

3. OML Complaint

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OML  
Complaint



**OPEN MEETING LAW COMPLAINT FORM**

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: George Last Name: Harris

Address: 8 Holiday Road

City: Wayland State: MA Zip Code: 01778

Phone Number: 5083582379 Ext. \_\_\_\_\_

Email: geoharris2@gmail.com

Organization or Media Affiliation (if any): None

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual  Organization  Media

**Public Body that is the subject of this complaint:**

City/Town  County  Regional/District  State

Name of Public Body (including city/town, county or region, if applicable): Wayland Board of Selectmen

Specific person(s), if any, you allege committed the violation: \_\_\_\_\_

Date of alleged violation: April 23, 2018

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

Please see attached statement (with 1 exhibit) for a full explanation.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Please see attached statement.

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

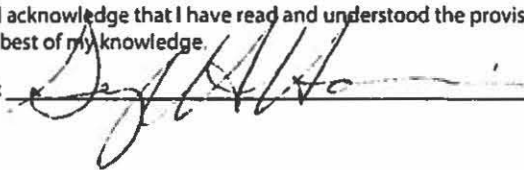
**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: May 8, 2018

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

## OPEN MEETING LAW COMPLAINT

### Wayland Board of Selectmen

This is a complaint that the Wayland Board of Selectmen (“Board”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25, on or about April 23, 2018 when it approved minutes that (1) lacked sufficient detail and accuracy and (2) failed to list certain documents used at the meeting.

The Open Meeting Law requires that the minutes of all meetings include a summary of the discussions on each subject. G.L. c. 30A, § 22(a). Minutes should contain enough detail and accuracy that a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred. See OML 2015-62; OML 2015-55; OML 2014-116.

On March 26, 2018, a quorum of the Board held the 2018 Annual Town Meeting Warrant Hearing.<sup>1</sup> The Hearing lasted for about one hour and 15 minutes. It may be viewed online at [www.waycam.tv/government-on-demand](http://www.waycam.tv/government-on-demand), select Board of Selectmen, March 26, 2018. The Hearing begins at elapsed time 26:30 and ends at 1:41:10. During the Hearing multiple speakers asked specific questions about the warrant and made various suggestions. Board members, the Town Meeting Moderator, warrant article sponsors, and the public participated during the Hearing, and Errata were compiled. The Board approved the Hearing minutes at its April 23, 2018 meeting. See Exhibit 1 attached hereto (minutes, topic A5).

The minutes pertaining to the Hearing (topic A5) are materially lacking in adequate detail and accuracy. The minutes state that “[r]esidents made suggestions and asked questions on the Warrant and articles.” But there is no summary of those suggestions or questions or responses to questions or related discussion. On reading the minutes, a member of the public who did not attend the one-hour-plus Hearing would gain no comprehension of what actually occurred at the Hearing. The Board’s minutes of the Hearing violate the Open Meeting Law.

Furthermore, the Open Meeting Law requires that the minutes include a list of documents and other exhibits used at the meeting. G.L. c. 30A, § 22(a). The subject minutes for the March 26, 2018 meeting do not list the 2018 Annual Town Meeting Warrant that was reviewed at the Warrant Hearing. Also missing from the list of documents used at the meeting are the motions for warrant articles.<sup>2</sup> These omissions were violations of the Open Meeting Law.

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<sup>1</sup> The 170-page 2018 Annual Town Meeting Warrant may be viewed online at [https://www.wayland.ma.us/sites/waylandma/files/uploads/2018\\_atm\\_warrant\\_to\\_post.pdf](https://www.wayland.ma.us/sites/waylandma/files/uploads/2018_atm_warrant_to_post.pdf)

<sup>2</sup> The 54-page motion document may be viewed online at [https://www.wayland.ma.us/sites/waylandma/files/uploads/2018\\_annual\\_town\\_meeting\\_motions\\_as\\_of\\_march\\_24.pdf](https://www.wayland.ma.us/sites/waylandma/files/uploads/2018_annual_town_meeting_motions_as_of_march_24.pdf)

### **ACTIONS REQUESTED**

1. The Committee shall acknowledge the alleged violations of the Open Meeting Law.
2. The Committee shall draft and approve revised minutes for the Hearing that provide sufficient detail and accuracy for the public and correct the list of documents used at the meeting.



NAN BALMER  
TOWN ADMINISTRATOR  
TEL. (508) 358-7755  
www.wayland.ma.us

# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

## BOARD OF SELECTMEN

LEA T. ANDERSON  
MARY M. ANTES  
LOUIS M. JURIST  
CHERRY C. KARLSON  
DOUGLAS A. LEVINE

**Board of Selectmen  
Meeting Minutes  
March 26, 2018  
7:00pm  
Large Hearing Room  
41 Cochituate Road, Wayland**

**Attendance:** Lea T. Anderson, Mary M. Antes, Louis M. Jurist (arrived 7:48pm), Cherry C. Karlson, Douglas A. Levine.

**Also Present:** Town Administrator Nan Balmer

**A1. Call to Order by Chair** L. Anderson called the meeting of the Board of Selectmen to order at 7:02pm in the Large Hearing Room of the Wayland Town Building and noted that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM. She reviewed the agenda.

**A2. Announcement and Public Comment** Fiona White, 56 Sedgemoor Road, thanked the Board for being involved and for speaking to her Girl Scout troop. C. Karlson reported that she attended a Girl Scout troop meeting to discuss how Wayland's government works.

Will Tyree, President of Wayland Firefighters Union Local 1978, addressed the Board and thanked them for supporting an increase in staffing. He said there is still concern that the commitment to fund the remaining two positions will be forgotten given the turnover in Town staff and on committees. The Fire Union needs four new staff to effectively provide care to the residents of Wayland.

Alan Reiss, Old Conn Path, said he went to the landfill and was turned away because the power was out. He suggested the Town think about putting a generator at the landfill in the future so residents are not inconvenienced.

**A3. Town Administrator Search Firm: Vote to authorize Town Administrator to award contract**  
Assistant Town Administrator Beth Doucette reported that in February the Town put out an RFP for a firm to conduct the search for a new Town Administrator and received three responses. One did not qualify; the two others did qualify: Community Paradigm Associates, LLC and Municipal Resources, Inc. Both of them were deemed to be able to provide the services and had good references according to E. Doucette. When the financial responses were opened, Community Paradigm came in for less money, so E. Doucette recommended the Board authorize the Town Administrator to award contract to Community Paradigm, LLC. Community Paradigm also had a more targeted approach for recruitment.

M. Antes moved, seconded by D. Levine, that the Board of Selectmen hire Community Paradigm Associates, LLC to do the search for the Town Administrator with a goal of having someone identified by August and to authorize the Town Administrator to sign the contract. YEA: L. Anderson, M. Antes, D. Levine, C. Karlson  
NAY: none. ABSENT: L. Jurist. ABSTAIN: none. Adopted 4-0.

#### **A4. Town Administrator's Report**

##### **1. Correspondence**

**a. School Bus Parking: Correspondence with School Superintendent** Town Counsel recommends the Board rejects all bids since the timeline for the River's Edge project has been extended and the RFP terms are no longer applicable. The Schools would need to find an alternative parking site by March 2019.

**2. Draft Work Plan: Town Management Structure/ Draft Town Administrator Act** N. Balmer briefly discussed alternative project timelines from the Collins Center. N. Balmer met with Department Heads to discuss the future structure of the Town. They discussed meeting protocol, the budget process, committee and board relationships with departments, elected boards, and the timing of any potential change. N. Balmer summarized that overall the Board should take as much time as required and the Board's leadership will be very important.

**3. Board of Selectmen Meeting Schedule** First draft is in packet.

The Youth Advisory Committee is working on a Marijuana opt-out and expects to meet with the BOS and other various committees about what the regulations mean for the Town after the moratorium expires. It will also ask the Board to put a question on the ballot for Sept. 4 with the hope of voting at a fall STM and at latest at Annual Town Meeting 2019.

**A8. Consent Calendar: Review and vote to approve (See Separate Sheet)** M. Antes moved, seconded by D. Levine, to approve the Consent Calendar. YEA: L. Anderson, M. Antes, D. Levine, C. Karlson. NAY: none. ABSENT: L. Jurist. ABSTAIN: none. Adopted 4-0.

**A9. Review Correspondence:** (See Separate Index Sheet) The Board noted the memo from Finance Director B. Keveny, the letter from the Fire union, and the letter to Raytheon regarding activity use limitation at Town Center. N. Balmer said she would draft a response to the letter requesting an extension of hours for door to door solicitations. Additionally, the Board found FinCom Chair D. Watkin's memo about funding sources helpful.

L. Jurist arrived at 7:48pm.

**A5. Annual Town Meeting Warrant Hearing** The Board was joined by Town Moderator, Dennis Berry. L. Anderson led the attendees through a page by page review of the warrant and motions for Annual Town Meeting. Residents made suggestions and asked questions on the Warrant and articles. L. Anderson noted that corrections will be included in an updated errata sheet available at ATM.

**A6. Annual Town Meeting Articles** C. Karlson had a question about preparing ATM talking points for the Accept Gifts of Land article. All agreed that all members could draft ATM comments based on Board discussions.

**A7. Minutes: Vote to approve March 6, 2018 and March 12, 2018.** M. Antes moved, seconded by C. Karlson to approve the minutes of March 6, 2018 and March 12, 2018 as amended. YEA: C. Karlson, L. Anderson, M. Antes, D. Levine, L. Jurist. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

**A10. Selectmen's Reports and Concerns** M. Antes said she attended a tour of Fire Station 2 and found it is a very tight space. D. Levine reported that on Tuesday, April 3 he will meet with a representative from MassDOT and Eversource to discuss completion of the Rte 27/30 intersection.

**A11. Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(2) and Section 21(a)(3) to review and consider for approval and potential release of the Executive Session minutes of January 29, 2018; February 5, 2018; February 26, 2018; and**

**March 6, 2018 because a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town.** L. Anderson moved, seconded by C. Karlson, that the Board of Selectmen enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(2) and Section 21(a)(3) to review and consider for approval and potential release of the Executive Session minutes of January 29, 2018; February 5, 2018; February 26, 2018; and March 6, 2018. The Chair declares that a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town. Roll call vote: YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0. The Chair invites attendance by Nan Balmer, Town Administrator. The Board will reconvene in open session in approximately 15 minutes to approve and potentially release Executive Session minutes and adjourn.

The Board returned to regular session at 9:11pm.

**A12. Executive Session Minutes: Vote to approve and potentially release with redactions the Executive Session minutes of January 29, 2018; February 5, 2018.** C. Karlson moved, seconded by M. Antes, that the Board of Selectmen vote to release with redactions the Executive Session minutes of January 29, 2018 and February 5, 2018 as approved. YEA: L. Anderson, M. Antes, D. Levine, L. Jurist, C. Karlson. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

**A13. Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any**  
None.

**A14. Adjourn** L. Jurist moved, seconded by D. Levine, to adjourn the meeting at 9:11 pm. YEA: C. Karlson, L. Anderson, M. Antes, D. Levine, L. Jurist. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

#### **Items Distributed for Information and Use by the Board of Selectmen at the Meeting of March 26, 2018.**

1. Graph of the cost of electronic voting in Wayland, source Alan Reiss.

#### **Items Included as Part of Agenda Packet for Discussion During the March 26, 2018 Board of Selectmen's Meeting**

1. Memorandum from Beth Doucette, Acting Assistant Town Administrator, to Board of Selectmen, dated March 26, 2018, re: Town Administrator Search Firm
2. Town Administrator's Report for the Week Ending March 23, 2018
3. Memorandum from Beth Doucette, Acting Assistant Town Administrator, to Board of Selectmen, dated March 26, 2018, re: School Bus Parking Lease - Status
4. Possible Town Administrator Special Act Timelines for the Wayland Board of Selectmen, revised March 21, 2018
5. An Act Relative to the Position of Town Administrator in the Town of Wayland (redline draft), updated March 20, 2018
6. Board of Selectmen Schedule: April 2, 2018 through September 4, 2018
7. Memorandum from David Porter, Executive Assistant, to the Board of Selectmen, dated March 26, 2018: re: Warrant Hearing logistics
8. List of Annual Town Meeting Articles, updated March 23, 2018
9. Draft Board of Selectmen meeting minutes from March 6, 2018 and March 12, 2018