearing in the 2010 Official Edition, and inserting in place thereof the following 3 sections:-
Section 136A. The following words as used in sections 137 to 174E, inclusive, shall have the following meanings unless the context requires otherwise:

“Adoption”, the delivery of a cat or dog to a person 18 years of age or older for the purpose of taking care of the dog or cat as a pet.

“Animal control officer”, an appointed officer authorized to enforce sections 136A to 174E, inclusive.

“Attack”, aggressive physical contact initiated by an animal.

“Commercial boarding or training kennel”, an establishment used for boarding, holding, day care, overnight

stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that “commercial boarding or training kennel” shall not include an animal shelter or animal control facility, a pet shop licensed under section 39A of chapter 129, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

“Commercial breeder kennel”, an establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

“Commissioner”, the commissioner of agricultural resources.

“Dangerous dog”, a dog that either: (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

“Department”, the department of agricultural resources.

“Domestic animal”, an animal designated as domestic by regulations promulgated by the department of fish and game.

“Domestic charitable corporation kennel”, a facility operated, owned or maintained by a domestic charitable corporation registered with the department or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purposes while providing veterinary treatment and care.

“Euthanize”, to take the life of an animal by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

“Hearing authority”, the selectmen of a town, mayor of a city, the officer in charge of the animal commission, the chief or commissioner of a police department, the chief or commissioner’s designee or the person charged with the responsibility of handling dog complaints in a town or city.

“Keeper”, a person, business, corporation, entity or society, other than the owner, having possession of a dog.

“Kennel”, a pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

“License period”, the period of time for which a municipal licensing authority prescribes the validity of a dog license, including the date of issuance of the license through the date on which the license expires, inclusive.

“Licensing authority”, the police commissioner of the city of Boston and the clerk of any other municipality.

“Livestock or fowl”, a fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, the department in proper houses or suitable enclosed yards; provided, however, that “livestock or fowl” shall not include a dog, cat or other pet.

“Nuisance dog”, a dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one’s quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

“Personal kennel”, a pack or collection of more than 4 dogs, 3 months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not for profit.

“Research institution”, an institution operated by the United States, the commonwealth or a political subdivision thereof, a school or college of medicine, public health, dentistry, pharmacy, veterinary medicine or agriculture, a medical diagnostic laboratory, a biomedical corporation, or biological laboratory or a hospital or other educational or scientific establishment within the commonwealth above the rank of secondary school which, in connection with any of the activities thereof, investigates or provides instruction relative to the structure or function of living organisms or to the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

“Shelter”, a public animal control facility or other facility which is operated by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

“Veterinary kennel”, a veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that “veterinary kennel” shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

Section 137. (a) The owner or keeper of a dog over the age of 6 months shall obtain a license for the dog. The registering, numbering, describing and licensing of a dog shall be conducted in the office of the licensing authority in the city or town in which the dog is kept.

(b) A licensing authority shall not grant a license for a dog unless the owner of the dog provides the licensing authority with a veterinarian's certification that the dog has been vaccinated in accordance with section 145B, certification that such dog is exempt from the vaccination requirement under said section 145B or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.

(c) The license shall be granted upon condition that the dog shall be controlled and restrained from killing, chasing or harassing livestock or fowl. The owner of a dog may add descriptive words, not over 10 in number, upon the license form to indicate the color, breed, weight or special markings of the licensed dog. The owner or keeper of a licensed dog shall keep affixed around the dog's neck or body, a collar or harness of leather or other suitable material, to which a tag shall be securely attached. The tag shall have inscribed upon it the dog's license number, the name of the city or town issuing the license and the year of issue. If the tag becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority at a cost to be determined by the city or town and the fee for the substitute shall, if received by a city or town clerk, be retained by the clerk unless otherwise provided by law. This section shall not apply to a person to whom a valid kennel license has been issued.

(d) This section shall not apply to a dog or cat housed in a research institution.

Section 137A. (a) A person maintaining a kennel shall obtain a kennel license. An owner or keeper of less than 4 dogs, 3 months old or older, who does not maintain a kennel may elect to secure a kennel license in lieu of licensing the dogs under section 137 and shall be subject to this section, sections 137B and 137C and

so much of section 141 as it relates to violations of this section to the same extent as though the owner or keeper were maintaining a kennel. In the case of an applicant for initial licensure and in the case of an applicant for license renewal, a licensing authority shall not issue a kennel license until a kennel has passed inspection by an animal control officer.

(b) A kennel license shall be in lieu of any other license for a dog kept at a kennel during any portion of the period for which the kennel license is valid. A kennel licensee shall cause each dog kept in its kennel to wear, while it is at large, a collar or harness of leather or other suitable material, to which a tag shall be securely attached. The tag shall have inscribed upon it the number of the kennel license, the name of the city or town issuing the license and the year of issue. Tags shall be furnished to the owner or keeper by the licensing authority in quantities not less than the number of dogs kept in the kennel. The issuing city or town shall determine the period of time for which a kennel license shall be valid, including the date of issuance of the license through the date on which the license expires, inclusive, and shall further determine the fee for the issuance and renewal of the license. To determine the amount of the license fee for a kennel, a dog under the age of 6 months shall not be counted in the number of dogs kept in a kennel. The name and address of the owner of each dog kept in a kennel, if other than the person maintaining the kennel, shall be kept at the kennel and available for inspection by an animal control officer, natural resource officer, deputy natural resource officer, fish and game warden or police officer.

(c) The licensing authority shall issue a kennel license without charge to a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse or for the relief of suffering.

SECTION 5. Section 137B of said chapter 140, as so appearing, is hereby amended by inserting after the word "town", in lines 14 and 18, each time it appears, the following words:- or city.

SECTION 6. Said chapter 140 is hereby further amended by striking out section 137C, as so appearing, and inserting in place thereof the following section:-

Section 137C. The mayor of a city, the selectmen of a town, the police commissioner in the city of Boston, a chief of police or an animal control officer may at any time inspect a kennel or cause the inspection of a kennel. If, in the judgment of such person or body, the kennel is not being maintained in a sanitary and humane manner or if records are not properly kept as required by law, such person or body shall, by order, revoke or suspend the license for the kennel. Upon the petition of 25 citizens, filed with the mayor of a city, the selectmen of a town or the police commissioner in the city of Boston setting forth a statement that such citizens are aggrieved or annoyed to an unreasonable extent by a dog maintained in such city or town due to excessive barking or other conditions connected with a kennel constituting a nuisance, the mayor, selectmen or police commissioner, as the case may be, shall, within 7 days after the filing of the petition, give notice to all parties in interest of a public hearing to be held within 14 days after the date of such notice. The mayor, selectmen or police commissioner shall, within 7 days after the public hearing, investigate or cause to be investigated the subject matter of the petition and shall, by order, either suspend or revoke the kennel license, otherwise regulate the kennel or dismiss the petition. Written notice of an order revoking or suspending the license, regulating the kennel or dismissing the petition shall be mailed immediately to the officer issuing the license and to the holder of the license. Within 10 days after the order, the holder of the license may bring a petition in the district court within the judicial district in which the kennel is maintained, addressed to the justice of the court, praying that the order be reviewed by the court. After notice to all parties as the court may consider necessary, the court shall review the action, hear the witnesses and affirm the order unless it

shall appear that it was made without proper cause or in bad faith, in which case the order shall be reversed. The decision of the court shall be final and conclusive upon the parties. A person maintaining a kennel after the license to maintain a kennel has been so revoked, or while such a license is suspended, shall be punished by a fine of not more than \$250.

SECTION 7. Section 137D of said chapter 140, as so appearing, is hereby amended by striking out, in line 15, the word “two” and inserting in place thereof the following figure:- 5.

SECTION 8. Section 138 of said chapter 140, as so appearing, is hereby amended by inserting after the word “town”, in lines 2 and 3, each time it appears, the following words:- or city.

SECTION 9. Said section 138 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 9, the word “three” and inserting in place thereof the following figure:- 6.

SECTION 10. Section 138A of said chapter 140 is hereby repealed.

SECTION 11. Said chapter 140 is hereby further amended by striking out section 139, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 139. (a) The fee for a license shall, except as otherwise provided, be determined by a city or town; provided, however, that no fee shall be increased without a majority vote of the city or town council or the voters present at a town meeting.

(b) The license fee for a spayed or neutered dog shall be less than the license fee for an intact dog. Upon application for a license, a city or town clerk shall require a certificate from the veterinarian who spayed or neutered the dog as proof that the dog is spayed or neutered; provided, however, that if the city or town clerk is satisfied that the certificate of the veterinarian who spayed or neutered the dog cannot be obtained, the clerk may instead accept a receipt of a bill from the veterinarian who performed such procedure or a statement signed under the penalties of perjury by a veterinarian registered and practicing in the commonwealth describing the dog and stating that the veterinarian has examined the dog, which appears to have been spayed or neutered and incapable of propagation.

(c) No fee shall be charged for a license issued under this section for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder. No fee shall be charged for a license for a dog owned by a person aged 70 years or over in a city or town that accepts this provision. No license fee or portion thereof shall be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee or portion thereof paid by mistake be paid or recovered after it has been paid over to a city or town under section 147.

SECTION 12. Section 139A of said chapter 140, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words “deposit of not less than ten nor more than thirty dollars” and inserting in place thereof the following words:- written agreement is entered into and a deposit of not less than \$40.

SECTION 13. Said section 139A of said chapter 140, as so appearing, is hereby further amended by adding the following paragraph:-

The commissioner may set fines for violations of this section and may further establish regulations to ensure compliance with this section. Additionally, an animal control officer, an officer licensed under section 57 of chapter 22C, a police officer or the owner, director or a duly authorized agent of an animal shelter from which an animal was obtained may bring a petition in the district court within the judicial district in which the dog or cat is owned or kept for an action of forfeiture and relinquishment of ownership. Legal fees or court costs incurred in the enforcement of this section shall be the responsibility of the owner of the animal.

SECTION 14. Said chapter 140 is hereby further amended by striking out section 141, as so appearing, and inserting in place thereof the following section:-

Section 141. Whoever violates section 137, 137A, 137B or 138 shall be assessed a penalty of not less than \$50, which shall be paid to the city or town wherein the violation occurred.

SECTION 15. Section 145 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “to the director of accounts upon application therefor”.

SECTION 16. Section 145A of said chapter 140, as so appearing, is hereby amended by striking out the fourth to seventh sentences, inclusive.

SECTION 17. Said chapter 140 is hereby further amended by striking out section 145B, as so appearing, and inserting in place thereof the following section:-

Section 145B. (a) Each owner or keeper of a dog, cat or ferret that is 6 months of age or older shall cause such dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions and shall cause such dog, cat or ferret to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dogs, cats or ferrets acquired or moved into the commonwealth shall be vaccinated within 30 days after the acquisition or arrival of such animal into the commonwealth or upon reaching the age of 6 months, whichever last occurs. It shall be the duty of each veterinarian, at the time of vaccinating a dog, cat or ferret, to complete a certificate of rabies vaccination which shall include, but not be limited to, the following information: the owner's name and address; a description of the animal, including breed, sex, age, name and distinctive markings; the date of vaccination; the rabies vaccination tag number; the type of rabies vaccine used; the route of vaccination; the expiration date of the vaccine; and the vaccine lot number.

(b) The veterinarian shall issue a tag with each certificate of vaccination. The tag shall be secured by the owner or keeper of the dog, cat or ferret to a collar or harness made of suitable material to be worn by the dog, cat or ferret; provided, however, that the owner of a cat or ferret may choose not to affix the tag, but shall have the tag available for inspection by authorized persons. In the event that a tag is lost, the owner or keeper of the animal shall, upon presentation of the original vaccination certificate, be issued a new tag.

(c) In order for a dog, cat or ferret to be accepted at an animal hospital, veterinarian's office or boarding facility, an owner or keeper of such animal shall show proof of current vaccination against rabies; provided, however, that if an animal has not been so vaccinated or such owner or keeper fails to show proof of vaccination, the animal shall be vaccinated against rabies prior to being discharged if the animal's medical condition permits.

(d) A licensing authority may grant an exemption from this section for a dog, cat or ferret that:

(i) the local board of health has declared exempt from the rabies vaccination requirement upon presentation of a veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, such inoculation is considered inadvisable for a specified period of time for such reasons; (ii) is in transit; or (iii) was brought into the commonwealth temporarily for the sole purpose of display in a show or for exhibition.

(e) This section shall not apply to a dog, cat or ferret housed in a research institution.

(f) Whoever violates this section shall be punished by a fine of not more than \$100.

SECTION 18. Section 146 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 5 to 8, inclusive, the words “to which such dog has been removed, and such clerk shall take up the same and issue to said owner or keeper a transfer license, together with a tag, for such dog upon payment of twenty-

five cents” and inserting in place thereof the following words:- or city to which such dog has been removed and the clerk shall take up the same and issue to such owner or keeper a transfer license and a tag for such dog upon payment of an amount to be determined by the city or town.

SECTION 19. Said chapter 140 is hereby further amended by striking out sections 147 and 147A, as so appearing, and inserting in place thereof the following section:-

Section 147. The police commissioner of the city of Boston and the clerks of other cities and towns shall issue dog licenses and tags, receive the money therefor and pay such funds into the treasuries of their respective cities and towns on the first Monday of each month or more often, at their discretion. The clerks of cities and towns, except the city of Boston, may retain for their own use \$.75 cents for each license issued, unless otherwise provided by law, and shall certify under penalties of perjury the amounts of money thus received and paid over to them. The police commissioner of the city of Boston and each city or town clerk shall make a record of the name of the owner or keeper of each dog licensed and the name, registered number and description of each dog licensed. Such records shall be open to public inspection during the usual office hours of the city or town clerk. All blanks for the licenses and tags and the record books shall be paid for out of the city or town treasury. The police commissioner of the city of Boston and any city or town clerk or city or town treasurer violating this section shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than 1 month nor more than 1 year in a jail or house of correction, or both such fine and imprisonment. If a city or town clerk neglects or fails to pay the money into the city or town treasury as required by this section, the city or town may recover the amount thereof for the benefit of the city or town, with all damages sustained through such neglect or failure, and interest thereon, in an action on the official bond required, in the case of a city clerk, by section 13A of chapter 41 and, in the case of a town clerk, by section 13 of said chapter 41. All payments required under this section shall be subject to section 52 of said chapter 41.

SECTION 20. Section 147B of said chapter 140 is hereby repealed.

SECTION 21. Said chapter 140 is hereby further amended by striking out sections 149 to 151B, inclusive, as appearing in the 2010 Official Edition, and inserting in place thereof the following 6 sections:-

Section 149. Each city or town treasurer shall keep an accurate and separate account of all money received and expended by the treasurer under this chapter relating to animals.

Section 150. Persons authorized or directed by section 4 of chapter 51 or by a special law, to make lists of residents 3 years of age or older shall make a list of all dogs owned by the inhabitants at the time of making such lists and shall annually return the same, in duplicate, to the city or town clerk or to the police commissioner in the city of Boston. An owner or keeper of a dog who refuses to answer or answers falsely to a person directed or authorized to make such a list shall be punished by a fine of not less than \$20 which shall be paid to the city or town.

Section 151. (a) The mayor of each city and the board of selectmen of each town shall annually designate an animal control officer, who may be a police officer or constable. The mayor or board of selectmen shall immediately submit to the commissioner the names, addresses and dates of hire of such animal control officers. Except as provided in this section, if a city or town shall fail to make such appointment, the commissioner shall appoint an animal control officer for that city or town. An animal control officer who fails to comply with the terms of such officer's warrant shall immediately be removed from office by the mayor or board of selectmen and notice of the removal shall immediately be given to the commissioner. Animal control officers shall have completed, under the supervision of a veterinarian registered under

section 55 or 56C of chapter 112, a course of instruction in humane techniques for the execution of animals before euthanizing an animal. Before euthanizing or giving or turning over to another a dog or cat in the officer's possession, an animal control officer shall first examine the animal for the presence of a microchip or tattoo, check the description of the animal against descriptions within the city or town relative to the species of animal licensed or registered in the municipality in order to verify the identity of the animal and to provide notice to the owner of the animal before the animal is euthanized, given away or turned over to another. Bills for such services shall be approved by the mayor of the city or the board of selectmen of the town in which the dogs or cats are kept or euthanized and shall be paid by that city or town. An animal control officer appointed under this section shall also attend to all complaints or other matters pertaining to animals, as prescribed by the officer's respective city or town, in addition to the duties imposed upon the officer by the officer's warrant, and shall be paid for such services by the town or city treasurer upon bills approved by the mayor or board of selectmen. The mayor of a city or the board of selectmen of a town may, instead of appointing an animal control officer, enter into a contract with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse to perform the duties required of an animal control officer. In that case, the payments to the corporation under the terms of the contract shall be in full for all services rendered by it in that capacity.

(b) An animal control officer shall not be a licensed animal dealer registered with the United States Department of Agriculture. An animal control officer shall not give, sell or turn over any animal which may come into the officer's custody to a business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture either privately or in the course of carrying out the officer's official assignments as an agent for the officer's municipality. A municipality shall not give, sell or turn over an animal which may come into its custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture. Whoever violates this subsection shall be punished by a fine of not more than \$1,000.

Section 151A. (a) The mayor or board of selectmen, as the case may be, shall annually issue a warrant to the animal control officer directing the officer to seek out, catch and confine all dogs within the city or town which are not licensed, collared or harnessed, or tagged, as required by this chapter, and to enter and prosecute a complaint for failure to comply with this chapter against the owners or keepers of such dogs, if known, and to euthanize or cause to be euthanized only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia, or by gunshot in case of emergency, each such dog not licensed, collared or harnessed, or tagged after being detained by or for the officer for a period of 7 days; provided, however, that after 7 days, the animal control officer may make available for adoption any dog found free of disease for a sum of not less than \$3 to be determined by the city or town and shall keep an account of all moneys received by the officer for the adoption and shall immediately pay over the moneys to the treasurer who shall forward it to the city or town. Before delivery of a dog so adopted, the animal control officer shall require the purchaser to show identification and to procure a license and tag for the dog from the clerk of the city or town wherein the dog is to be kept. Dogs detained under this section shall be confined in a place suitable for the detention and care of dogs and kept in a sanitary condition, or they may be placed in the care of the holder of a kennel license or of a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse. The commissioner from time to time shall cause such places wherein animals are detained under this section to be inspected and shall make necessary orders in relation thereto. An animal control officer having custody of a detained dog or cat shall be allowed a sum determined by the city or town

per day for the care of the dog or cat, payable by the owner or keeper, if known, otherwise by the city or town.

(b) Each animal control officer shall make, keep and maintain systems of records or forms which fully and correctly disclose the following information concerning each animal in the officer's custody: (1) the date and location of apprehension; (2) a description of the animal; (3) the place of detainment; (4) if tagged, the name and address of the owner of the animal; (5) the name and address of a new owner, if any, including the date of sale or transfer of the animal; (6) if the animal is euthanized, the method and date of such euthanization and the name of the person who euthanized the animal; and (7) the date, location and description of an animal euthanized by gunshot in case of emergency, the disposition of the animal remains and a description of the situation requiring the gunshot.

Each animal control officer shall forward a copy of the record to the town or city clerk within 30 days.

Copies of the record shall be kept for 2 years in the office of the city or town clerk wherein such animal control officer is employed.

Section 151B. A veterinarian registered under section 55 or 56A of chapter 112 who renders emergency care or treatment to, or who euthanizes, a dog or cat that is injured on any way shall receive payment from the owner of such dog or cat, if known, or, if not known, from the city or town in which the injury occurred in an amount not to exceed \$250 for such care, treatment or euthanization; provided, however, such emergency care, treatment or euthanization shall be rendered for the purpose of maintaining life, stabilizing the animal or alleviating suffering until the owner or keeper of the dog or cat is identified or for 24 hours, whichever is sooner. A veterinarian who renders such emergency care or treatment to a dog or cat or euthanizes a dog or cat shall notify the municipal animal control officer and the animal control officer shall assume control of the dog or cat or the remains of the dog or cat.

Section 151C. The commissioner shall, from time to time and subject to the availability of funds from the Homeless Animal Prevention and Care Fund in section 35WW of chapter 10, provide for a training course for animal control officers. For a training course established under this section, there shall be a preference for persons who have been in the employ of a city or town as an animal control officer for 12 months or less. A training course that is offered by a private entity including, but not limited to, the Animal Control Officers Association of Massachusetts, shall not be eligible for reimbursement from the Homeless Animal Prevention and Care Fund unless such course has been approved by the commissioner.

SECTION 22. Section 152 of said chapter 140, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 1, the word "dog" and inserting in place thereof the following words:- animal control.

SECTION 23. Said section 152 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "dogs", in line 6, the following words:- and cats.

SECTION 24. Said section 152 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 10, the word "dogs" and inserting in place thereof the following word:- animals.

SECTION 25. Section 153 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words " , except Suffolk county".

SECTION 26. Said section 153 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 13 to 18, inclusive, the words "by methods of execution other than gunshot except in case of emergency, T-61, so-called, an euthanasia solution not under the control of the federal Drug Enforcement Administration, unless by a veterinarian, succinylcholine choline, any drugs that have curariform-like action,

electrocution or any other method which causes an unnecessarily cruel death” and inserting in place thereof the following words:- only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia, except by gunshot in case of emergency.

SECTION 27. Said section 153 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 18 to 21, inclusive, the words “ten days, shall not then have been duly licensed, collared or harnessed, and tagged, except that any male or any spayed female dog not found to be diseased may be made available for adoption for not less than three dollars” and inserting in place thereof the following words:- 7 days, shall not then have been duly licensed, collared or harnessed, and tagged, except that any dog not found to be diseased may be made available for adoption for not less than \$3.

SECTION 28. Said section 153 of said chapter 140, as so appearing, is hereby further amended by inserting after the word “dogs”, in line 34, the following words:- and cats.

SECTION 29. Said section 153 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 41, the words “nineteen hundred” and inserting in place thereof the following figure:- 2000.

SECTION 30. Said section 153 of said chapter 140, as so appearing, is hereby further amended by striking out the second paragraph.

SECTION 31. Section 156 of said chapter 140, as so appearing, is hereby amended by inserting after the first sentence, the following sentence:- A person killing or wounding a dog under the conditions set out in this section shall promptly report to the owner, animal control officer or police officer such killing or wounding.

SECTION 32. Said chapter 140 is hereby further amended by striking out sections 157 to 161, inclusive, as so appearing, and inserting in place thereof the following 6 sections:-

Section 157. (a) Any person may file a complaint in writing to the hearing authority that a dog owned or kept in the city or town is a nuisance dog or a dangerous dog; provided, however, that no dog shall be deemed dangerous: (i) solely based upon growling or barking or solely growling and barking; (ii) based upon the breed of the dog; or (iii) if the dog was reacting to another animal or to a person and the dog’s reaction was not grossly disproportionate to any of the following circumstances:

- (1) the dog was protecting or defending itself, its offspring, another domestic animal or a person from attack or assault;
- (2) the person who was attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog;
- (3) the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog; or
- (4) at the time of the attack or threat, the person or animal that was attacked or threatened by the dog had breached an enclosure or structure in which the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure including, but not limited to, a gated, fenced-in area if the gate was closed, whether locked or unlocked; provided, however, that if a person is under the age of 7, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing.

The hearing authority shall investigate or cause the investigation of the complaint, including an examination under oath of the complainant at a public hearing in the municipality to determine whether the dog is a nuisance dog or a dangerous dog. Based on credible evidence and testimony presented at the public hearing,

the hearing authority shall: (i) if the dog is complained of as a nuisance dog, either dismiss the complaint or deem the dog a nuisance dog; or (ii) if the dog is complained of as a dangerous dog: (A) dismiss the complaint; (B) deem the dog a nuisance dog; or (C) deem the dog a dangerous dog.

(b) If the hearing authority deems a dog a nuisance dog, the hearing authority may further order that the owner or keeper of the dog take remedial action to ameliorate the cause of the nuisance behavior.

(c) If the hearing authority deems a dog a dangerous dog, the hearing authority shall order 1 or more of the following:

(i) that the dog be humanely restrained; provided, however, that no order shall provide that a dog deemed dangerous be chained, tethered or otherwise tied to an inanimate object including, but not limited to, a tree, post or building;

(ii) that the dog be confined to the premises of the keeper of the dog; provided, however, that “confined” shall mean securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run area upon the premises of the owner or keeper; provided further, that such pen or dog run shall have a secure roof and, if such enclosure has no floor secured to the sides thereof, the sides shall be embedded into the ground for not less than 2 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper shelter from the elements shall be provided to protect the dog;

(iii) that when removed from the premises of the owner or the premises of the person keeping the dog, the dog shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length;

(iv) that the owner or keeper of the dog provide proof of insurance in an amount not less than \$100,000 insuring the owner or keeper against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts, whether intentional or unintentional, of the dog or proof that reasonable efforts were made to obtain such insurance if a policy has not been issued; provided, however, that if a policy of insurance has been issued, the owner or keeper shall produce such policy upon request of the hearing authority or a justice of the district court; and provided further, that if a policy has not been issued the owner or keeper shall produce proof of efforts to obtain such insurance;

(v) that the owner or keeper of the dog provide to the licensing authority or animal control officer or other entity identified in the order, information by which a dog may be identified, throughout its lifetime including, but not limited to, photographs, videos, veterinary examination, tattooing or microchip implantations or a combination of any such methods of identification;

(vi) that unless an owner or keeper of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the owner or keeper of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact; or

(vii) that the dog be humanely euthanized.

No order shall be issued directing that a dog deemed dangerous shall be removed from the town or city in which the owner of the dog resides. No city or town shall regulate dogs in a manner that is specific to breed.

(d) Within 10 days after an order issued under subsections (a) to (c), inclusive, the owner or keeper of a dog may bring a petition in the district court within the judicial district in which the order relative to the dog was issued or where the dog is owned or kept, addressed to the justice of the court, praying that the order be reviewed by the court or a magistrate of the court. After notice to all parties, the magistrate shall, under section 62C of chapter 221, review the order of the hearing authority, hear the witnesses and affirm the order unless it shall appear that it was made without proper cause or in bad faith, in which case the order shall be reversed. A party shall have the right to request a de novo hearing on the complaint before a justice of the

court.

(e) (1) Pending an appeal by an owner or keeper under subsection (d), a hearing authority may file a petition in the district court to request an order of impoundment at a facility the municipality uses to shelter animals for a dog complained of as being a dangerous dog. A municipality shall not incur liability for failure to request impoundment of a dog under this subsection.

(2) A justice of a district court, upon probable cause to believe that a dog is a dangerous dog or that a dog is being kept in violation of this section or in violation of an order issued under this section by a hearing authority or a court, may issue an order: (i) of restraint; (ii) of confinement of the dog as considered necessary for the safety of other animals and the public; provided, however, that if an order of confinement is issued, the person to whom the order is issued shall confine the dog in accordance with clause (ii) of subsection (c); or (iii) of impoundment in a humane place of detention that the municipality uses to shelter animals; or (iv) any other action as the court deems necessary to protect other animals and the public from the dog.

(f) A justice of the district court shall hear, de novo, an appeal filed under subsection (d). Based upon credible evidence and testimony presented at trial, the court shall, whether the dog was initially complained of as a nuisance dog or as a dangerous dog: (i) dismiss the complaint; (ii) deem the dog a nuisance dog; or (iii) deem the dog a dangerous dog. The decision of the court shall be final and conclusive upon the parties.

(g) If a court affirms an order of euthanasia, the owner or keeper of the dog shall reimburse the city or town for all reasonable costs incurred for the housing and care of such dog during its impoundment and throughout the appeals process, if any. Unpaid costs shall be recovered by the municipality in which the owner or keeper of the dog resides on behalf of the hearing authority by any of the following methods: (i) a lien on any property owned by the owner or keeper of the dog; (ii) an additional, earmarked charge to appear on the vehicle excise of the owner or keeper of the dog; or (iii) a direct bill sent to the owner or keeper of the dog.

All funds recovered by a municipality under this subsection shall be transferred to the organization or entity charged with the responsibility of handling dog complaints and impoundment. If the organization or entity falls under the management or direction of the municipality, costs recovered shall be distributed at the discretion of the municipality.

If the court overturns an order of euthanasia, the city or town shall pay all reasonable costs incurred for the housing and care of the dog during any period of impoundment.

(h) If an owner or keeper of a dog is found in violation of an order issued under this section, the dog shall be subject to seizure and impoundment by a law enforcement or animal control officer. If the keeper of the dog is in violation, all reasonable effort shall be made by the seizing authority to notify the owner of the dog of such seizure. Upon receipt of such notice, the owner may file a petition with the hearing authority, within 7 days, for the return of the dog to the owner. The owner or keeper shall be ordered to immediately surrender to the licensing authority the license and tags in the person's possession, if any, and the owner or keeper shall be prohibited from licensing a dog within the commonwealth for 5 years. A hearing authority that determines that a dog is dangerous or a nuisance or that a dog owner or keeper has violated an order issued under this section shall report such violations to the issuing licensing authority within 30 days.

(i) Orders issued by a hearing authority shall be valid throughout the commonwealth unless overturned under subsection (d) or (f).

Section 157A. (a) An owner or keeper of a dog who fails to comply with an order of a hearing authority or district court shall be punished, for a first offense, by a fine of not more than \$500 or imprisonment for not

more than 60 days in a jail or house of correction, or both, and for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment for not more than 90 days in a jail or house of correction.

(b) No person over the age of 17 who has actual knowledge that a dog has been deemed dangerous under section 157 shall permit a child under the age of 17 to own, possess or have the care or custody of such dog.

(c) No person shall transfer ownership or possession of a dog which such person knows, or reasonably should have known, has been deemed dangerous under section 157 or offer such dangerous dog for sale or breed without informing the recipient of the dog of the finding of dangerousness.

Section 158. A police officer, constable or animal control officer may capture, detain or, in the case of a threat to public safety, euthanize a dog in a humane manner if found to be in violation of an order of a hearing authority or a district court and may euthanize a dog, in a humane manner, if it is living in a wild state.

Section 159. If a hearing authority or a district court has deemed a dog to be a dangerous dog and such dog wounds a person or worries, wounds or kills any livestock or fowl, the owner or keeper of the dog shall be liable in tort to the person injured by the dog for 3 times the amount of damages sustained by such person.

Section 160. The mayor of a city, the selectmen of a town, or their agents who are authorized in writing, to act in such mayor or selectmen's stead may, after written notice to the owner or keeper of a dog, enter upon the premises of the owner or keeper known to such persons to have worried or killed livestock or fowl and then and there euthanize such dog in a humane manner unless such owner or keeper whose premises are entered for that purpose shall give a bond in the sum of \$200, with sufficient sureties, conditioned that the dog shall be restrained for 12 months next ensuing. If the owner or keeper of the dog declares an intention to give such a bond, the selectmen, chief of police, or the agent of the selectmen or chief, as the case may be, shall allow the owner or keeper 7 days, exclusive of Sundays and holidays, in which to procure and prepare such bond and to present it, or to file it with the clerk of the town or city in which the owner or keeper resides.

Section 161. Whoever suffers loss by the worrying, maiming or killing of such person's livestock or fowl by a dog outside the premises of the owner or keeper of the dog, may, if the damage is done in a city, inform the animal control officer and may, if the damage is done in a town, inform the chair of the board of selectmen of the town or, if the chairman is absent or ill, any of the selectmen. The officer, chair or selectman shall proceed to the premises where the damage was done to determine whether the damage was inflicted by a dog and, if so determined, appraise the amount of damage if it does not exceed \$100. If in the opinion of the officer, chair or selectman, the amount of damage exceeds \$100, the damage shall be appraised, on oath, by 3 persons, 1 of whom shall be the officer, chair or selectman, 1 of whom shall be appointed by the person alleged to be damaged and 1 shall be appointed by the other 2. Within 10 days thereafter, the appraisers shall consider and include in their appraisal the labor and time necessarily to be expended to find and collect the livestock or fowl injured or separated and the value of those lost or otherwise damaged by the dog. The officer, chair or selectman shall return a certificate of the damages found to the treasurer of the city or town in which the damage was done within 10 days after the appraisal is completed. The treasurer shall immediately submit the appraisal to the city or town clerk who, within 30 days, shall examine all bills for damages. The city or town clerk may summons the appraisers or, upon the request of an interested party, shall summons the appraisers and all parties interested and make such investigation as the clerk shall deem proper. The city or town clerk shall issue an order upon the treasurer of the city or town for such amounts, if

any, determined to be just and shall notify all interested parties of the decision. The treasurer shall pay all orders drawn upon the treasurer in full, for the above purpose and payments made shall be charged to the city or town.

SECTION 33. Section 162 of said chapter 140 is hereby repealed.

SECTION 34. Said chapter 140 is hereby further amended by striking out section 163, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 163. If the mayor, aldermen or board of selectmen determines, after notice to parties interested and a hearing, the identity of the owner or keeper of a dog which is found to have worried, maimed or killed livestock or fowl, thereby causing damages for which the owner of the livestock or fowl may become entitled to compensation from the city or town under section 161, the mayor, aldermen or selectmen shall serve upon the owner or keeper of such dog a notice directing the owner or keeper, within 24 hours, to euthanize the dog in a humane manner or restrain the dog.

SECTION 35. Said chapter 140 is hereby further amended by striking out sections 164 and 165, as so appearing, and inserting in place thereof the following 2 sections:-

Section 164. A person who owns or keeps a dog and who has received such notice under section 163 and does not, within 24 hours, euthanize the dog or thereafter keep it on the owner's or keeper's premises or under the immediate restraint and control of some person, shall be punished by a fine of not less than \$25 and a police officer, constable or animal control officer may euthanize the dog in a humane manner if it is found outside the enclosure of its owner or keeper and not under the owner or keeper's immediate care.

Section 165. A city or town may investigate any case of damage done by a dog of which the chair of the board of selectmen, mayor or animal control officer shall have been informed as provided in section 161. If the chair, mayor or animal control officer believes that the evidence is sufficient to sustain an action against the owner or keeper of the dog and believes that such owner or keeper is able to satisfy any judgment recovered in an action, the chair, mayor or animal control officer shall bring the action unless the owner or keeper pays the amount in settlement of the damage as the chair, mayor or officer deems reasonable before the action is brought. The action may be brought in the name of the chair, mayor or animal control officer prosecuting the action and the chair, mayor or animal control officer shall have the same powers and authority as animal control officers appointed under section 151 and acting under sections 136A to 174E, inclusive. All damages received or recovered under this section shall be paid over to the city or town treasurer.

SECTION 36. Said chapter 140 is hereby further amended by striking out section 167, as so appearing, and inserting in place thereof the following section:-

Section 167. The mayor, aldermen or board of selectmen may order that all dogs shall be restrained from running at large during such times as shall be prescribed by the order. Once passed, a certified copy of the order shall be posted in at least 2 public places in the city or town or, if a daily newspaper is published in the city or town, by publishing a copy once in that newspaper. Following publication, the mayor, aldermen or board of selectmen may issue a warrant to a police officer or constable in a city or town, who shall, not sooner than 24 hours after the publication of the notice, euthanize all dogs in a humane manner that are found running at large contrary to the order. Notwithstanding the foregoing, a police officer or constable may, in the officer's or constable's discretion, hold any such dog for not more than 7 days. If the owner of the dog claims it and pays to the officer or constable a penalty of \$40 for each day that the dog has been held, the dog shall be returned to its owner. The amount shall be paid over to the city or town.

SECTION 37. Section 168 of said chapter 140, as so appearing, is hereby amended by striking out, in line 1, the words “or selectmen” and inserting in place thereof the following words:- , board of selectmen or mayor.

SECTION 38. Said section 168 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 5, the words “more than twenty-five dollars” and inserting in place thereof the following words:- less than \$25.

SECTION 39. Section 169 of said chapter 140, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A city or town officer who refuses or willfully neglects to perform the duties imposed upon the officer by this chapter relating to dogs shall be punished by a fine of not less than \$100, which shall be paid to the city or town.

SECTION 40. Section 170 of said chapter 140 is hereby repealed.

SECTION 41. Said chapter 140 is hereby further amended by striking out section 171, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 171. The owner or keeper of a dog which has done damage to livestock or fowl shall be liable in tort to the city or town for all damages so done which the mayor, aldermen or board of selectmen have ordered to be paid as provided in this chapter.

SECTION 42. Section 172 of said chapter 140 is hereby repealed.

SECTION 43. Said chapter 140 is hereby further amended by striking out section 173, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 173. A city or town may make additional ordinances or by-laws relative to the licensing and control of animals not inconsistent with sections 136A to 174E, inclusive.

SECTION 44. The first paragraph of section 173A of said chapter 140, as so appearing, is hereby amended by striking out the second to fourth sentences, inclusive, and inserting in place thereof the following 3 sentences:- For the first offense committed by a person within a calendar year, the clerk shall dismiss the charge without the payment of a fine. For a second offense in the city or town within a calendar year, the payment of a fine of \$50 shall operate as a final disposition of the case. For a third offense in the city or town within a calendar year, payment of a fine of \$60 shall operate as a final disposition of the case. For a fourth or subsequent offense in the city or town within a calendar year, payment of a fine of \$100 shall operate as a final disposition of the case. Payment shall be made only by postal note, money order or check.

Notwithstanding the foregoing procedure and schedule of fines, but subject to all other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines.

SECTION 45. Said chapter 140 is hereby further amended by striking out section 174A, as so appearing, and inserting in place thereof the following section:-

Section 174A. A dog or cat whose killing is authorized under this chapter shall be euthanized only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia or as otherwise allowed in section 151A.

SECTION 46. Section 174B of said chapter 140, as so appearing, is hereby amended by striking out, in line 4, the words “fifty dollars” and inserting in place thereof the following figure:- \$100.

SECTION 47. Section 174D of said chapter 140, as so appearing, is hereby amended by inserting after the word “commissioner”, in lines 4, 5, 6, 9, 14, 16, 19, 28, 31 and 36, each time it appears, the following words:- of public health.

SECTION 48. Said chapter 140 is hereby further amended by inserting after section 174D the following section:-

Section 174E. (a) No person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 24 consecutive hours. A tethering employed shall not allow the dog to leave the owner’s, guardian’s or keeper’s property. The tether shall be designed for dogs and no logging chains or other lines or devices not designed for tethering dogs shall be used. No chain or tether shall weigh more than 1/8 of the dog’s body weight. Nothing in this section shall be construed to prohibit a person from walking a dog on a hand-held leash. No dog under the age of 6 months shall be tethered outside for any length of time.

(b) A person owning or keeping a dog may confine such dog outside, subject to the restrictions in this section, through the use of any of the following methods:

(1) inside a pen or secure enclosure, if the following conditions are met:

(i) the pen or secure enclosure shall have adequate space for exercise with a dimension of at least 100 square feet; provided, however, that commercial dog kennels with pens intended for the temporary boarding of dogs shall be exempt from this requirement;

(ii) the pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all 4 sides enclosed; and

(iii) the minimum height of the fence shall be adequate to successfully confine the dog;

(2) a fully fenced, electronically fenced or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard; or

(3) a trolley system or a tether attached to a pulley in a cable run, if the following conditions are met:

(i) only 1 dog shall be tethered to each cable run;

(ii) the tether shall be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog’s throat through which 2 adult fingers may fit; provided, however, that a choke collar and a pinch collar shall not be used to tether a dog to a cable run;

(iii) there shall be a swivel on at least 1 end of the tether to minimize tangling of the tether;

(iv) the tether and cable run must each be at least 10 feet in length. The cable must be mounted at least 4 feet but not more than 7 feet above ground level; and

(v) the length of the tether from the cable run to the dog’s collar or harness shall allow continuous access to clean water and appropriate shelter at all times as described in subsection (c); provided, however, that a trolley system or tether shall be of appropriate configuration to confine the dog to the owner’s, guardian’s or keeper’s property, to prevent the trolley system or tether from extending over an object to an edge that could result in injury to or strangulation of the dog and to prevent the trolley system or tether from becoming tangled with other object or animals.

(c) A person owning or keeping a dog confined outside in accordance with subsection (b) shall provide the dog with access to clean water and appropriate dog shelter. The dog shelter shall allow the dog to remain dry and protected from the elements and shall be fully enclosed on at least 3 sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the dog’s entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and shall be small enough to retain the

dog's body heat and large enough to allow the dog to stand, lie down and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage shall be provided so that water, ice or waste is not standing in or around the shelter.

(d) No person owning or keeping a dog shall leave a dog chained or tethered outside for longer than 24 consecutive hours.

(e) Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or engaged in conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(f) No person owning or keeping a dog shall subject the dog to cruel conditions or inhumane chaining or the tethering at any time. For the purposes of this subsection, "cruel conditions and inhumane chaining or tethering" shall include, but not be limited to, the following conditions:

(1) filthy and dirty confinement conditions including, but not limited to, exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill a dog upon contact or other circumstances that could cause harm to a dog's physical or emotional health;

(2) taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog; and

(3) subjecting a dog to dangerous conditions, including attacks by other animals.

(g) A person who violates this section shall, for a first offense, be issued a written warning or punished by a fine of not more than \$50, for a second offense, be punished by a fine of not more than \$100 and for a third or subsequent offense, be punished by a fine of not more than \$300, and be subject to impoundment of the dog in a local shelter at the owner's or guardian's expense pending compliance with this section, or loss of ownership of the dog.

SECTION 49. Section 77 of chapter 272 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

A person convicted of a crime of cruelty to an animal shall be prohibited from working in any capacity that requires such person to be in contact with an animal, including a commercial boarding or training establishment, shelter, animal control facility, pet shop, grooming facility, commercial breeder service, veterinary hospital or clinic or animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals.

SECTION 50. Chapter 209A of the General Laws is hereby amended by adding the following section:-

Section 11. (a) Whenever the court issues a temporary or permanent vacate, stay away, restraining or no contact order or a judgment under section 18, 34B or 34C of chapter 208, or under section 32 of chapter 209, or under section 3, 4 or 5 of this chapter, or under section 15 or 20 of chapter 209C, or under section 3 to 7, inclusive, of chapter 258E or a temporary restraining order or preliminary or permanent injunction relative to a domestic relations, child custody, domestic abuse or abuse prevention proceeding, the court may order the possession, care and control of any domesticated animal owned, possessed, leased, kept or held by either party or a minor child residing in the household to the plaintiff or petitioner. The court may order the defendant to refrain from abusing, threatening, taking, interfering with, transferring, encumbering, concealing, harming or otherwise disposing of such animal.

(b) A party to any proceeding listed in subsection (a) may petition the court for an order authorized by said subsection (a).

(c) Whenever the court issues a warrant for a violation of a temporary or permanent vacate, stay away,

restraining or no contact order or a judgment issued under section 18, 34B or 34C of chapter 208, or under section 32 of chapter 209, or under section 3, 4 or 5 of this chapter, or under section 15 or 20 of chapter 209C, or section 3 to 7, inclusive, of chapter 258E or otherwise becomes aware that an outstanding warrant for such a violation has been issued against a person before the court, the judge may make a finding, based upon the totality of the circumstances, as to whether there exists an imminent threat of bodily injury to any party to such judgment or the petitioner of any such protective order, a member of the petitioner's family or household or to a domesticated animal belonging to the petitioner or to a member of the petitioner's family or household. If the court makes a finding that such an imminent threat of bodily injury to a person or domesticated animal exists, the court shall notify the appropriate law enforcement officials of such finding and the law enforcement officials shall take all necessary actions to execute any such outstanding warrant as soon as is practicable.

SECTION 51. An animal control officer if serving as such on the effective date of this act shall, within 24 months after the effective date of this act, and an animal control officer hired on or after the effective date of this act shall, within 12 months after the date of hire, complete a training course under section 151C of chapter 140 of the General Laws; provided, however, that such training requirement shall be subject to the availability of funds in the Homeless Animal Prevention and Care Fund, established in section 35WW of chapter 10 of the General Laws, as determined by the commissioner of agricultural resources. Priority for training animal control officers serving in that capacity before the effective date of this act shall be given to those officers having served for 12 months or less.

SECTION 52. The court administrator in the office of court management within the trial court department shall amend the relevant complaint forms for chapters 208, 209A, 209C and 258E of the General Laws or prescribe a new form to incorporate a petition for an order under section 11 of said chapter 209A, which shall be in such form and language to permit a plaintiff to prepare and file such complaint pro se.

SECTION 53. There shall be an advisory committee to assist the commissioner of agricultural resources in establishing procedures for the disbursement of funds from the Homeless Animal Prevention and Care Fund. Members of the advisory committee shall receive no compensation or reimbursement for expenses incurred in the performance of their duties. The advisory committee shall consist of: 1 member from a humane society, animal rescue or sheltering organization; 1 animal control officer or representative of an association organized in the commonwealth for animal control officers; 1 veterinarian or member of a veterinary medical association organized in the commonwealth; 1 member of the general public with an interest in the well being of domestic animals and 1 representative of a national pet industry trade association, all of whom shall be appointed by the governor. All members shall have an active interest in educating residents relative to the benefits of pet population control.

Approved, August 2, 2012.

Article 47
Animal Control Bylaw

47.1. Purpose. Pursuant to the authority set forth in G.L. c. 140, §§ 136A-174E, inclusive, and any other relevant statutes and regulations issued pursuant thereto, this section is adopted by the Town for the control and regulation of dogs within the Town.

47.2. Definitions. The definitions of words and terms set forth G.L. c. 140, § 136A are incorporated into Article 47 and shall be applicable herein.

47.3. Administration.

- a. The Board of Selectmen shall annually appoint an Animal Control Officer who shall be responsible for the enforcement of this bylaw and the General Laws relating to the regulation of animals.
- b. For purposes of this bylaw and G.L. c. 140, § 157, the Board of Selectmen shall be the Hearing Authority.

47.4 Registration and License Requirements for Dogs.

- a. In accordance with G.L. c. 140, § 137, the owner or keeper of a dog six months of age or older, while residing in the Town of Wellesley, shall obtain a license (either individual or kennel) for the dog from the Town Clerk, which shall be affixed to the dog's collar. To obtain or renew a license, each dog owner or keeper shall annually present proof of a current rabies vaccination or a certification of exemption from the vaccination requirement, pursuant to G.L. c. 140, § 137(b) and 145B.
- b. All dogs within the Town shall be licensed and registered and the fees for such license and registration shall be established by the Town Meeting from time to time in accordance with G.L. c. 140, § 139. Fees for the issuance of licenses for dogs shall be:

1)	Males and Females:	\$20
2)	Neutered Males and Spayed Females:	\$12
3)	Service Animals as defined by the Americans with Disabilities Act or regulations promulgated thereunder:	No fee.
4)	Kennels with 4-6 Dogs:	\$75
5)	Kennels with 7-10 Dogs:	\$100
6)	Kennels with 11 or more Dogs:	\$

- c. Dog owners and keepers shall renew each dog license annually. The annual licensing period runs from April 1 through March 31.
- d. Kennels. All kennels within the Town of Wellesley shall be licensed, operated, maintained and regulated in accordance with G.L. c. 140, §§ 137A-137D and any other applicable statute or regulation.

47.5. Policies and Procedures. The Selectmen shall from time to time adopt and publish such

policies and procedures as they deem necessary to enforce the intent and purpose of this Bylaw.

47.6. Conduct of Dogs.

- a. Nuisance and Dangerous Behavior. No dog owner or keeper shall permit the dog to become or remain a nuisance dog or a dangerous dog, as those terms are defined and used in G.L. c. 140, §§ 136A and 157.
- b. Leash Law. When not on the private property of its owner or keeper, or on private property with express permission of that property's owner, a dog shall be on a leash of not more than seven (7) feet.
- c. Dogs on Town Property. Any dog, ~~while on~~ on the street or sidewalk in the Town of Wellesley shall be on a leash of not more than seven (7) feet. Any dog, while on any other property owned or controlled by the Town of Wellesley, shall remain under the control of its owner or keeper in the manner prescribed by the regulations promulgated by the board, commission or officer having authority or control of said property.
- d. Service Animals. The provisions of Articles 47.6.b and 47.6.c shall not apply to any properly trained assistance or service animal while performing its duties.

47.7. Animal Control Officer.

- a. Complaint Investigation. The Animal Control Officer shall investigate all written complaints arising within the Town pertaining to violations of Article 47 and of G.L. c. 140, §§ 136A-174E and any relevant state or local regulations.
- b. Issuance of Temporary Restraint Orders. The Animal Control Officer may issue a Temporary Restraint Order to the owner or keeper of any dog that is alleged to be a nuisance dog or a dangerous dog and is awaiting a decision under Article 47.8. A Temporary Restraint Order shall be in force for no more than thirty (30) days unless the Animal Control Officer renews it in writing for a subsequent thirty (30) day periods. The Animal Control Officer may rescind or stop renewing the order when, in the Animal Control Officer's judgment, restraint is no longer required. The Animal Control Officer's order shall expire upon receipt of a decision from the Board of Selectmen on the nuisance dog or dangerous dog hearing.
- c. Issuance of Temporary Confinement Order. The Animal Control Officer may make arrangements for the temporary housing of any dog that requires such temporary housing, and may issue an Order of Temporary Confinement authorizing such temporary housing. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns, and shall be at the dog owner's or keeper's expense.
- d. Record Keeping. The Animal Control Officer shall keep accurate, detailed records of the confinement and disposition of all dogs held in custody, all bite cases reported, and the results of investigations. The Animal Control Officer shall maintain a telephone log of all calls received regarding dogs and submit a monthly report summarizing the log to the Board of Selectmen.

47.8. Nuisance or Dangerous Dog Hearings. Any person may file a complaint in writing to the Board of Selectmen that a dog owned or kept in the Town is a nuisance dog or a dangerous dog. All such complaints shall be investigated and addressed in accordance with G.L. c. 140 § 157.

47.9. Violations and Penalties.

- a. The failure of the owner or keeper of any dog or pet to comply with this bylaw or with any order of the Animal Control Officer or the Board of Selectmen shall be a violation of this bylaw.
- b. The failure of the owner or keeper of any dog to comply with the registration and license requirements provided in this Article 47 and in G.L. c. 140, §§ 136A-174E shall be in violation of this bylaw.
- c. In addition to any other remedy provided by law, this Article may be enforced by the Animal Control Officer, or any police officer of the Town, or the Board of Selectmen, through any means available in law or equity, including but not limited to criminal indictment in accordance with G.L. c. 40, § 21, noncriminal disposition in accordance with G.L. c. 40, § 21D and the Article 52.1, “Non-Criminal Disposition, as may be amended from time to time.
 - 1) When enforced in accordance with G.L. c. 40, § 21, the maximum penalty shall be \$300 and each day a violation exists shall constitute a separate violation.
 - 2) When enforced through non-criminal disposition, the penalties shall be as follows:
 - i. For violations of the requirements proof of a current rabies vaccination or a certification of exemption from the vaccination requirement:

\$100 per violation, and each day a violation exists shall constitute a separate violation.
 - ii. For violations of the licensing requirements of individual dogs:

\$50 for each unlicensed dog.
 - iii. For violations of Articles 47.6.b and 47.6.c:

First Offense:	\$50
Second Offense:	\$100
Third and subsequent offense:	\$300
 - iv. All other violations of this bylaw, not described in i. through iii., above:

First Offense:	\$100
Second Offense:	\$200

Commented [MH1]: There are several statutory provisions that regulate penalties in connection with violating animal control laws. For example, G.L. c. 140, § 145B(f) provides that whoever violates the vaccination requirements shall be punished by a fine of not more than \$100; G.L. c. 140, § 141 provides that whoever violates the licensing requirements shall be assessed a penalty of not less than \$50; and G.L. 140, § 173A seems to provide its own non-criminal disposition process separate and distinct from G.L. c. 40, § 21D (although no other town seems to be applying this statute). In order to ensure that Wellesley’s penalties provision, I suggest that we run this draft by the AG’s office before placing it on the warrant.

Third Offense: \$300

- d. If the Animal Control Officer confines a dog and the dog owner or keeper does not pay all fees directly to the kennel or veterinary clinic, then the dog's owner or keeper shall be required to reimburse the Town for any expenses incurred in boarding that dog. If the dog has not been licensed, the owner or keeper shall obtain a license and pay any applicable fine before the dog can be released.
- e. Violation of Nuisance Dog or Dangerous Dog Order. An owner or keeper of a dog who fails to comply with an order of the Selectmen or district court issued pursuant to G.L. c. 140, § 157A shall be punished as provided in that statute.

Commented [MH2]: I edited this provision and moved it to it's own section to make it clear that the Town will not be assessing penalties under this statute for violations of the bylaw ... this statute is intended to only apply to violations of the statute. Still, it seems prudent to include a reference to the statute to make the Town and its residents aware of it's existence.

8. Discuss Liaison Assignment to Town Hall Interior Project

Included in your packet is an email from Joe McDonough regarding the process he envisions to retain a consultant and begin moving ahead on the Town Hall interior visioning and space utilization planning process. As you will note, he recommends and I agree that having a member of the Board assigned to this project would be ideal. Also included in your packet under correspondence is the October version of the board's work plan, which indicates that Marjorie had expressed an interest in this project earlier this year. I would assume that the Board would like her to serve, and have scripted the motion as such below.

MOVED that Marjorie Freiman participate as the Selectmen's Liaison to the Town Hall Visioning and Space Utilization Study.

Henderson, Heidi

From: Robinson, Blythe
Sent: Thursday, October 05, 2017 10:53 AM
To: Ellen Gibbs
Cc: Jop, Meghan; Henderson, Heidi
Subject: FW: Town Hall Visioning and Space Utilization Study: Selection Committee Representatives

Ellen,

As you can see, Joe would like us to discuss the kickoff of an RFP to select a consultant to do the Town Hall interior visioning. I'd like to add this to the agenda for Monday night at the end – are you good with that?

Thanks,
Blythe

Blythe C. Robinson
Executive Director- General Government
Town of Wellesley
525 Washington Street
Wellesley, MA 02482
P – 781-431-1019, ext. 2200
brobinson@wellesleyma.gov

From: McDonough, Joseph
Sent: Thursday, October 05, 2017 7:33 AM
To: Robinson, Blythe <brobinson@wellesleyma.gov>; Jop, Meghan <mjop@wellesleyma.gov>
Cc: LaFrancesca, Abbie <alafrancesca@wellesleyma.gov>; Gagosian, Steve <sgagosian@wellesleyma.gov>; Kennedy, Kevin <kkennedy@wellesleyma.gov>
Subject: Town Hall Visioning and Space Utilization Study: Selection Committee Representatives

Blythe and Meghan,

Following up on the discussion at yesterday's Staff Meeting, we are about to start the RFQ preparation for the referenced project. The tentative schedule is to have it advertised and available in mid-November, with a goal of issuing an NTP in late January. As discussed, I'd like to finalize the makeup of the consultant selection team as soon as possible, so that they'll have an opportunity to review the RFQ draft. At this point I'm assuming the selection team will include:

- Joe McDonough, Facilities Director
- Steve Gagosian, Design & Construction Manager
- Kevin Kennedy, Project Manager
- Blythe Robinson, Executive Director
- Town Hall Department Head(s) – TBD
- Selectmen Representative/Liaison – TBD
- PBC Representative – TBD

Steve Gagosian will ask PBC at their next meeting (10/11/17) if they want to designate a representative on the selection committee. ***I would appreciate it if you could ask the same of the Selectmen at their next meeting.*** I think it's also important to have at least one Department Head that works in Town Hall on the team – perhaps even two. ***Could you please let me know who you would like to be on the team from TH?***

Kevin Kennedy will be managing the project, but Steve and I will be taking the lead on drafting the RFQ and guiding Kevin through his first Wellesley study.

Thanks,
Joe

Joseph F. McDonough, P.E.
Facilities Director
Town of Wellesley
888 Worcester Street, Suite 370
Wellesley, MA 02482
(781) 489-4254 Direct
(781) 489-4266 Fax
jmcdonough@wellesleyma.gov

Please be advised that under the *Public Records Law, M.G.L. c.66*, any email created or received by an employee of Town of Wellesley may be considered a public record and subject to public disclosure. This email may also contain confidential and privileged material for the sole use of the intended recipient. Any review or distribution by others is strictly prohibited. If you are not the intended recipient please contact the sender and delete all copies.

TOWN HALL VISIONING AND SPACE UTILIZATION STUDY
WFMD-RFQ-FY18-002
PROJECT SCHEDULE

October 3, 2017	RFQ goals discussed with FMD staff
October 10, 2017	Selection committee established by FMD <ul style="list-style-type: none">• S. Gagosian, J. McDonough, K. Kennedy, B. Robinson, BOS liaison, Town Hall Dept. Head, PBC rep.
November 8, 2017 (Wed)	Facilities Submits Notice to Central Register & Townsman
November 10, 2017 (Fri)	RFP completed by FMD and approved by selection team
November 15, 2017 (Wed)	Notice Published in Central Register and RFP Available
November 16, 2017 (Thur)	Notice Published in Wellesley Townsman
November 21, 2017 (Tue)	Project Briefing and Tour at Town Hall at 10:00 am
December 1, 2017 (Fri)	Last day for proposer questions by 4:00 pm
December 7, 2017 (Thur)	RFP Submissions Due before 11:00 am
December 14, 2017 (Thur)	Finalists (Top 3) Selected by Committee
January 5, 2018 (Fri)	Finalists Interviewed at FMD – 9:00 am to Noon <ul style="list-style-type: none">• Recommended award (firm to negotiate with)
January 12, 2018 (Fri)	Award letter issued
January 19, 2018 (Fri)	Contract Executed
January 22, 2018 (Mon)	Notice to Proceed
January 4, 2019 (Fri)	Study completed

9. 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:

- ❖ Town Counsel Motion – Water Management Act Permit Litigation
- ❖ Police Department Presentation to Advisory Committee October 11, 2017
- ❖ Fire Department Presentation to Advisory Committee October 11, 2017
- ❖ Board of Selectmen Work plan as of October 2017
- ❖ Public Records Appeal Letter

J. Raymond Miyares
Thomas J. Harrington
Christopher H. Heep
Donna M. Brewer
Jennie M. Merrill

Rebekah Lacey
Ivria Glass Fried
Eric Reustle
Blake M. Mensing
Katherine E. Stock

October 10, 2017

Turner Smith
Office of the Attorney General
Environmental Protection Division
One Ashburton Place
Boston, MA 02108

Re: *Town of Wellesley, Dept. of Public Works, Water Division v.*
DEP, Norfolk Superior Court, CA No. SUCV2017-0944

Town of Hamilton v. DEP, Essex Superior Court, CA No.
17CV1142A

Opposition to Motion to Dismiss

Dear Attorney Smith,

Enclosed, please find the original and one copy of the Town of Wellesley and the Town of Hamilton's Opposition to the Department's Motion to Dismiss. Please let me know if you have any questions.

Sincerely,



Ivria Glass Fried

Encl.

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

TOWN OF WELLESLEY DEPARTMENT OF
PUBLIC WORKS, WATER DIVISION,

Plaintiff,

v.

THE MASSACHUSETTS DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Defendant.

Superior Court C.A. No. 2017-0944

CONSOLIDATED WITH:

TOWN OF HAMILTON,

Plaintiff,

v.

THE MASSACHUSETTS DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Defendant.

Superior Court C.A. No. 17CV1142A

**PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION TO DISMISS
AND REQUEST FOR ORAL ARGUMENT**

The Town of Wellesley, acting by and through the Water Division of its Department of Public Works, and the Town of Hamilton (together, the "Towns") seek (1) a declaratory judgment that the Department of Environmental Protection (the "Department") failed to issue renewal registration forms required by Section 6 of the *Water Management Act, M.G.L. c.21G* (the "WMA"), and 310 CMR 36.10(2); and (2) relief in the nature of *mandamus* requiring the Department to comply with its statutory

and regulatory obligations. The Department has improperly determined that the *Permit Extension Act*, St. 2010, c.240, §173 (as amended by St. 2012, c.238, §§74-75) (the “PEA”) absolves it of its statutory obligations by extending the expiration dates of the Towns’ existing registration statements by four years, from December 31, 2017 until December 31, 2021.

The Towns have standing to bring this appeal because, if the Department is wrong as to the effect of the PEA, the Department’s refusal to issue renewal registration statement forms as required will inevitably result in the expiration of the Towns’ WMA registration statements by operation of law on December 31, 2017 (*M.G.L. c.21G, §5*), essentially stripping the Towns of their ability to withdraw water. In addition, the Complaints state a claim upon which relief can be granted because the WMA and its regulations mandate that the Department provide WMA renewal registration statement forms to current registrants. *M.G.L. c.21G, §6; 310 CMR 36.10(2)*. This Court should therefore deny the Department’s Motion to Dismiss.

Moreover, this Court should treat the Department’s Rule 12(b)(6) motion to dismiss for failure to state a claim as one for summary judgment. Mass. R. Civ. P. 12(b) (“If, on any motion asserting the defense numbered (6), to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56....”). In addition, the undisputed facts set forth in the Department’s motion establish that summary judgment should be entered *in favor* of the Towns. “Summary judgment, when appropriate, may be

rendered against the moving party.” Mass. R. Civ. P. 56(c). Accordingly, this Court should issue a summary judgment granting the Towns their requested relief.

I. RELEVANT STATUTORY AND REGULATORY PROVISIONS

A. The Water Management Act

The *Water Management Act* governs withdrawals from water sources throughout the Commonwealth. In adopting the WMA in 1985, the Legislature did not intend to abrogate any preexisting water rights, but merely sought to regulate the exercise of significant new water withdrawal rights. Mass. S. Rep. No. 1826, Executive Summary, at 7-8 (1983) (“The Act’s requirement of water withdrawal permits for subsequent new users above the threshold amount would not apply to the existing withdrawals of water at the time of its effective date.”) (attached as “Exhibit A”). Thus, any public or private water supplier that filed a registration statement prior to 1988 is entitled to continue to withdraw water at its “existing”¹ volume for as long as it timely submits renewal registration statements every ten years. *M.G.L. c.21G*, §5 (“Upon the expiration of any initial or renewal registration statement..., the registrant shall be entitled, upon the filing of a renewal registration statement, to continue existing withdrawals specified in the registration statement for a period of ten years.”).²

By comparison, any new withdrawal or an increase in withdrawal volumes over the grandfathered (“existing”) volume requires a permit issued by the Department. *Id.* §7 (“No person may, after the effective date thus specified, make a new withdrawal of more

¹ Existing volume was measured as the volumes during the five years before 1986. *M.G.L. c.21G*, §2; 310 CMR 36.04.

² It is worth noting that the Department appears to confuse the renewal registration statement with the Department’s acceptance letter. However, the statute is clear that Registrants file “renewal registration statement[s]” with the Department. *M.G.L. c.21G*, §5. The Department can provide an acceptance letter, but the registration statement itself is a notice document that Registrants file with the Department.

than the threshold volume of water from any water source...unless such person obtains a permit in accordance with regulations adopted by the Department.”).

In *Water Dept. of Fairhaven v. Dept. of Environmental Protection*, 455 Mass. 740, 747-48 (2010), the Supreme Judicial Court explained the major difference between the two mechanisms applicable to water withdrawals that were created by the WMA:

Withdrawal by registration is treated very differently from withdrawal by permit.... Because the registrant's entitlement to existing withdrawals is grandfathered, the registrant is not required to obtain permission to continue existing withdrawals; it is simply required to provide information in the registration statement specified by the department's regulations.... Because no permission is needed to continue existing withdrawals,...the only decision the department needs to make is to ensure that the form, contents, and filing of the registration statement or renewal satisfies the regulatory requirements....

In contrast, withdrawal by permit can only be done, as the name implies, if permitted by the department.

(emphasis added). Although the Department is claiming, in this case, the authority to treat registration statements as if they were permits, the Supreme Judicial Court has recognized that they are quite different. *Id.* at 571 (holding that, while the Department may condition a permit as it deems appropriate, it may only conditions on registration statements only insofar as they do not infringe on registrants' entitlement to existing withdrawals).

As noted, registration statements expire every ten years. *M.G.L. c.21G, §5*; 310 CMR 36.10(2). All “[r]equests to renew a registration statement must be submitted on forms provided by the Department and be received by the Department six months prior to the expiration date.” 310 CMR 36.10(2) (emphasis added). The Department “shall accept any request to renew a registration statement that complies with [the regulations] and is

timely filed.” 310 CMR 36.10(3) (emphasis added). Accordingly, the Department is without any discretion; it is required to provide the necessary renewal registration statement forms and to accept any renewal registration statement submitted on that form if it satisfies the Department’s regulatory content requirements. *See Fairhaven*, 455 Mass. at 747 (“[T]he only decision the department needs to make is to ensure that the form, contents, and filing of the registration statement or renewal satisfies the regulatory requirements....”).

B. The Permit Extension Act

The *Permit Extension Act*, Section 173 of Chapter 240 of the Acts of 2010, as amended by Sections 74 and 75 of Chapter 238 of the Acts of 2012, established an automatic four-year extension to certain “approvals” that “concern the use or development of real property.” “Approval” is defined in the PEA, in pertinent part, as:

[A]ny permit, certificate, order, excluding enforcement orders, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination of rights from any...state governmental entity, concerning the use or development of real property....

St. 2010, c.240, § 173(a). Thus, the PEA makes clear that, in order for an agency’s action to fall within the definition of approval, two essential elements must be present: (1) The agency must have exercised its judgment to determine a party’s rights; and (2) the rights so determined must concern the use or development of real property.

The Massachusetts Executive Office of Housing and Economic Development has stated that “[u]se or development of real property concerns buildings or structures, or site work specifically associated with the development of buildings or structures....”

Massachusetts Permit Regulatory Office, Frequently Asked Questions³ (“MPRO FAQs”) (attached as “Exhibit B”) at 1 (emphasis added). Not all uses of real property are automatically subject to the four-year extension, but rather, only those uses that directly concern buildings or structures. See MPRO FAQs at *1-2 (“Even though [pre-development] activity may be deemed a precondition to making real property suitable for use or development, pre-development activities that are independently undertaken outside of a larger development project are not covered by the Act.”); see also MassDEP, Q&A on the Permit Extension Act⁴ (attached as “Exhibit C”) at 4 (stating that, “[a]lthough [aquatic nuisance control licenses] concern the use of real property they are not directly related to the use of buildings and structures on real property” (emphasis added), and thus, not subject to the PEA).

C. The Department’s Application of the PEA to the WMA

Until recently, the Department appears to have correctly recognized that the PEA did not apply to registration statements filed pursuant to the WMA. Specifically, in November 7, 2014, the Department’s revised its *Water Management Act* regulations, and incorporated the impact of the PEA into their provisions. In 310 CMR 36.17, the Department recited the expiration dates of current WMA permits and noted specifically that such dates were extended by virtue of the PEA. However, the regulations pertaining to registration statements, 310 CMR 36.10, did not incorporate any similar extension. To the contrary, they correctly and explicitly stated that registration statements have a ten-year term.

³ Available at <http://www.mass.gov/hed/economic/eohed/pro/zoning-laws/permit-extension-act-faq-updated-9-18-12-final.pdf>.

⁴ Available at <http://www.mass.gov/eea/docs/dep/service/approvals/faq-permit-extension-act.pdf>.

It thus was most surprising that, in response to the Towns' requests that DEP issue the essential renewal registration forms, the Department reversed its prior understanding and issued letters stating that "the PEA extended the term of all Water Management Act Registrations for an additional [four] years to December 31, 2021." Wellesley Compl. Exh. E; Hamilton Compl. Exh. G.

II. REGISTRATION HISTORY

A. The Town of Wellesley

In 1988, the Department accepted Wellesley's initial WMA registration statement pursuant to *M.G.L. c.21G*, §5, which secured and grandfathered the Town's right to withdraw 2.62 million gallons per day ("MGD") of water, with an annual total volume of 956.3 million gallons, for an initial ten-year registration period. Wellesley Compl. at ¶7 & Exh. A. On or about August 1, 1997, Wellesley filed its first renewal registration statement (*Id.* at ¶8 & Exh. B) and, on or about August 8, 2007, the Town filed its second renewal registration statement, thereby extending the date on which the rights thereby secured would expire to December 31, 2017. *Id.* at ¶¶9, 10 & Exh. C, D.

On June 9, 2017, the Department stated that it would not be providing a renewal registration statement form, as required by 310 CMR 36.10(2). Its stated justification for this refusal was that the *Permit Extension Act* "extended the term of all Water Management Registrations...to December 31, 2021." *Id.* at ¶15 & Exh. E. On June 27, 2017, in response to the Department's refusal, Wellesley filed a renewal registration statement using a template based on the form that the Department had most recently created and accepted in 2007. *Id.* at ¶20, & Exh. F. By letter dated July 6, 2017, the Department declined to accept this renewal registration statement and reiterated its

unfounded position that the PEA applies to WMA registrations. *Id.* at ¶21, & Exh. G. Despite the Department's assertion, if it is determined that the PEA does not apply to registration statements as seems obvious from the plain language of the PEA, Wellesley's registration will expire, by operation of law, on December 31, 2017, unless the Department accepts its renewal registration form.

B. The Town of Hamilton

Hamilton also filed its initial WMA registration statement in 1988, preserving its rights to withdraw water at a rate of 0.92 MGD with an annual total annual volume of 335.8 million gallons for an initial ten-year registration period. Hamilton Compl. ¶7 & Exh. A. In due course, Hamilton filed registration renewal statements in 1997 and 2007, extending the time during which it could withdraw water under its grandfathered rights to December 31, 2017. *Id.* at ¶¶8, 10, 11, 13 & Exh. B, C, D, E.

On May 11, 2017, Hamilton requested a copy of the required renewal registration statement form from the Department. *Id.* at ¶16 & Exh. F. By letter dated June 9, 2017, the Department responded to this request, informing Hamilton that it would not be providing the requested form because the PEA had "extended the term of all Water Management Registrations...to December 31, 2021." *Id.* at ¶17 & Exh. G. On July 10, 2017, in response to the Department's refusal to issue the form, Hamilton filed, a renewal registration statement, using as a template the form that the Department had most recently created and accepted in 2007. *Id.* at ¶22, & Exh. H. On July 20, 2017, the Department declined to accept Hamilton's renewal registration statement, again relying on its unfounded position that the PEA applies to WMA registrations. *Id.* at ¶23, & Exh. I. Again, despite the Department's assertion, if it is determined that the PEA does not apply

to registration statements as seems obvious from the plain language of the PEA, Hamilton's registration will expire, by operation of law, on December 31, 2017, unless the Department accepts its renewal registration form.

III. PROCEDURAL HISTORY

On August 1 and August 2, 2017, Wellesley and Hamilton filed complaints in the Superior Courts for Norfolk and Essex Counties, respectively. See Wellesley Compl.; Hamilton Compl. The Towns seek declarations that the PEA does not extend the expiration date of their WMA registration statements and that the Department was required to issue a renewal registration statement form by June 30, 2017. Wellesley Compl. ¶¶ 22-24 (Count I); Hamilton Compl. ¶¶ 24-26 (Count I). In addition, the Towns seek orders compelling the Department either to (1) issue a registration renewal statement form, or (2) accept the registration renewal statements filed by the Towns in June and July of 2017, respectively. Wellesley Compl. ¶¶ 25-28 (Count II) & Prayer for Relief; Hamilton Compl. ¶¶ 27-30 (Count II) & Prayer for Relief. The cases were consolidated in Norfolk Superior Court on September 11, 2017. On September 19, 2017, the Department filed its Motion to Dismiss.

IV. ARGUMENT

The Department's Motion to Dismiss is wholly centered on the faulty premise that, because it has determined that the PEA extends the expiration dates of the Towns' registration statements, there is no harm to the Towns, no duty for the Department to act, and no standing for the Towns to assert otherwise. This reasoning is obviously entirely circular: The Department is claiming that the Towns may not challenge its application of the PEA to their registration statements because the PEA applies to their registration

statements. Such logic cannot be used to support a Motion to Dismiss for lack of standing or failure to state a claim.

The Towns have properly alleged that their registered water withdrawal rights are about to expire, an injury resulting from the Department's incorrect application of the PEA to justify its refusal to issue or accept renewal registration statement forms. The Towns have also demonstrated that the Department has a clear-cut duty to issue those forms forthwith or, in the alternative, to accept the Towns' renewal registration statements as proffered.

A. The Department's Application of the PEA to WMA Registrations Immediately and Adversely Affects the Towns.

The Towns seek a declaratory judgment pursuant to *M.G.L. c.231A*, §§1 & 2, and relief in that nature of *mandamus* pursuant to *M.G.L. c.249*, §5. See Wellesley Compl. ¶¶22-28 & Prayer for Relief; Hamilton Compl. ¶¶24-30 & Prayer for Relief. While “[n]either G.L. c.231A (declaratory judgment) nor G.L. c.249, §5 (mandamus), provide an independent statutory basis for standing,” plaintiffs may establish standing by alleging “an injury within the area of concern of the statute or regulatory scheme under which the injurious action has occurred.” *Indeck Maine Energy, LLC v. Comm’r of Energy Res.*, 454 Mass. 511, 516-517 (2009); *Bonan v. Boston*, 398 Mass. 315, 320 (1986) (standing requires “a definite interest in the matters in contention in the sense that [a plaintiff’s] rights will be significantly affected by a resolution of the contested point.” (citation omitted)). Furthermore, subject to various limitations, standing in a declaratory judgment matters “should be liberally construed.” *Mass. Ass’n of Indep. Ins. Agents & Brokers, Inc. v. Comm’r of Ins.*, 373 Mass. 290, 293 (1977).

“[P]ersons who have themselves suffered, or who are in danger of suffering, legal harm can compel the courts to assume the difficult and delicate duty of passing upon the validity of the acts of a coordinate [sic] branch of the government.” *Perella v. Mass. Turnpike Auth.*, 55 Mass. App. Ct. 537, 539 (2002) (internal quotations omitted). Courts reviewing a complaint for standing will ask “whether the [plaintiffs]...have identified an interest created for them by the statute and a reasonably definite injury to that interest caused by a breach of duty by the [defendant].” *Prof'l Fire Fighters of Mass. v. Commonwealth*, 72 Mass. App. Ct. 66, 76 (2008).

Here, the Complaints raise “real, not hypothetical, controversies” and resolution of the appeal will have “an immediate impact on the rights of the parties.” *Mass. Ass'n of Indep. Ins. Agents & Brokers, Inc.*, 373 Mass. at 292. The Department has failed to provide the WMA renewal registration statement form, as required by 310 CMR 36.10(2). The Department does not contest the fact that it is obligated to provide the renewal registration statement form no later than six months before a registration's expiration or that it has failed to do so in this case. See Memorandum in Support of Motion to Dismiss at pp. 4, 6-8. Therefore, as outlined in the Towns' Complaints, the Towns' allegation that their WMA registration statements will expire at the end of this year, unless this Court provides an appropriate remedy, states a real injury and controversy. The Department's refusal to comply with its legal obligation to provide the renewal registration forms has denied the Towns of their ability to renew their registration statements in a timely manner, potentially stripping them of their rights to withdraw water at their grandfathered level and directly infringing on their ability to supply water to their communities.

The Department attempts both to justify its unlawful failure to act and to challenge the Towns' standing by presuming that a Court will similarly assume that the PEA extends the expiration date of WMA registration statements by four years. Not only is this position legally untenable as a defense of its actions, it is preposterous as a basis for claiming that no harm has come to the Towns as a result of the Department's failure to issue renewal registration statement forms.

First, and as described *supra*, the Department's position that the PEA applies is contradicted by the clear language of the PEA. As noted, the PEA pertains only to certain "approval[s] or determination[s] of rights...concerning the use or development of real property." St. 2010, c.240, §173(a). Registration statements are conspicuously absent from the statutory list of enumerated "approvals" to which the PEA applies. *Id.* Thus, the Department's interpretation⁵ is nothing more than another effort to obscure the distinction between a WMA permit and a registration statement, despite the clear distinction recognized in the *Fairhaven* decision. 455 Mass. at 747-48.

Neither is a registration statement a "determination of rights," as that term is used in the PEA. St. 2010, c. 240, §173(a). Again, the *Fairhaven* decision makes this point clear. See 455 Mass. at 747 ("[T]he only decision the department needs to make is to ensure that the form, contents, and filing of the registration statement or renewal satisfies the regulatory requirements.").

Registration statements also do not "concern...the use or development of real property," within the meaning of the PEA. St. 2010, c. 240, §173. Registration statements

⁵ Note that the Department's interpretation is not entitled to any deference by this Court since the Department is not charged with its administrative enforcement. Compare *Commerce Ins. Co. v. Comm'r of Ins.*, 447 Mass. 478, 481 (2006) ("We give substantial deference to a reasonable interpretation of a statute by the administrative agency charged with its administration enforcement.").

do not authorize the construction of “buildings or structures.” MPRO FAQs at 1 (emphasis added). The Department’s contrary claim improperly asserts that WMA registration statements concern structures because they “require installation and maintenance of meters.” Motion to Dismiss at 16. However, the registration statements are the notice documents that the registered communities provide to the Department. Such documents do not impose any conditions on registrants to install or maintain meters.⁶ Furthermore, the Department’s WMA regulations do not impose any maintenance requirement on registrants; thus, any attempt to require such maintenance would be *ultra vires*. See 310 CMR 36.07. The Department’s contention is a transparent attempt to concoct a justification for a legal position that lacks any basis in logic or law.

The Department’s reliance on *Prudential Ins. Co. of Am. v. Bd. of Appeals of Westwood*, 18 Mass. App. Ct. 632, 633 (1984) to assert that the Towns are benefited by application of the PEA to their registration statements, and therefore lack standing, is misplaced. In *Westwood*, abutters sought to intervene in an action, pursuant to *M.G.L. c.40A*, §17, by a property owner appealing the Board of Appeals’ denial of site plan approval. Section 17 allows intervention only where the party qualifies as a “person aggrieved by a decision of the board of appeals.” Although the abutters fully supported the decision of the Board, they sought intervention nonetheless to demonstrate that the site plan failed to satisfy other requirements. The Court held that the abutters, who ultimately concurred with the decision of the Board, were not aggrieved and therefore not entitled to intervene in the case.

⁶ Even if the Department’s acceptance form were considered to be the “renewal registration statement,” the Department’s initial acceptance letters from 1988 did not require installation of meters because the Towns’ meters were already installed and operational before the registration statements secured their grandfathered rights. See Wellesley Compl. Exh. A and Hamilton Compl. Exh. A (“Install source meter(s) for all these points: N/A.”).

In comparison, the Towns in this case most assuredly do not concur in the Department's decision, which will not benefit them, but rather will result in the expiration of their registration statements. Nor, in an action that does not involve an appeal from a quasi-judicial ruling, does the Plaintiff have to assert and demonstrate that it is aggrieved. The challenged action in this case will cause immediate harm to the Towns, and such harm falls within the scope of interests the WMA seeks to protect. The Towns therefore have standing to bring this suit.

If the Towns are not allowed to challenge the Department's failure to act under the WMA, they will be left with no defense when their continuing right to withdraw water is later challenged.⁷ The law is clear that the only way to preserve the Towns' water withdrawal rights is to file renewal registration statements every ten years. Without having a renewal registration statement on file, the Towns' withdrawal rights will have expired. This Court should therefore recognize the Towns' standing to protect their grandfathered rights.

B. Relief in the Nature of *Mandamus* Is Proper Because the Department Has Violated a Clear-Cut Duty under the WMA and Its Regulations to Provide Renewal Registration Statement Forms to Registrants or, in the Alternative, to Accept the Renewal Registration Statements Proffered by the Towns.

The Department incorrectly asserts that relief in the nature of *mandamus* is inappropriate because it is under no clear-cut duty to provide registration renewal statement forms or to accept renewal registration statements until 2021 by virtue of the PEA. However, the Department's premise is legally unfounded. As explained in detail

⁷ The Ipswich River Watershed Association has already challenged the validity of Hamilton's registered volume in a prior proceeding. See *Town of Hamilton v. Massachusetts Department of Environmental Protection*, Memorandum of Decision and Order on Cross Motions for Judgment on the Pleadings, Essex County Court Civil Action No. 06-745, *4, n. 5 (Jul. 18, 2007) (attached hereto as "Exhibit D.").

above, the PEA does not apply to WMA registration statements. Accordingly, the Department has failed to comply with its statutory and regulatory obligation to provide registration renewal statement forms, and relief in the nature of *mandamus* should be granted.

“A complaint in the nature of mandamus is ‘a call to a government official to perform a clear cut duty,’ and the remedy is limited to requiring action on the part of the government official.” *Ardon v. Comm. for Pub. Counsel Serv.*, 464 Mass. 1001, 1001 (2012) (quoting *Simmons v. Clerk-Magistrate of the Boston Div. of the Hous. Court Dept.*, 448 Mass. 57, 59-60 (2006) (quoting *Doe v. Dist. Attorney for the Plymouth Dist.*, 29 Mass. App. Ct. 671, 675 (1991))). Such an action “is appropriate to compel a public official to perform an act which the official has a legal duty to perform.” *Lutheran Serv. Ass’n of New England, Inc. v. Metro. Dist. Comm’n*, 397 Mass. 341, 344 (1986). While *mandamus* “is not an appropriate remedy to obtain a review of the decision of public officers who have acted and to command them to act in a new and different manner” (*Harding v. Comm’r of Ins.*, 352 Mas. 478, 480 (1967)), it is appropriate to compel public officials to undertake ministerial acts that they have failed to perform. See *Murray v. Commonwealth*, 447 Mass. 1010, 1010 (2006) (rescript); see *Carpenter v. Bristol Cnty. Comm’rs.*, 38 Mass. 258, 259 (1838) (“If [the legal duty to act] be ministerial, then the *mandamus* will direct the specific act to be performed.”).

In this case, the Department does not (and, indeed, cannot) argue that the Towns have another adequate and effective remedy at law. *L.G.G. v. Dept. of Social Servs.*, 429 Mass. 1008, 1008 (1999) (rescript) (*mandamus* is an extraordinary remedy which will be

granted only when there exists no other adequate and effective remedy).⁸ Neither does it dispute that the WMA creates a clear-cut legal duty to provide renewal registration statement forms at least six months prior to the expiration of currently effective registrations statements. See Motion to Dismiss at p. 4; 310 CMR 36.10(2) (“Requests to renew a registration statement must be submitted on forms provided by the Department...”). Because the PEA does not extend the expiration of the Towns’ registration statements to 2021, the Department has a clear and explicit duty to act. 310 CMR 36.10(2).⁹

C. The Court Should Treat the Department’s Motion to Dismiss as One for Summary Judgment.

Respectfully, if this Court finds that the Towns have standing to bring this suit (which it must), it should treat the Department’s Motion to Dismiss for failure to state a claim as one for summary judgment. Mass. R. Civ. P. 12(b) provides, in pertinent part as follows:

If, on any motion asserting the defense numbered (6), to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56...

Here, the Department has argued that the Towns’ Complaints fail to state a claim upon which relief can be granted, and both parties have submitted materials outside the pleadings. The Court should therefore convert the Department’s motion into one for

⁸ 310 CMR 36.37(1), which provides that “[a]ny person who is aggrieved by a decision of the Department with respect to any...registration statement...may request an adjudicatory hearing before the Department,” is inapplicable here because the Department has not made any “decision,” but rather, has failed to comply with its legal duty to provide a registration renewal form.

⁹ The Department states that the Towns’ interpretation would risk premature termination of WMA and groundwater permits. See Motion to Dismiss at p. 15, n. 5. The fact that a decision in this case might impact other decisions of the Department cannot form the justification for a Motion to Dismiss.

summary judgment, finding in favor of the Towns that the PEA does not apply and that the Department has failed to comply with its obligation under the law to issue renewal registration statement forms.

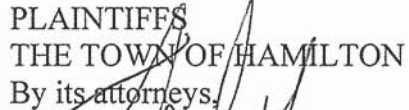
V. REQUEST FOR ORAL ARGUMENT

The Towns respectfully request that the Court hold a hearing on this important motion. Pursuant to Super. Ct. R. 9A (c)(c), a hearing on both motions to dismiss under R. 12 and motions for summary judgment under R. 56 are presumptively entitled to a hearing.

VI. CONCLUSION

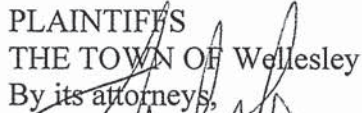
For the reasons stated above, this Court should find that the Towns have standing to bring this action and that the Department has a clear-cut obligation to issue renewal registration renewal forms forthwith or, in the alternative, accept the renewal registration statements proffered by the Towns.

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THE TOWN OF HAMILTON
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PLAINTIFFS
THE TOWN OF Wellesley
By its attorneys,



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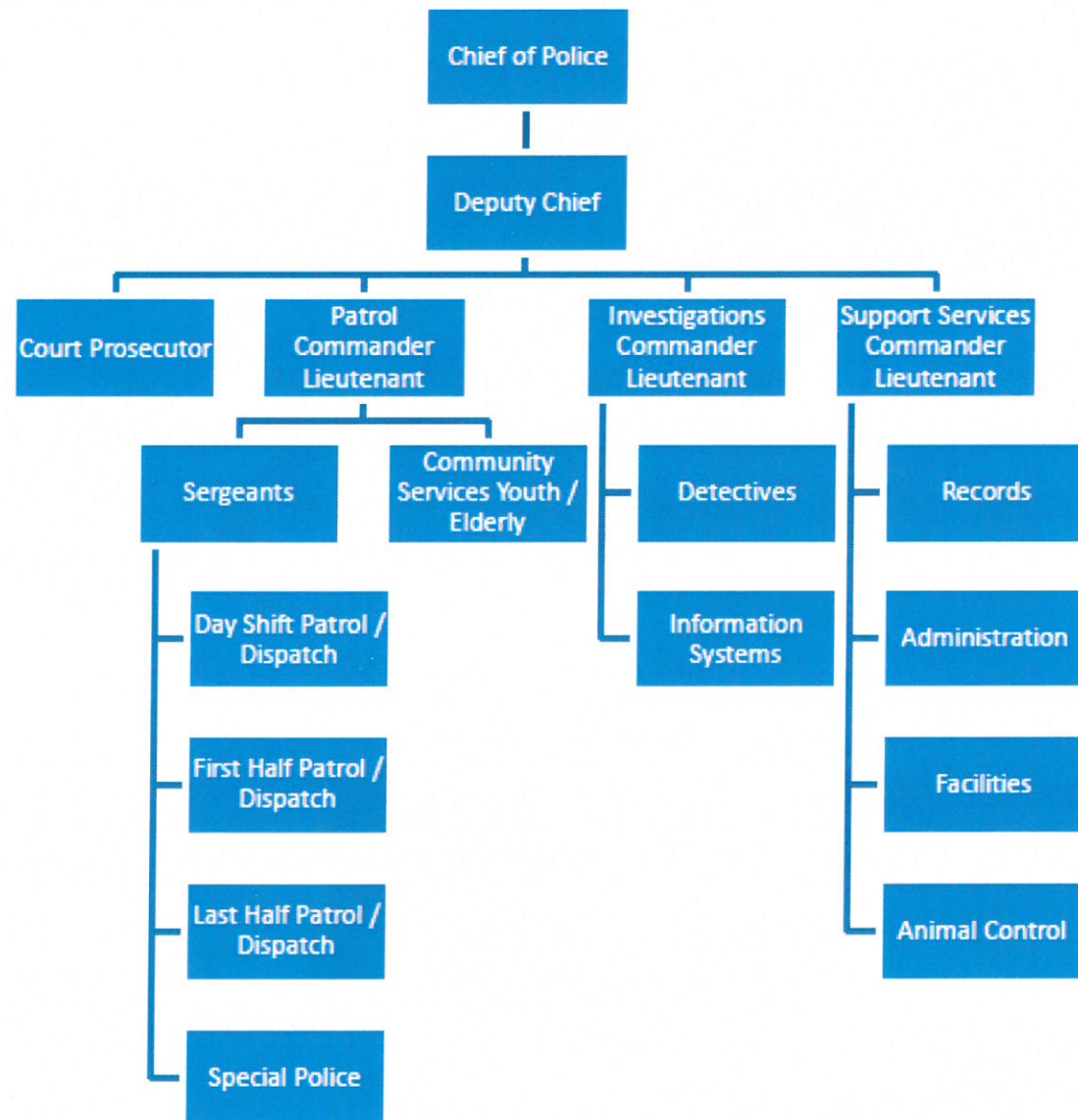
Dated: 10/10/17



WELLESLEY POLICE

Advisory Committee
October 11, 2017

Wellesley Police Department Organizational Chart





Police Department's Staffing

- 44 full time officers:
 - Chief
 - Deputy Chief
 - 3 Lieutenants
 - 6 Sergeants
 - 33 Patrol Officers
- Animal Control Officer
- 10 Civilian Dispatchers
- 3 Administrative Staff
- 1 IT Programmer/Analyst

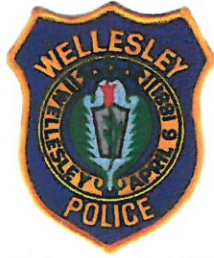


Staffing Continued...

- 3 Lieutenants
 - Patrol Division Commander
 - Oversees all departmental patrol operations as well as the Emergency Communications Center.
 - Administrative duties include running the department's firearms and less lethal weapon training.
 - Oversight of the department's radio equipment.
 - Maintaining the department's website and social media accounts.
 - Assist Chief with administration of all departmental training.

Staffing Continued...

- 3 Lieutenants continued
 - Bureau of Criminal Investigation
 - Oversees all aspects of the detective division to include direct oversight of 4 detectives and management of their caseload.
 - Administrative duties include oversight of all evidence, seized property, appropriate destruction of all prescription drugs turned into the agency.
 - Management of all seized assets/forfeitures as a result of criminal investigations.
 - Maintains own investigative caseload.



Staffing Continued...

- 3 Lieutenants continued
 - Administrative/Support Services
 - Assist Chief with preparation and management of the department's capital and personal services budget.
 - Assist Chief with preparation and administration of the State 9-1-1 Grants, Pedestrian Safety Grant and Highway Safety Grant.
 - Assist Chief with the administration and management of police entrance exams, background investigations and hiring as well as promotional exams and assessment centers.
 - Assist with oversight of FMD capital projects (HVAC rehabilitation, Roof and Envelope Project)
 - Oversight of all lost/found property



Staffing Continued...

- 6 Sergeants
 - 4 assigned to patrol supervisor duties 24/7/365
 - In addition to regular patrol duties these sergeants are responsible for firearms licensing, hawker & peddler licensing, management of the field training program, oversight of accident reconstruction unit, oversight of warrant apprehension officers, CJIS representative, traffic enforcement to include addressing all traffic concerns brought to the attention of the department and deployment of speed trailers and many other ancillary duties.
 - 2 assigned a combination of patrol supervisor duties and administrative ancillary duties (accreditation, policy review and updates, community police relations, assist school department with security assessments/security).



Staffing Continued...

- 33 Patrol Officers
 - 27 officers assigned to cover patrol shifts and traffic safety 24/7/365
 - 4 officers assigned to the Bureau of Criminal Investigations
 - 1 officer assigned as the court liaison officer/court prosecutor
 - 1 officer assigned as the school resource officer/youth officer
 - Several patrol officers are assigned ancillary duties (domestic violence officer, elder affairs officer, accident reconstruction investigators, bicycle patrol, public housing liaison, background investigators, firearms instructors, less lethal weapons instructors, fleet maintenance, maintaining the City Watch system, home and business security surveys and car seat inspections)



Staffing Continued...

10 Civilian Dispatchers

- 2 Dispatchers assigned per shift

Implementation of Next Gen 9-1-1 system occurred in October

- Replaced 1960's system architecture design
- Transitioned from analog to "IP" system to support voice, data, texting and video
- Allows interoperability between PSAPs in Mass and now between states (cell phone calls) and seamless sharing of calls between PSAPs during an emergency
- Greatly enhanced reliability, faster connectivity
- Enhanced mapping capabilities (property parcel data including aerial view images)
- Improved reporting (call volume, average busy hour, call answer time)



Staffing Continued...

- All 9-1-1 cell phone calls that were previously directed to the State Police will now be directed to the Wellesley Emergency Communications Center as a result of the Next Gen 9-1-1 systems enhanced GPS technology.
- In FY16 the communications center received an average of 4,000 calls monthly. We expect a significant increase in the amount of calls received with all 9-1-1 calls being routed directly to us.
- While this increasing the call volume it will ultimately save time when dispatching police, fire and medical services as 9-1-1 calls do not need to be redirected to us from the State.



Shift Capacity

- The department provides 24/7 coverage by deploying three, eight and one half hour shifts; officers are assigned to a five day on, three day off cycle, eight day work cycle:
- Day shift 0800-1630
 - (5 officers and a supervisor)
- First Half shift 1600-0030
 - (5 officers and a supervisor)
- Last Half shift 0001-0830
 - (4 officers and a supervisor)

Community Outreach

- Chief Pilecki fulfilled the Wellesley Police Department's pledge to participate in the One Mind Campaign by completing the following:
- Established a clearly defined and sustainable partnership with one or more community mental health organizations, the department has a longstanding relationship with Riverside Community Care.
- Develop and implement a model policy addressing police response to persons affected by mental illness, which was developed and implemented this policy during our certification and accreditation process.
- Train and certify all Wellesley Police Department officers in mental health first aid.
- Provide Crisis Intervention Team (CIT) training to a minimum of 20 percent of sworn officers.

Community Outreach Continued...

- The Wellesley Police Department participates in many programs to help break down barriers that may exist between the police and the public.
- Coffee With a Cop
- Citizen's Police Academy
- Annual Open House
- Park and Walk Assignments
- Youth Academy
- Restorative Justice
- Elder Services Officer
- Youth Engagement in Schools and on Playgrounds



Community Outreach Continued...



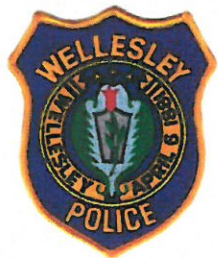


Community Outreach Continued...



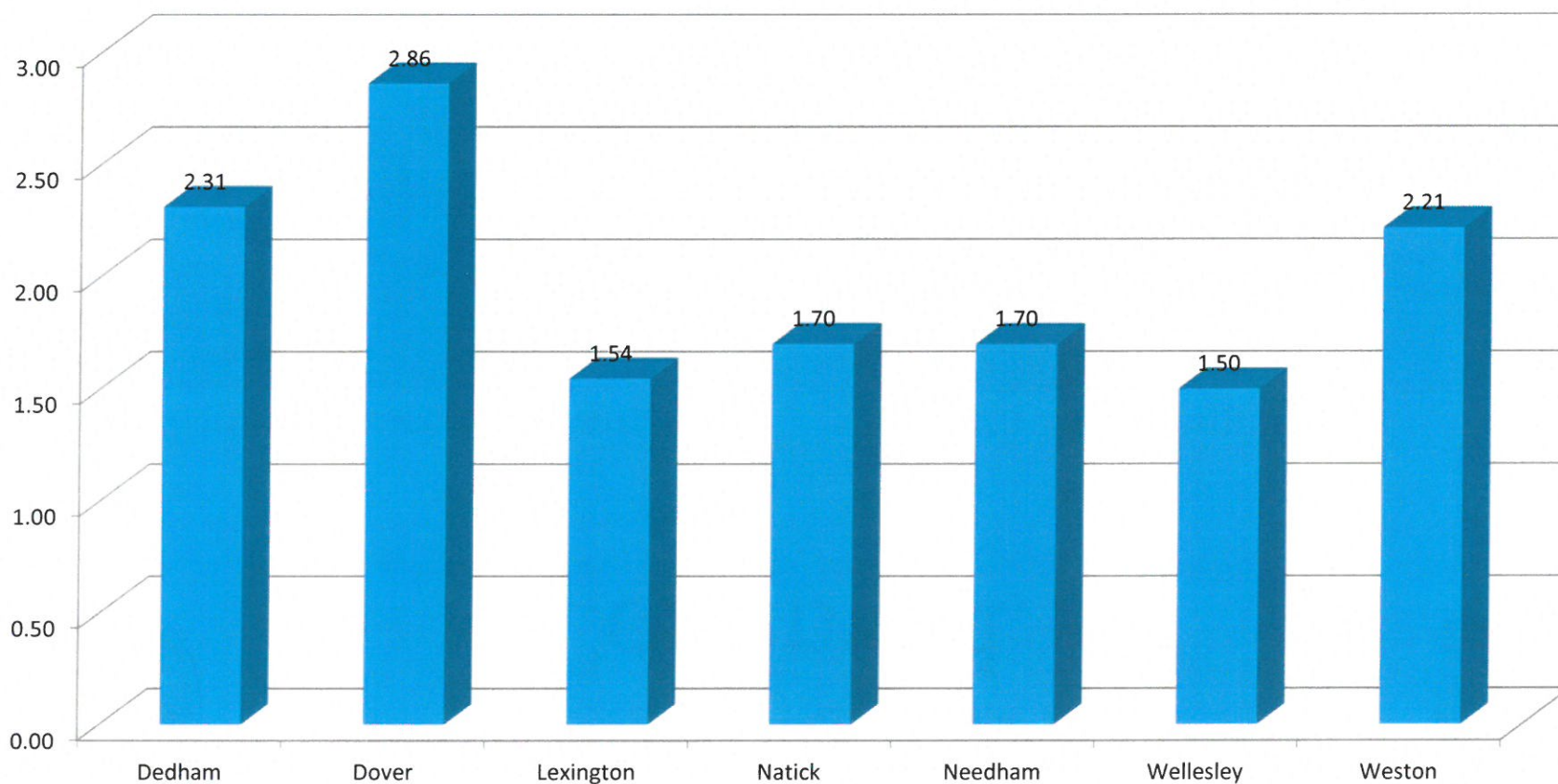
- Elder Service Programs
- Youth Engagement





Benchmarking

Officers per 1,000 residents





Benchmarking

	Dedham	Dover	Lexington	Natick	Needham	Wellesley	Weston
Calls for Service	22,284	15,872	12,936	19,691	31,462	32,411	37,530
Alarms	1,627	683	1,428	1,315	1,293	1,650	1,378
Arrests	243	22	93	438	112	167	110
Summonses	357	36	189	699	219	410	153
Citations	6,143	831	3,934	4,136	3,519	7,682	3,170
MV Crashes	1,091	51	856	887	461	1,052	523
Medical Calls	2,628	117	128	2,828	1,116	1,877	935

Training Mandates

- All officers must attend an annual in-service training course. The content of this in-service training is determined by the Municipal Police Training Committee each year. The training covers topics such as:
 - Legal Updates/Hate Crimes
 - CPR/AED/First Responder
 - Defensive Tactics
 - Cyber Crimes
 - Domestic Violence
 - Firearms

Additional Training

- Mental Health First Aid for 1st Responders
- Additional Firearms, Use of Force and Less Lethal training to augment what is mandated by the MPTC.
- De-escalation Training
- Simmunitions Training
- There are additional required recertification training classes for officers who hold specialized certifications.

Wellesley Fire/Rescue



*Advisory Board Presentation
October 11 2017*

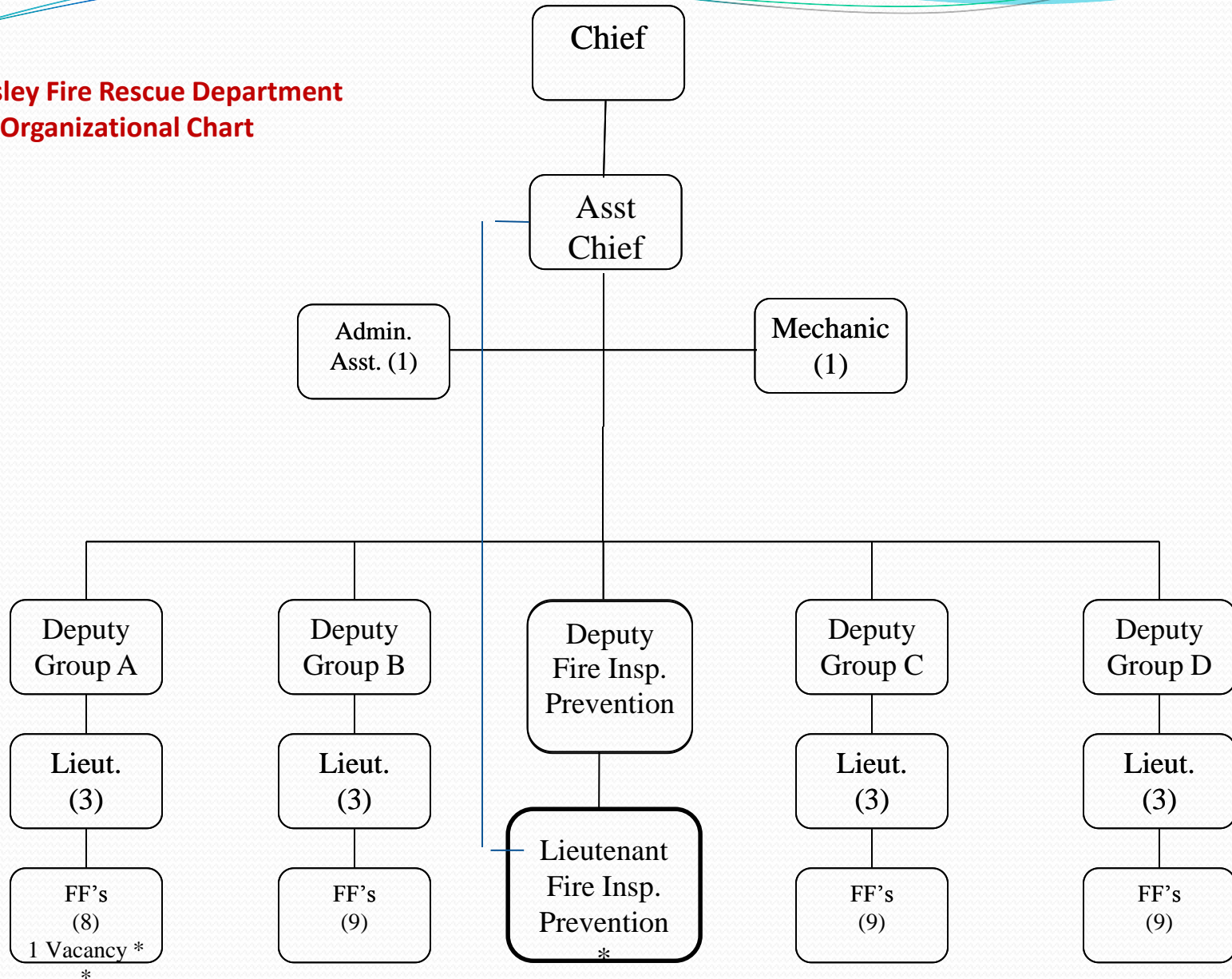
AGENDA

- Overview of the WFD
- Mission/Staffing
- Stations, Apparatus and Equipment
- Updates on prior initiatives
- Current needs and priorities

Mission Statement

The Mission of the Wellesley Fire Rescue Department is a commitment to excellence toward providing services for the preservation of life, property and the environment.

**Wellesley Fire Rescue Department
Organizational Chart**



Responded to 4221 calls for service and train everyday



Fire Stations / Apparatus Status

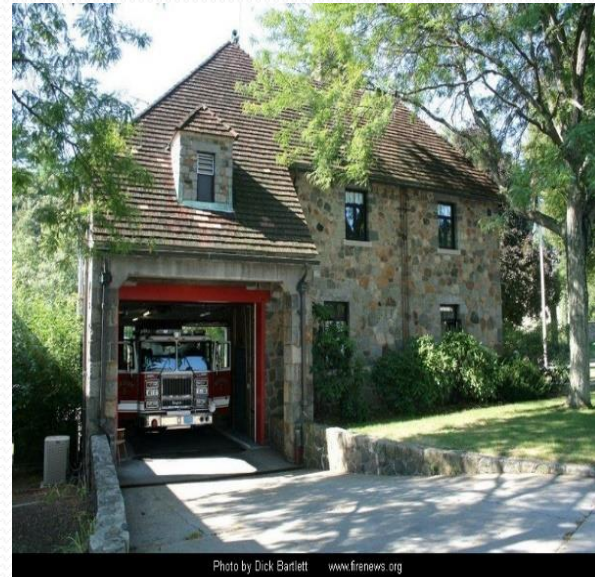


Photo by Dick Bartlett www.firenews.org



Photo by John Galle www.firenews.org

Past Initiative Update

- Departure of civil service 2012
- The new hiring process, more opportunities for Residents, existing town employees and veterans are provided significant consideration and in conjunction with a nationally based standard aptitude test. 8 hired & 4 oncoming
- Promotional process: 25% written examination; 25 % Chief evaluation and interview and 50% assessment center by outside vendor based upon the values as determined by the job function at WFD (1- Lieutenant promoted, 1- awaiting promotion) 6 each passed the Dep/Lt last exam, double the last test three years ago)

Past Initiative Update

- **Metro-fire** is a mutual aid and resource association of 34 communities surrounding Boston on the route 128 belt. Wellesley benefits from the specialized resource capability of Metro-fire which include: HAZMAT, Dive team and technical rescue capabilities.
- **Statewide /Regional Technical Rescue Team**
- Wellesley has 4 firefighters on this team.

Current Departmental Priorities

- Enhanced personnel training; Live Fire, EMS, HAZMAT and Supervisory training.
- Collaborative efforts with state/regional specialized teams (Dive and recovery/Hazmat /Tech Rescue) 1 Officer on State Hazmat Team, 4 firefighters on Norfolk County Tech Rescue Team
- Fire Prevention Position was filled to meet the inspectional and grant procurement challenges of the department. Lieutenant is a combination of existing F.F. position funds and training funds.

(This initiative began in 2015 after several years of requests. We will seek the restoration of funds to fill in the vacated F.F. position in FY20 as discussed in the prior two years.)

Current Departmental Priorities

- Continue to expand the **electronic inspectional program** utilizing software and Ipads obtained through the EMPG (Emergency Management Planning Grant) program.
- Currently implementing a **new electronic policy & procedures system** which will allow for the consolidation and integration of current General Orders, policies and procedures into one location allowing for personnel to have instant electronic access to information that was previously located in several areas within the department.
- This new system will also allow for policies and procedures to be put in place that will allow for electronic confirmation that all personnel have received the most current information across all four groups to enhance coordination of all aspects of the dept.

Emergency Services Provided

- Fire Suppression
- Emergency Medical
- Rescue & Hazardous Conditions
- Service Calls
- Mutual Aid

Fire Prevention Services Provided

- **In-Service inspections:**

Lieutenants and the engine company personnel are assigned to conduct basement to roof inspections to identify potential hazards and maintain familiarity with the layout of the structures in our community. There are twelve inspectional routes and each Lieutenant is assigned a different route each period, taking 6 years for an officer to complete the entire commercial inspectional process. The following inspections are conducted to meet the above inspectional objectives:

- | | | |
|---|--------------|------|
| <u>Commercial Property Inspections</u> | Twice yearly | 1080 |
| Healthcare Facilities | Quarterly | 56 |
| Schools Inspections | Quarterly | 60 |

- **Total Inspectional Permits** **1045**

Smoke Detector Inspections, Fuel Oil Tank Removal, Fuel Oil Tank Installation ,Welding Permits, Sprinkler Installation Permits, Chapter 304 Liquor License inspections, Fire Alarm Installation Permit

- **Commercial and Residential New Construction or Modification Plan Reviews:**

Budget Drivers

- Fire Rescue operates 24 hours a day/ 365 days/year
- We staff 4 fire suppression groups of 13 personnel. NFPA staffing recommendation is 14 per group under normal conditions for a community like Wellesley.
- We have one ability to limit operational cost of overtime; reducing shift staffing. The cost of staffing reduction is an increased risk to staff and citizens.
- We have been forced by budget constraints to staff at 11 personnel as our baseline, and adjust staffing higher than 13 to meet the challenges presented by weather conditions, often at the expense of training.

Budget Drivers

- Firefighters have earned contractual time and it's necessary to cover most absences.
- We have a highly committed staff and no systemic abuse of time off: Only 2 injuries (long term) last year of 53 firefighters responding to 4221 calls, plus training.
- One long term injured firefighter has recovered and the second will not recover and is being processed for retirement

Budget Highlights

- Personal Services Budget
 - Firefighters Union contract was settled through 2020 at guideline.
 - The transition of ambulance service from AMR to Cataldo was smooth and the community continues to receive a high level of ALS service to Wellesley residents and they provide required recertification training to our staff at no cost to the Town.

BUDGET STRUCTURAL DEFICIT

- **FY 2018 TOTAL PERSONAL, HOLIDAY AND VACATION ALLOTMENT = 1156 shifts**
- **The Budget can cover approximately 945 shifts, leaving short staffing over 200 shifts and that doesn't include any sick or injured time.**
- **Last year we requested a transfer from fire expenses to the fire operational budget to cover a potential deficit, we managed without using these funds**
- **We will continue to work to monitor staffing levels and make budget recommendations toward closing of the coverage deficit. This is necessary to more appropriately schedule staffing and training. Closing the deficit will result in limiting the fluctuations in staffing coverages which enhances the safety of the firefighters and citizens.**

Live Fire Training

Fire Experience = Enhanced Safety



- Working with Boston Fire Commissioner Joe Finn to coordinate
- Training will take place at the Boston Fire Academy
- Each group of Wellesley Firefighters will conduct several evolutions involving different fire scenarios: 1st floor, 2nd floor and basement. we hope to invite a Selectmen and Advisory members to attend. We appreciate the support this committee has provided the Fire Department towards keeping our community and firefighters safe.



QUESTIONS?

Email: rdelorie@wellesleyma.gov

Wellesley Fire & Rescue Department

Selectmen's Office Work Plan - FY18 - October, 2017

Project	Issue or Current Status	Next Steps	Resources Required	BOS Liaison	Staff Assigned	Completion Date
<u>MAJOR PROJECTS</u>						
HHU - School Bldg Comm.	Awaiting MSBA Program Decision	RFP ready, swing space being studied	\$\$ for Proof of Concept/Feasibility	Jack	SC & BOS	
Unified Plan	Draft Plan received, review beginning	Meet with Steering Comm. about draft		Marjorie/Ellen	Meghan, Michael	ATM - 2018
900 Worcester	PSI Process complete, at ZBA for site plan	complete ZBA and wetlands approvals	Review by Planning, MassDOT	Tom	Meghan, Blythe	Fall, 2018
North 40 Plan	Phase II Landfill closure testing complete	Review Phase II Findings - Estab. Comm.	\$75K approved for closure work	Marjorie	Blythe, DPW	Dec. 2017
Town Hall Envelope Repair	Design underway	Periodic review with PBC, other boards	Request Const funding at ATM		Joe	March, 2018
Wellesley Media	Expand Locations for filming public mtgs	Complete TPC this month, Warren Bldg '18	Wellesley Media funding upgrades	Tom		Aug. 2017
Route 9/Kingsbury Upgrade	Install new traffic signal	Project delayed, compl.date November?		Ellen	Meghan	Aug. 2017
40B Housing Projects	5 projects pending, 1 anticipated	HPP RFP Advertised, responses due 10/13	Funding approved, staff time	Marjorie/Ellen	Meghan, Michael	
<u>OTHER PROJECTS -</u>						

Transportation Adv. Group	Form working group to outline a charge			Ellen, Deb	Meghan	
Town Hall Interior Visioning	Dev. process for vision, study space needs	Forming committee to work on RFP	Budget approved	Marjorie	Blythe, Joe	
DPW Work for Others	Program not transparent, value??	Meeting held on August 16th	N/A	Tom	Blythe, DPW	
Inter-Board Meetings	Ellen, Jack, Blythe, Meghan to discuss	Mtg held 9/28, schedule February & May				
<u>POLICIES/REGULATIONS:</u>						
Alcohol in Town Buildings	Explore regulations to allow this	Move ahead or hold off for a year?	Info from Town Boards, T. Counsel	Jack/Beth		Fall, 2017
BOS Handbook/Manual	Update/expand current policy manual	Marjorie has developed a new draft 10/2		Marjorie		
BYOB Regulations	Recommend a policy				Meghan	
Financial Policies/Proced.	Develop some policies, update existing	Review & then meet with Advisory			Sheryl, Blythe	
Health Insurance Policy	Town needs policy on ins. Eligibility	Draft policy for BOS & SC review			Blythe, Scott	
HR Manual/Handbook	Rough draft in process by HR Board				Scott	
PILOT Agreements	Develop policy for tax exempt properties	Data/info gathered, meet w/Ellen		Beth	Blythe	
Plowing of Private Ways	Town doesn't follow state law, dev. policy	Review DPW list of roads to eliminate		Beth	Blythe, M. Pakstis	June, 2018
<u>BYLAW UPDATES:</u>						
Animal Control	Existing bylaw does not meet State law	BOS to discuss draft Bylaw 10/16/17	Town Counsel assistance		Blythe, Meghan	ATM- 2018
Budget Process	Review existing bylaw & update				Blythe, Sheryl	
Recreational Marijuana Bylaw	Establish bylaw to prohibit shops	Discuss topic with depts & boards		Jack	Meghan, Michael	March, 2018
<u>STAFF MANAGED PROJECTS</u>						
Bldg Dept. Staffing	Monitor & coach re - admin. Staff				Blythe, Mike	
Community Compact	RFP - Digitizing public records drafted	Soliciting quotes	\$15,000 in State funding		Blythe	
Communications Plan	Draft Plan from state, waiting for revisions	Schedule next mtg w/the group Nov. 1 or 2	Hire a Comm. Mgr in BOS Office		Blythe, Brian	July, 2018
Project	Issue or Current Status	Next Steps	Resources Required	BOS Liaison	Staff Assigned	Completion Date
Electronic Permitting	Investigate options for Town	Work w/IT to ID vendors & applications	RFP drafted for discussion		Blythe, Brian	
Health Ins. Plan Changes	Develop Plan Alternatives & Strategy	Offer drafted - schedule 1st neg. session	Special Labor Counsel retained		Marc, Scott, Blythe	Sept. 2017
Land Availability Inventory						
Union Negotiations	6 contracts settled - Police Patrol/Sup not	Meetings with both unions underway	Town Meeting Appropriation		Scott, Meghan	Sept, 2017
<u>OTHER:</u>						

Bicycle Safety						
Great Hall Cleanup	Reduce # of offices, relocate files	Bldg dept plans removed, PBC by 7/30	Support from FMD to declutter		Blythe, Joe	6/30/2017
Town Counsel/Special Counsel	Discuss when outside counsel is needed					
PSI Follow Up Studies						

FUTURE PROJECTS/PROJECTS WITH OTHERS

SEC - Re-evaluate	Re-evaluate structure, charge	Possible Bylaw Update		Tom		
Town Parking Lot capacity	Discuss as part of HHU process					
War Memorial/Great Hall	Discuss with Town Hall Interior Vision					
Board Engagement						
Planning Board						
School Comm. Relations						
Revenue Gener. Opportunities	Table for now					
Community Dev. Department	Table for now					
Granite Street	Table for now					
Mass Bay	Table for now					
Housing Policy	Housing Production Plan RFP	Merge with UP findings				
Tax Classification Review	Revisit keeping single tax rate	Presentation on options - November 27th??		Tom	Donna	

COMPLETED PROJECTS

Hawkers & Peddlers	Revised version approved by BOS	Counsel has revised, BOS 2nd review			Blythe, Jack P.	6/5/2017
PBC/FMD Reorganization	MOU executed by BOS & PBC	Hiring for new positions underway	Funding in FMD budget	Marjorie	Blythe, Joe	6/26/2017
Veteran's District Reorg.	State Appr District Reord, Asst Dir Laidoff	Adjust work flow to remaining positions	N/A		Blythe, Sarada	6/30/2017
Website Redesign	Website went live on August 7th	Make ongoing refinements	Completed!		Brian	8/7/2017
FMD 5 Year Review	Review progress, next five years	Presented at 8/22/17 Meeting	Name change - Fac. Mgmt Dept		Joe	8/22/2017
Aqueduct Leases	All five leases executed	Completed on schedule			Terry	August, 2017
Budget Process Design	Budget Manual complete for FY19	Distributed, monitor input for future manual	N/A		Blythe, Sheryl	Sept. 2018

NEW PROJECTS/NOT ON ORIGINAL WORKPLAN

Appointments Policy	Policy to guide how BOS appts are made	Approved at 9/11/17 Meeting	Completed	Ellen/Jack	Blythe	9/11/2017
Modifications to Alcohol Regs	Eliminated 10 bar seat max	Completed 9/11/17	Completed			9/11/2017

J. Raymond Miyares
Thomas J. Harrington
Christopher H. Heep
Donna M. Brewer
Jennie M. Merrill

Rebekah Lacey
Ivria Glass Fried
Eric Reustle
Blake M. Mensing
Katherine E. Stock

October 13, 2017

Via Email (sec-dl-preweb@sec.state.ma.us) and First Class Mail

Supervisor Rebecca Murray
Public Records Division
One Ashburton Place, Room 1719
Boston, MA 02108

Re: *Review of SPR17-1381, SPR17-1390, SPR17-1418*

Dear Ms. Murray,

By letters dated September 29, October 2, and October 5, 2017, the Public Records Division of the Commonwealth informed Mr. Alexander that it had received copies of his petitions appealing various responses of the Town of Wellesley to his requests for records. Your office docketed these appeals as SPR17-1381, SPR17-1390, and SPR17-1418. As stated below, the Public Records Division should decline to review these appeals because Mr. Alexander failed to provide a copy of his appeal petitions to the relevant Record Access Officers, as required by 950 CMR 32.08(1)(h).

I. *Public Records Law Requirements*

The revised *Public Record Law* regulations place strict requirements on a requester that seeks to appeal a response from a Record Access Officer (RAO). First, the appeal must be filed within 90 days of the response, or 90 days of the request, if appealing for lack of a response. *See* 950 CMR 32.08(1)(d), (e). Second, the petition to the Supervisor of Public Records must be in writing. *Id.* at 32.08(1)(f). Third, the petition must include copies of “all corresponded associated with the petition,” including copies of the request and all written responses associated with the request. *Id.* 32.08(1)(g). Fourth, the requester must “provide a copy of such petition to the records access officer associated with such petition.” *Id.* 38.08(1)(h) (“[I]n petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition.” (emphasis added)).

The mandatory duty to notify the RAO is an essential part of the appeal process. 950 CMR 32.08(1)(h) (“shall provide...”). Without reviewing a copy of the petition, the

Supervisor Rebecca Murray
October 13, 2017
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RAO would have no knowledge that a requester has filed an appeal, nor could the RAO confirm that the appeal complies with the requirements of 950 CMR 32.08(1)(g). The regulations make clear that the burden to provide a copy of the petition is placed squarely on the petitioner.¹ Without good cause, failure to provide a copy of the notice should be fatal to the appeal. The Supervisor regularly declines to review petitions filed outside the 90-day appeal window, it should likewise decline to review petitions that were not properly filed with the RAO pursuant to 950 CMR 32.08(1)(h). See SPR17-977 (refusing to review a petition filed more than 90 days after the date of the response).

The procedural requirement to file the petition with the RAO is comparable to the obligation under the *Open Meeting Law* to file a copy of the *Open Meeting Law* Complaint with the chair of the public body and the Town Clerk. 950 CMR 29.05(3) provides:

For local public bodies, the complainant shall file the complaint with the chair of the public body... The complainant shall also file a copy of the complaint with the municipal clerk... (emphasis added).

The Attorney General will decline to review a Complaint if the complainant fails to provide the requisite notice to either the chair or the Town Clerk. See OML Declination 11-2-15, n. 2 (Stoneham Board of Selectmen) (“[W]e will not review complaints that are improperly filed.”); OML Declination 9-22-15 (Townsend Conservation Commission) (same). The Supervisor, like the Attorney General, should decline to review a petition when the requester has not complied with the procedural requirements for challenging a RAO’s response.

II. Mr. Alexander’s Requests

Since 2013, Mr. Alexander has filed over 200 requests with the Town of Wellesley. Although the vast majority of these requests are directed towards the Wellesley Public Schools Department, he has also frequently filed requests with the Board of Selectmen and the Police Department.

Within the last 90 days alone, Mr. Alexander has filed approximately 8 requests with the School Department, 3 requests with the Police Department, and 8 requests with the Board of Selectmen.

Mr. Alexander has also filed approximately 40 appeals with the Public Records Division since April of 2014, 16 of which were filed after the new regulation requiring

¹ Constructive notice is not provided by receipt of the Supervisor’s letters to the petitioner confirming acceptance of the petition. These letters do not identify the challenged response, nor do they provide a copy of the petition.

Miyares and Harrington LLP

Supervisor Rebecca Murray

October 13, 2017

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the petitioner to send a copy of the notice to the RAO went into effect in 2017. Mr. Alexander rarely, if ever, provides a copy of his appeal petition to the Town. Accordingly, because the Supervisor's notice letters do not identify the request that Mr. Alexander has appealed, the burden is placed on the Town to contact the Supervisor's office and request information regarding the pending appeal.

On August 17, 2017, you reminded Mr. Alexander of his obligation to provide a copy of the petition with the RAO. See SPR17-1079 ("A review of the petition Mr. Alexander filed with the Supervisor of Records...reveals that Mr. Alexander did not provide a copy of the petition to the School's record access officer. 'In petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition.' 950 C.M.R. 32.08(1)(h).").

Between September 29 and October 5, 2017, Ms. Judy Belliveau, the RAO for the School Department (SPR17-1381), Ms. Marie Cleary, the RAO for the Police Department (SPR17-1390), and Ms. Meghan Jop, the RAO for the Board of Selectmen (SPR17-1418), all received a copy of a letter from the Public Records Division to Mr. Alexander notifying him that the Division had received his petition appealing a response from the Town. Neither Ms. Belliveau, nor Ms. Cleary, nor Ms. Jop received notice from Mr. Alexander that he had petitioned the Supervisor of Public Records to review the subject responses.

Because Mr. Alexander has filed numerous requests with each of these RAOs within the last 90 days, the RAOs are not only unable to identify the request being appealed, but have no information pertaining to the substance of the appeal. Moreover, without reviewing a copy of the relevant petition, the RAOs cannot confirm whether the statements made to the Supervisor are accurate or whether Mr. Alexander has provided all requisite information (i.e., email communications between the Town and Mr. Alexander regarding the request and response). See 950 CMR 23.08(1)(g).

The Supervisor should therefore decline to review these pending petitions. The revised regulations went into effect more than 9 months ago and Mr. Alexander has been informed of his legal obligation to notify the RAOs of an appeal.² There is no good cause to review the pending petitions.

Sincerely,



Ivria Glass Fried

² Mr. Alexander has also demonstrated that he is fully versed in the intricacies of the *Public Records Law*.

Miyares and Harrington LLP

Supervisor Rebecca Murray
October 13, 2017
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cc (via email only): S. Shorey (SPR17-1381, SPR17-1390)
M. Arthur (SPR17-1418)
R. Alexander
M. Jop
J. Belliveau
M. Cleary