Board of Selectmen
Ware Town Hall, 126 Main Street, Meeting Room

6:30 p.m. Executive Session: MGL Chapter 30A, Section 21 (a) 6: #2 Negotiations

Regular Meeting Notice Agenda
Tuesday, September 5, 2017 at 7:00 p.m.

Meeting Opened

Opening Remarks, Announcements, and Agenda review by Chair

Consent Agenda
  - Approval of Meeting Minutes of August 22, 2017
  - Special Event Permit Application: Ware Family Center Presents The Ware Jr. Car Show, September 9, 2017
  - Special Event Permit Application: Proprietors of the Ware Center Meeting House – Ware Fair & Flea, September 16, 2017

Comments and Concerns of Citizens

Scheduled Appearances
  - Water & Sewer Rates, Request for Increase – Dick Kilhart, DPW Director
  - Loan Resolution, Water Treatment Plant

Old Business
  - Tabled from August 22, 2017 - Planning & Community Development: Request for Loan Forgiveness
  - Tabled from August 22, 2017 – Application for Appointment to Zoning Board of Appeals: Andrew Choquette or Elizabeth Calvert, Term to Expire June 30, 2019

New Business
  - Set Public Hearing for Proposed License Fee Increases: Liquor, Common Victualler, Lodging, Entertainment, Automatic Amusement Device, One-Day Liquor and Car Dealer Licenses
  - Set Public Hearing for Application for New All Alcoholic Restaurant License, Common Victualler License, and Entertainment License: Wicked Wings Ware, Inc., 136 Pleasant Street, Ware
  - Request for Approval of Proposal, Solar Facility, Robbins Road
  - Review of Social Media Policy Draft

Town Manager Report
Adjournment
Board of Selectmen
Ware Town Hall, 126 Main Street, Meeting Room

Regular Meeting Minutes
Tuesday, August 22, 2017 at 7:00 p.m.

Present: Selectman Talbot, Selectman Whitney, Selectman Opalinski, Selectman Carroll, Selectman Fountain, Stuart Beckley, Town Manager, Mary Midura, Clerk, Stanley Ciukaj, Ware Community TV, Deputy Fire Chief Edward Wloch, Dr. Marlene Dileo, Superintendent of Schools.

Meeting Opened by Chairman Talbot at 7:00 p.m.

Opening Remarks, Announcements, and Agenda review by Chair
Selectman Opalinski questioned the process for the marijuana policy; Mr. Beckley noted that the Planning Board must set a public hearing. This may occur in October. Selectman Opalinski questioned the process for the proposed tax; Mr. Beckley noted this would need to be on the Town Meeting warrant. Selectman Opalinski stated the need for a social media policy for town employees; Mr. Beckley noted such a policy could be drawn up.

Consent Agenda
- Approval of Meeting Minutes of August 8, 2017
  Selectman Opalinski moved to approve the minutes; Selectman Whitney seconded. The motion passed unanimously (5-0).

Comments and Concerns of Citizens
Resident Bill Jackson stated his concerns of the shrubs at Rite Aid, noting that his complaints now are on record and should any accident happen as a result of that situation, the town could be open for a lawsuit.

Scheduled Appearances
- 7:05 p.m. Dr. Dileo, Deputy Fire Chief Wloch, Country Bank for Savings representative — books for Introduction to Fire Services class
  Dr. Dileo stated that the Ware Schools are ready for school to begin Monday, August 28, 2017! Deputy Fire Chief Wloch explained that the Introduction to Fire Services class is a new elective with 15 students enrolled this year! Pantucket, MA is the only other community that offers this class. Country Bank for Savings has given support by purchasing the textbooks. The Board thanked Deputy Wloch, Dr. Dileo, and Country Bank for Savings for providing this.

- Local Heroes Award
  Tim Howe of the Department of Fire Services presented the commendation to Victoria Vecchione. Ms. Vecchione calmly reported a fire in her home, and her actions saved all pets. Deputy Wloch presented the Young Heroes Award from the Ware Fire Department.
Deputy Wloch also noted that there will be a memorial dedication on September 10, 2017 at 11:00 a.m. for the new monument. All are welcome to attend.

- Road Repair Projects, Consideration of Bond Ballot Question – Dick Kilhart, DPW Director
  Dick Kilhart referred to the PVPC program and recommendations of a $5 million listing. Mr. Kilhart was given the list two years ago; the list included Monson Turnpike Road, Babcock Tavern Road and Bacon Road. Chapter 90 is primarily a maintenance fund for road repairs. Elm Street needs repairs, but Chapter 90 cannot be used as the road is not 500 feet long. The list indicates the worst or backlogged work. Mr. Kilhart noted that, with the retirement of David Tworek, and a new hire soon, it would be good to have new eyes on the roads. There will also be cracksealing, and there will be the MASS DOT project for Main Street. Regarding Babcock Tavern Road, there is drainage and substructure work to be done.

Selectman Whitney questioned the priority of projects on the list as far as true need and rating per the Paving Management Plan. Selectman Talbot noted that many roads have been neglected for some time. Selectman Carroll questioned the design phase; Mr. Kilhart note that some repairs are moving along in phases. Mr. Kilhart noted that the Town has 86 miles of road, and the goal is to maximize the use of the funds. Palmer Paving will work into October.

Selectman Opalinski moved to approve use of Chapter 90 funds to do cracksealing work and repairs to East Street, East Main Street and West Main Street this Fall; Selectman Carroll seconded. The motion passed unanimously (5-0).

Selectman Talbot noted that a map of all recommended work would be useful. Selectman Whitney noted that residents want roads in town to be repaired. Mr. Kilhart noted that the plan shows milling, grinding, and some water main replacement, as is now being done on Prospect Street. Mr. Beckley noted three options: 1) Straight debt exclusion for 5-10 years, 2) Capital Exclusion for one year only, with Town Meeting and Ballot each year, and 3) a Stabilization Fund for roads only, which goes to ballot only once, with the Board reauthorizing each year.

Selectman Opalinski questioned the most effective use of funds; Mr. Kilhart noted that Babcock Tavern Road is a better price if phases are done more than one at a time. Mr. Beckley noted that Sunderland voters decide at town meeting, and this works very well; there is no requirement to use funds every year.

Mr. Kilhart noted many communities fall behind on repairs, and the Town might ask our representatives to request additional funds be added to Chapter 90.

Resident Bill Jackson stated that the bottom line of a debt exclusion is that older residents cannot afford this, and the voters will not vote for this.

Old Business

- Review of Vehicle Policy: GPS
  Mr. Beckley presented the updated policy.

Selectman Opalinski moved to approve, with amended language to “Newly acquired town vehicles shall be equipped with GPS”; Selectman Whitney seconded. The motion passed unanimously (5-0).
New Business

- ACO Inter-Municipal Agreement
  Selectman Opalinski moved approval, with the stipulation that the Town Manager keep track of data of number of dogs and costs of holding fees; Selectman Fountain seconded. The motion passed unanimously (5-0).

- Planning & Community Development: Request for Loan Forgiveness
  Ms. Connor explained that she is Power of Attorney for this former homeowner. Ms. Connor presented to the Board that the only forgiveness request is for $2,125. Ms. Connor noted that there was an offer of $15,000, which will all go to the Town.
  Selectman Whitney moved to table to September 5, 2017 for written purchase and sale information to be provided; Selectman Carroll seconded. The motion passed on a vote of 4 Yes, 0 No, 1 Abstention (Selectman Opalinski).

- Application for Lodging License: Bed & Breakfast at Bird Hill Farm, 145 Church Street
  Selectman Opalinski moved approval of the license, with no $10 fee waiver; Selectman Carroll seconded. The motion passed unanimously (5-0).

- Application for One-Day Liquor License: Workshop 13, Memorial Event for Performing Artists, Saturday, August 26, 2017
  Selectman Opalinski moved approval of the license; Selectman Whitney seconded. The motion passed unanimously (5-0).

- Special Event Permit Application: Friends of Ware Dog Park, Doggy Dip & Dive, Saturday, August 26, 2017
  Selectman Whitney moved approval of the Special Event Permit; Selectman Opalinski seconded. The motion passed unanimously (5-0).

- Special Event Permit Application: Trinity Episcopal Church Block Party, Saturday, September 16, 2017
  Selectman Whitney moved approval of the Special Event Permit; Selectman Fountain seconded. The motion passed unanimously (5-0).

- Application for Toll Road: Ware Fire Department for MDA Boot Drive, Sunday, September 17, 2017
  Selectman Whitney moved approval of the Toll Road; Selectman Opalinski seconded. The motion passed unanimously (5-0).

- Application for Toll Road: Ware Council Home Association (Knights of Columbus), Annual Tootsie Roll Drive, Saturday, October 7, 2017
  Selectman Whitney moved approval of the Toll Road; Selectman Fountain seconded. The motion passed unanimously (5-0).
- Special Event Permit Application: Ware Domestic Violence Task Force, Domestic Violence Awareness Walk, Saturday, October 14, 2017
Selectman Whitney moved approval of the Special Event Permit; Selectman Fountain seconded. The motion passed unanimously (5-0).

- Application for Appointment to Historical Commission: Mary L. Midura, Term to Expire June 30, 2019
Selectman Opalinski moved approval of the appointment; Selectman Whitney seconded. The motion passed unanimously (5-0).

- Application for Appointment to Zoning Board of Appeals: Andrew Choquette or Elizabeth Calvert, Term to Expire June 30, 2019
Mr. Choquette was present and questioned why he was not being considered. The Board discussed and determined the need for further information from the Zoning Board of Appeals.
Selectman Opalinski moved to table to September 5, 2017, and to request the chair of the ZBA to attend and explain the ZBA recommendation to the Board; Selectman Whitney seconded. The motion passed unanimously (5-0).

**Town Manager Report**
Mr. Beckley noted a new survey by the Planning and Community Development department. The brief survey will help the department understand what is important to residents.

There was a very good turnout for the MASS DOT Design Hearing for Main Street. There were many comments from residents. Selectman Opalinski noted that the plan takes parking spaces away in front of the library and in front of Dioguardi Jewelers. There was a request for a mitigation committee.

Projects out to bid include repavement of the Senior Center parking lot and repairs to the Wastewater Treatment Plant aeration tanks. Review of Solar proposals will be complete in a day or two.

There will be Ware Opioid Listening Session on Thursday, August 24, 2017 at 5:30 pm. The DA and Chief Crevier will attend.

Chairman Talbot noted mitigation for flood hazards; Mr. Beckley noted that army corps of engineers will assess the dikes and repairs to East Street bridge. Chairman Talbot noted the overgrowth of vegetation.

Selectman Opalinski noted the need to meet with Dr. Dileo regarding solar panels on the school roof. Resident Bill Jackson questioned the need for land taking for the Main Street project; Mr. Beckley noted that some easement takings would be brought to Town Meeting in the spring.

Resident Cathy Cascio stated the Board should be aware that Senator Gobi has co-sponsored a bill to make Massachusetts a sanctuary state. Ms. Cascio stated this would take local authority away from towns. Ms. Cascio noted her hopes that the Board would write letters of disappointment. Greenfield Council said no to being a sanctuary city.
Brandy Bruso noted the Doggy Dip & Dive on August 26, 2017. Ms. Bruso questioned what the town will do regarding Gould Road – school is starting and children walk on the road to Cumberland Farms. A child was hit by a car last year, and we need to calm traffic in that area.

Mr. Beckley noted that the child’s parent met with Police, DPW, and schools; the speed limit sign has been moved up the road. Dr. Dileo has been asked that all children leave from the front of the school. The long term goal is to add a sidewalk per the complete streets program.

At 8:34 p.m., Selectman Fountain moved to enter into Executive Session: MGL Chapter 30A, Section 21 (a) 6: #2 Negotiations: Police Chief, and #6 To Consider the Purchase, Exchange, Lease or Value of Real Property, Not to Reconvene in Open Session; Selectman Whitney seconded. The motion passed on a Roll Call Vote of 5 Yes, 0 No.

<table>
<thead>
<tr>
<th>Selectman Nancy J. Talbot</th>
<th>Yes ✓</th>
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<tr>
<td>Selectman Alan G. Whitney</td>
<td>Yes ✓</td>
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<td>Selectman Tracy R. Opalinski</td>
<td>Yes ✓</td>
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<td>Selectman John E. Carroll</td>
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<td>Selectman Michael P. Fountain</td>
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Attest: 

Mary L. Middura, Executive Assistant
TOWN OF WARE

SPECIAL EVENT PERMIT APPLICATION
(To be posted or made available at event)

Return to: Board of Selectmen, Town of Ware, 126 Main Street, Ware, MA 01082

Application packet must be received no later than 30 days prior to the event.

Event Name: WARE FAMILY CENTER  Event Producer: WARE FAMILY CENTER
WARE JUNIOR CAR SHOW

Primary Contact Information:

Primary Contact Name: DAVID POWERS  Fax: ________________________________

Non-Profit Organization / Event: Yes _____  No _____

Day Phone: ________________________________  Cell Phone: ________________________________

E-mail: ________________________________  Website: ________________________________

Event Information:

Event Address / Location: GRENVILLE PARK - TBALL FIELD + SOCCER - PAVILLION

Starting Date: 9/9/17  Time: 10:00 A.M  Ending Date: 9/9/17  Time: 12:00 P.M

Total attendance expected: 60  Rain plan: N/A

List any streets to be closed for special event:

Summary of Event - Please describe the special features of the event within the box below.

CHILDREN AGES 2-7 ARE WELCOME TO PARTICIPATE,
CAR SHOW + BALLOON DERBY
The Ware Family Center Presents:
The Ware Jr. Car Show
Saturday, September 9th, 2017
Greenville Park, 73 Church St., 10am -12pm
Children Ages 2-7 are welcome to participate
*Helmets and seatbelts are strongly encouraged.*

Children:

<table>
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<tr>
<th>Name</th>
<th>Age</th>
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Parent/Guardian Name:

Address:

City State Zip Code:

Email address [Phone Number]:

Registration Fee: $15 per child (late registration $25 if paid on September 9th)

*proceeds benefit the Ware Family Center

Send your registration form and fee to:
Ware Jr Car Show
145 East St, Ware MA 01082

Permission to participate and Waive of Liability:

I, the parent/guardian of the above named child, approve of his/her participation in the Ware Jr. Car Show. I hereby release and forever absolve, and agree to indemnify and hold harmless this family center and its organization, sponsors, and volunteers in the case of injury to my child. I waive, to the extent not covered by liability insurance, any claims against any person dealing with this Ware Jr. Car Show including but not limited to Town of Ware MA, Ware Family Center and Participants and organizers.

Print Name of Parent/Guardian:

Signature of Parent/Guardian:

Date:

Permission to use photos of child for website and newspaper:

Like Comment

Eric Swett and Laurie Desjardins like this.

12 shares

Ware Jr. Car Show

August 20 at 5:07pm

With less then three weeks to go get your kids car tuned up and don't forget to preregister!

Like Comment

Roger E Morissette, Donald Edwin Powers and Laurie Desjardins like this.
Application packet must be received no later than **30 days prior to the event.**

**Event Name:** Ware Fair Flea  
**Event Producer:** [Name Redacted]

**Primary Contact Information:**

**Primary Contact Name:** [Name Redacted]  
**Fax:** ________________

**Non-Profit Organization / Event:** Yes X  
**No:** ________________

**Day Phone:** 413-967-8304  
**Cell Phone:** ________________

**E-mail:** cains1@gmail.com  
**Website:** warecentermeetinghouse.org

**Event Information:**

**Event Address / Location:** 295 Belchertown Rd. Ware (Museum)  
**Starting Date:** 9/16/17  
**Time:** 8:00 AM  
**Ending Date:** 9/16/17  
**Time:** 4:00 PM  
**Total attendance expected:** 500  
**Rain plan:** 9-17-17

**List any streets to be closed for special event:** ____________________

**Summary of Event - Please describe the special features of the event within the box below.**

Annual Fair - Flea features historical exhibits, craft and artist booths, tours of the museum, food and silent auction, live music, bake sale, apple pie contest. There will be a cooking fire for demo purposes and we have a revolutionary group that will be firing muskets during the day.
August 30, 2017

To : Board of Selectmen

From : Stuart Beckley & Richard Kilhart

Subject: Water and Sewer Rates – Proposed increase

With Town Meeting’s approval of the Water Treatment Plant for the removal of iron and manganese, the Town must generate revenue for the $6 million project. Based on the attached Water and Sewer Rate Study, the goal is to increase the water rate to $5.77 per 100 cubic feet of use. It is also recommended to increase the Base Fee. We recommend that the increase be achieved over three years. Increases would be implemented for use measured from October to January, which will be paid on the bills due on February 1st.

**Proposal**

<table>
<thead>
<tr>
<th>Current Rate</th>
<th>Increase 10/2017</th>
<th>Increase 10/2018</th>
<th>Increase 10/2019</th>
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<tbody>
<tr>
<td>$4.00</td>
<td>$4.60</td>
<td>$5.20</td>
<td>$5.75</td>
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<td>per 100 cubic feet</td>
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Minimum Base (500 cubic feet)

$31.00       $32.50       $34.00       $36.00

Similarly, the Study indicates the future need for Sewer revenues for improvements to the pipes and Wastewater Treatment Plant. In preparation for those improvements, we recommend that the Board begin to implement rate increases for sewer use as well.

**Proposal**

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<th>Increase 10/2017</th>
<th>Increase 10/2018</th>
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<td>$4.30</td>
<td>$4.75</td>
<td>$5.25</td>
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<td></td>
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<td>per 100 cubic feet</td>
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Minimum Base (500 cubic feet)

$40.50       $42            $44.00
SECTION 1

INTRODUCTION

Wright-Pierce recently completed two master planning documents that evaluated all of the water and sewer components of the Ware Department of Public Works’ Water and Sewer Systems. In accordance with these two master plans, Wright-Pierce also evaluated the Town’s existing rate structures. The results of these rate structure evaluations are provided within Section 2 (Water Rate Study) and Section 3 (Sewer Rate Study).
MEMORANDUM

TO: Rich Protasowicki
FROM: Vic Krea
PROJECT NO.: 13471A
DATE: October 28, 2016

SUBJECT: Town of Ware
          Water Rate Evaluation

Introduction

The Scope of Work for the Water System Master Plan includes a task that Wright-Pierce perform an evaluation of the Town's existing water rates and preliminarily identify any anticipated water rate increase over the next three years that would be required for the corresponding Capital Improvement Program (CIP) items within the same period. The CIP includes specific projects that are necessary to upgrade, replace, or expand the water infrastructure system. A copy of the CIP is attached to this memorandum. The purpose of this memo is to report the results of that evaluation.

The analysis was performed based on information provided by the Town regarding current rates; revenues and expenses for the past year; and debt service requirements. The CIP has been prepared by the Town and Wright-Pierce. The estimated cost of the identified capital needs for the next three years exceeds $5.5 million.

It should be noted that the estimated annual expenses contained in the CIP do not include any interest or other financing charges. At this time the manner of financing the respective water CIP projects is not known. The actual costs may be lower or higher than those currently shown for the respective CIP items.

Current Water Rates

The quarterly rates for 2016 is a $31.00 base rate that includes the first 500 cubic feet of water and $4.00 per hundred cubic feet for all subsequent metered water use. This results in a total annual charge of $524.00 for the average user based on a usage of 12,000 cubic feet per year, which is the consumption used for comparison in the statewide Massachusetts Water Rate Survey conducted by Tighe and Bond. It should also be pointed out that, based on Ware’s actual annual water use of 5,400 cubic feet (from Tighe and Bond 2014 rate survey), the actual annual average charge is $260.00.

Additionally, according to the 2014 Massachusetts Water Rate Survey conducted by Tighe & Bond, the average annual charge in 2014 was $531.00 for a use of 12,000 cubic feet per year. The Town's annual charge in 2014 was $493 for 12,000 cubic feet, or about 7 percent below the state average in 2014.
Present Water Revenues and Expenses

The budgeted and actual water revenues and expenses for FY 2016 were provided by the Town. Based on the information supplied by the Town, the actual revenues were $950,910.02 and expenses (direct and indirect, including debt service) were $729,692.53, resulting in a surplus for the year of $221,217.49.

According to the information recently received from the Massachusetts Department of Revenue, Division of Local Services, the Town of Ware’s Water Enterprise Fund had $773,160.00 in available funds or “free cash” available on July 1, 2016. A copy of the notification received from the Massachusetts Department of Revenue is attached to this memo.

Water Rate Impacts of Projected CIP Expenses for Next Three Years

In order to assess the impacts of the CIP on the water rates, the projected annual CIP expenses were developed. The CIP includes an expense of $205,000.00 in FY 2017 and $5,420,000.00 in FY 2018 and 2019, including $5,000,000.00 for construction of the Barnes Street Water Treatment Plant. The remaining $420,000.00 is for distribution system improvements. The Town intends to apply for grant and loan funding for the treatment plant project from USDA Rural Development.

For purposes of this evaluation, I have assumed that the Town will borrow the entire $5,420,000.00 from Rural Development, with no grant funding received. This will then result in annual debt payments of about $216,000.00 beginning in FY 2020 after completion of the project. This is based on a projected interest rate of 2.5 percent and a 40-year loan from Rural Development.

In order to fund the $205,000.00 CIP expense in FY 2017, the water rates will need to be increased by 21.5 percent. Also, in order to fund the $216,000.00 debt payments beginning in FY 2020, an additional rate increase of 18.7 percent will be required. It may be prudent to begin raising the rates in FY 2018 in order to reduce the amount of the annual increases by spreading the 18.7 percent increase over three years prior to the increase actually being needed.

It should also be noted that, in addition to several other projects, the CIP also includes $220,000.00 per year in water main improvement projects beginning in FY 2020. These alone will necessitate a further rate increase of 16.0 percent.

Possible Reductions in Rate Increases

The projected rate increases contained in this evaluation would result in a total increase from the present annual average charge of $260.00 to about $435.00 by FY 2020, including the 16.0 percent increase noted just above for the water main improvement projects but not including approximately $1,200,000 in additional CIP expenses shown in FY 2020.

Any grant funding received from Rural Development could result in lower overall rate increases over the next four years. For example, a 25 percent grant on the $5,420,000.00 project would reduce the annual debt payment from $216,000.00 to $162,000.00, thus reducing the 18.7 percent increase necessitated by the Rural Development project to 14.0 percent.
Also, it was noted earlier in this evaluation that the Town's Water Enterprise Fund currently contains $773,160.00 in available funds or "free cash." The Town could also consider using some of these available funds to minimize the rate increases necessitated by the upcoming CIP projects.

**Results of Evaluation**

The findings resulting from this evaluation can be summarized as follows:

1. The upcoming water system Capital Improvement Program planned for implementation by the Town will have a significant impact on the water rates over the three-year period covered in this evaluation.
2. With no grant funding from Rural Development or any other revenue sources other than water rate revenue, the rates could increase from the current annual average of $260.00 per year to about $435.00 per year by FY 2020.
3. Any grant funding that may be received from Rural Development could considerably reduce the rate increases needed.
4. The Town should also consider the possibility of using some of the $773,160.00 currently available as "free cash" in the Water Enterprise Fund to also assist in reducing the needed rate increases.
Possible Water Rate Increases
Ware, MA

Base Rate Increases:
2014 = $31.00/500 CF
2017 = $37.67/500 CF
2020a = $44.71/500 CF
2020b = $42.94/500 CF

WTP @ 100% Loan
- 2016: $4.00
- 2017: $4.86
(= 21.5%)

WTP w/ 25% Grant
- 2020a: $5.77
(= 18.7%)
- 2020b: $5.54
(= 14%)
Introduction

The Scope of Work for the Sewer System Master Plan includes a task that Wright-Pierce perform an evaluation of the Town’s existing sewer rates and preliminarily identify any anticipated sewer rate increase over the next three years that would be required for the corresponding Capital Improvement Program (CIP) items within the same period. The CIP includes specific projects that are necessary to upgrade, replace, or expand the sewer infrastructure system. A copy of the CIP is attached to this memorandum. The purpose of this memo is to report the results of that evaluation.

The analysis was performed based on information provided by the Town regarding current rates; revenues and expenses for the past year; and debt service requirements. The CIP has been prepared by the Town and Wright-Pierce. The estimated cost of the identified capital needs for the next three years exceeds $3.1 million, with an additional $7.9 million in capital needs by FY 2022.

It should be noted that the estimated annual expenses contained in the CIP do not include any interest or other financing charges. At this time the manner of financing the respective sewer CIP projects is not known. The actual costs may be lower or higher than those currently shown for the respective CIP items.

Current Sewer Rates

The quarterly rate for 2016 is a $40.50 base rate that includes the first 500 cubic feet of water and $4.30 per hundred cubic feet for all subsequent metered water use. This results in a total annual charge of $592.00 for the average user based on a usage of 12,000 cubic feet per year, which is the consumption used for comparison in the statewide Massachusetts Sewer Rate Survey conducted by Tighe and Bond. It should also be pointed out that, based on Ware’s actual annual water use of 5,400 cubic feet (from Tighe and Bond 2014 rate survey, which is the most recent survey), the actual annual average charge is $308.20.

Additionally, according to the 2014 Massachusetts Sewer Rate Survey, the average annual charge in 2014 was $756.00 for a use of 12,000 cubic feet per year. The Town’s annual charge in 2014 was $547 for 12,000 cubic feet, or about 28 percent below the state average in 2014.
Present Sewer Revenues and Expenses

The budgeted and actual sewer revenues and expenses for FY 2016 were provided by the Town. Based on the information supplied by the Town, the actual revenues were $810,175.22 and expenses (direct and indirect, including debt service) were $719,366.78, resulting in a surplus for the year of $90,808.44.

According to the information recently received from the Massachusetts Department of Revenue, Division of Local Services, the Town of Ware’s Sewer Enterprise Fund had $273,627.00 in available funds or “free cash” available on July 1, 2016. A copy of the notification received from the Massachusetts Department of Revenue is attached to this memo.

Sewer Rate Impacts of Projected CIP Expenses for Next Three Years

In order to assess the impacts of the CIP on the sewer rates, the projected annual CIP expenses were developed. The CIP includes an expense of $145,000.00 in FY 2017 and $3,018,000.00 in FY 2018 and 2019, including $2,390,000.00 for partial construction of the wastewater treatment facility upgrades. The remaining $628,000.00 is for collection system evaluation and rehabilitation. The Town intends to apply for grant and loan funding for the treatment plant upgrade project from USDA Rural Development.

For purposes of this evaluation, I have assumed that the Town will borrow the entire $6,390,000.00 treatment plant upgrade cost from Rural Development, with no grant funding received. This will then result in annual debt payments of about $255,000.00 beginning in FY 2022 after completion of the project. This is based on a projected interest rate of 2.5 percent and a 40-year loan from Rural Development.

In order to fund the $145,000.00 collection system CIP expense in FY 2017, the sewer rates will need to be increased by 17.9 percent. An additional increase of 19.2 percent will be needed to fund the $328,000.00 collection system expense in FY 2018. Also, in order to fund the $255,000.00 debt payments plus $200,000.00 in sewer rehabilitation beginning in FY 2022, a further rate increase of 11.1 percent will be required.

It may be prudent to begin raising the rates in FY 2018 in order to reduce the amount of the annual increases by spreading the substantial increase needed by FY 2022 over the five years prior to the full rate increase actually being needed.

Possible Reductions in Rate Increases

The projected rate increases contained in this evaluation would result in a total increase from the present annual average charge of $308.00 to about $433.00 by FY 2019, and $481.00 by FY 2022.

Any grant funding received from Rural Development could result in lower overall rate increases over the next four years. For example, a 25 percent grant on the $6,390,000.00 project would reduce the annual debt payment from $255,000.00 to $191,000.00, thus reducing the 11.1 percent increase necessitated by the Rural Development project to 9.5 percent.
The Town may seek Rural Development grant and loan funding for the collection system CIP projects as well. Of course, any grant funding received for this work would further minimize the rate increases needed.

Also, it was noted earlier in this evaluation that the Town’s Sewer Enterprise Fund currently contains $273,627.00 in available funds or “free cash.” The Town could also consider using some of these available funds to minimize the rate increases necessitated by the upcoming CIP projects.

**Results of Evaluation**

The findings resulting from this evaluation can be summarized as follows:

1. The upcoming sewer system Capital Improvement Program planned for implementation by the Town will have a significant impact on the sewer rates over the three-year period covered in this evaluation and beyond.
2. With no grant funding from Rural Development or any other revenue sources other than sewer rate revenue, the rates could increase from the current annual average of $308.00 per year to about $433.00 per year by FY 2019, and $481.00 by FY 2022, for a total rate increase of 56 percent by FY 2022.
3. Any grant funding that may be received from Rural Development could considerably reduce the rate increases needed.
4. The Town should also consider the possibility of using some of the $273,627.00 currently available as “free cash” in the Sewer Enterprise Fund to also assist in reducing the needed rate increases, along with any additional surplus funds accumulated over the next five years, if deemed necessary and appropriate by the Town.
5. It may be prudent to begin increasing rates by about 10 percent beginning in FY 2018, and to make up any annual deficits that may occur from available surplus funds.
Potential Sewer Rate Increases
Ware, MA

Base Rate Increases:
2017 = $47.75/500 CF
2018 = $56.92/500 CF
2022a = $63.24/500 CF
2022b = $62.32/500 CF

Sewer System I/I

Sewer System SSES & Rehab.

Sewer System Rehab. & WWTF Upgrade w/ 100% Loan

Sewer System Rehab. & WWTF Upgrade w/ 25% Grant

Year

2016 (current)

2017

2018

2022a

2022b
August 30, 2017

To : Board of Selectmen

From : Stuart Beckley & Richard Kilhart

Subject: Water Treatment Plant Borrowing

The US Department of Agriculture has approved the Town for a loan for $5,847,000.00. The approved rate is 2.00% for 40 years.

As an initial step, the Board is asked to vote to approve the attached Loan Resolution. A copy of the conditions of the grant is also attached.

The loan closing would take place near the end of construction, which is anticipated to be 18-24 months from now depending on the bid schedule.

Thank you.
LOAN RESOLUTION
/Public Bodies

A RESOLUTION OF THE Board of Selectmen

OF THE Town of Ware

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND OR EXTENDING ITS Water Treatment Plant

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Town of Ware (Public Body) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of Five Million Eight Hundred Forty-Seven Thousand & 00/100

pursuant to the provisions of the Commonwealth of Massachusetts; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.

2. To refine the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).

3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of $10,000.

4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal or permissible source.

5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable; (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default; and (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.

6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.

7. Not to defend the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.

8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.

9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.

10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No service or use of the facility will be permitted.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.
11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.

12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.

13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.

14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.

15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA’s concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.

16. To comply with the measures identified in the Government’s environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility’s construction or operation.

17. To accept a grant in an amount not to exceed $__________ under the terms offered by the Government; that the __________________________________________________________________________________________

and ____________________________________________________________________________ of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance, to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was:  

<table>
<thead>
<tr>
<th>Year</th>
<th>Nays</th>
<th>Absent</th>
</tr>
</thead>
</table>

IN WITNESS WHEREOF, the ___________________________ of the

Town of Ware

has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this _______ day of ____________

(S/L/A)  

By:______________________________

Stuart Beckley  
Title: Town Manager

Title __________________________
CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as ______________________ of the Town of Ware __________________________

hereby certify that the Board of Selectmen __________________________ of such Association is composed of

________________ members, of whom ________________ constituting a quorum, were present at a meeting thereof duly called and

held on the __________________ day of __________________ : and that the foregoing resolution was adopted at such meeting

by the vote shown above. I further certify that as of ________________________________ the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this __________________ day of __________________

__________________________________________

Title _______________________________________
August 30, 2017

Town of Ware
Attn: Stuart Beckley, Town Manager
126 Main Street
Ware, MA 01082

SUBJECT: Recipient Name: Town of Ware
          Project Name: Treatment Plant
          Water Application
          CFDA NUMBER – 10.760

          Loan: $ 5,847,000
          Grant: $ 25,000 from PPG
          Applicant: $ 116,740 from PPG and current application

Dear Mr. Beckley,

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan will be administered on behalf of the Rural
Utilities Service (RUS) by the State and Area Office staff of USDA Rural Development, both of
which are referred to throughout this letter as the Agency. Any changes in project cost, source of
funds, scope of project, or any other significant changes in the project or applicant must be reported
to and concurred with by the Agency by written amendment to this letter. If significant changes are
made without obtaining such concurrence, the Agency may discontinue processing of the
application.

All conditions set forth under Section III – Requirements Prior to Advertising for Bids must be met
within three (3) months of the date of this letter. If you have not met these conditions, the Agency
reserves the right to discontinue the processing of your application.

If you agree to meet the conditions set forth in this letter and desire further consideration be given
to your application, please complete and return the following forms within fifteen (15) days:

        Form RD 1942-46, “Letter of Intent to Meet Conditions”
        Form RD 1940-1, “Request for Obligation of Funds”

The loan will be considered approved on the date Form RD 1940-1, “Request for Obligation of
Funds,” is signed by the approving official. Thus, this letter in itself does not constitute loan and/or
grant approval, nor does it ensure that funds are or will be available for the project. When funds are
available, the Form 1940-1 will be provided to you for your signature. After you sign and return the form to the Agency, the request will be processed and loan funds will be approved and obligated.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. All parties may access information and regulations referenced in this letter at our website located at www.rd.usda.gov.

The conditions are as follows:

SECTION 1 - PROJECT DETAIL

1. **Project Description** – Funds will be used to construct a new water treatment plant that will treat the Barnes Street Well sources. The treatment plant will be utilizing GreensandPlus™ to treat the high levels of iron and manganese in the water.

Facilities will be designed and constructed in accordance with sound engineering practices and must meet the requirements of Federal, State, and local agencies. The proposed facility design must be based on the Preliminary Engineering Report (PER) as concurred with by the Agency.

The design work will cover the design of the filter system, chemical system, water storage, backwash waste handling, and water pumping system. The construction will entail building the new water treatment plant and the infrastructure to connect to the Barnes Street Well Sources. The approved project costs are outlined in Section 3, Project Budget.

The preliminary design is set to be complete by December 2017 and approved by the Massachusetts Department of Environmental Protection by March 2018. Bidding will then finish in May 2018, with construction beginning that month. Construction is estimated to take approximately one year, with the treatment plant being fully operational by May 2019.

2. **Project Funding** – The Agency is offering the following funding for your project:

   - **Agency Loan** - $5,847,000 for the current application
   - **Agency Grant** - $25,000 for the previously approved PPG

This offer is based upon the following additional funding being obtained.

   - **Applicant Contribution** - $116,740
     - $25,000 for previous PPG
     - $91,740 for interim interest

   **TOTAL PROJECT COST** - $5,988,740

This funding is offered based on the amounts stated above. Prior to loan closing, any increase in non-Agency funding will be applied as a reduction to Agency loan funds. The Agency reviewed and documented the $25,000 for the applicant contribution for the PPG and disbursed the Agency Grant of $25,000 on August 4, 2017.
Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. If actual project costs exceed the project cost estimates, an additional contribution by the Owner may be necessary. Prior to advertisement for construction bids, you must provide evidence of applicant contributions and approval of other funding sources. This evidence should include a copy of the commitment letter. Agency funds will not be used to pre-finance funds committed to the project from other sources.

3. **Project Budget** – Funding from all sources has been budgeted for the estimated expenditures as follows:

<table>
<thead>
<tr>
<th>Project Costs:</th>
<th>Total Budgeted:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>$4,587,000</td>
</tr>
<tr>
<td>Contingency</td>
<td>$459,130</td>
</tr>
<tr>
<td>Engineering Fees</td>
<td>$805,000</td>
</tr>
<tr>
<td>Includes:</td>
<td></td>
</tr>
<tr>
<td>PER, ER, Pilot Study for PPG</td>
<td>$50,000 (PPG)</td>
</tr>
<tr>
<td>Design</td>
<td>$280,000</td>
</tr>
<tr>
<td>Construction Administration</td>
<td>$205,000</td>
</tr>
<tr>
<td>Resident Project Representation (Inspection)</td>
<td>$270,000</td>
</tr>
<tr>
<td>Interest - Interim</td>
<td>$91,740</td>
</tr>
<tr>
<td>Legal/Administrative</td>
<td>$45,870</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$5,988,740</td>
</tr>
</tbody>
</table>

Obligated loan or grant funds not needed to complete the proposed project will be deobligated prior to start of construction. An amended letter of conditions will be issued for any changes to the total project budget.

**SECTION II – LOAN AND GRANT TERMS**

4. **Repayment** – The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing, unless you request otherwise. Should the interest rate be reduced, the payment will be recalculated to the lower amount.

Your loan will be scheduled for repayment over a period of 40 years. Payments will be equal annual amortized installments, beginning one year after closing. For planning purposes, use a 2.00% interest rate and an amortization factor of 36.56, which provides for an annual payment of $213,767. The precise payment amount will be based on the interest rate at which the loan is closed, and may be different than the one above.

The payment due date will be established as the day that the loan closes. Due dates falling on the 29th, 30th, and 31st day of the month will be avoided.
5. **Security** – The loan will be secured by a General Obligation bond in the amount of $5,847,000. The bond will be fully registered as to both principal and interest in the name of the United States of America, Acting through the United States Department of Agriculture.

The bond and any ordinance or resolution relating thereto must not contain any provision in conflict with the Agency Loan Resolution, applicable regulations, or its authorizing law. In particular, there must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 U.S.C. 1983.

Additional security requirements are contained in RUS Bulletin 1780-27, “Loan Resolution (Public Bodies).” A draft of all security instruments, including draft bond resolution, must be reviewed and concurred in by the Agency prior to advertising for bids. The bond resolution and Loan Resolution must be duly adopted and executed prior to loan closing.

6. **Electronic Payments** – Payments will be made on the day your payment is due through an electronic preauthorized debit system. You will be required to complete Form RD 3550-28, “Authorization Agreement for Preauthorized Payments,” for all new and existing indebtedness to the Agency prior to loan closing. It will allow for your payment to be electronically debited from your account on the day your payment is due.

7. **Construction Completion Timeframe** - All projects must be completed and all funds disbursed within five years of obligation. If funds are not disbursed within five years of obligation, you must submit to the Agency a written request for extension of time with adequate justification of circumstances beyond your control. Requests for waivers beyond the initial extension will be submitted to the Assistant Administrator for concurrence decision.

8. **Disbursement of Agency Funds** - Agency funds will be disbursed into the borrower’s depository account through an electronic transfer system. SF 3881, “ACH Vendor/Miscellaneous Payment Enrollment Form,” must be completed and submitted to the Agency prior to advertising for bids.

Any applicant contribution will be the first funds expended, followed by other funding sources. Interim financing or Agency loan funds will be expended after all other funding sources unless a written agreement is reached with all other funding sources on how funds are to be disbursed prior to start of construction or loan closing, whichever occurs first. Interim financing funds or Agency loan funds must be used prior to the use of Agency grant funds. In the unlikely event the Agency mistakenly disburses funds, the funds will be remitted back to the Agency electronically.

9. **Reserves** – Reserves must be properly budgeted to maintain the financial viability and sustainability of any operation. Reserves are important to fund unanticipated emergency maintenance and repairs, and assist with debt service should the need arise. The following reserves are required to be established as a condition of this loan:

   a. **Short-Lived Asset Reserve** – You must establish a short-lived asset reserve fund. Based on the preliminary engineering report, you must deposit at least $28,233 into the short-lived asset reserve fund annually for the life of the loan to pay for repairs and/or replacement of
major system assets. It is your responsibility to assess your facility’s short-lived asset needs on a regular basis and adjust the amount deposited to meet those needs.

Current assets can also be used to establish and maintain reserves for expected expenses, including but not limited to operation and maintenance, deferred interest during the construction period, and an asset management program.

SECTION III – REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS

10. Environmental Requirements – At the conclusion of the proposal’s environmental review process, specific actions were determined necessary to avoid or minimize adverse environmental impacts. As outlined in the Environmental Report dated February 2017, the following actions are required for successful completion of the project and must be adhered to during project design and construction:

- Floodplains: No mitigation measures will be necessary. If needed, measures to mitigate any temporary impacts to the nearby floodplain will include sedimentation controls (i.e., silt fences, silt socks, hay bales, silt sacks, sedimentation basin, etc.) where necessary to prevent any siltation.
- Wetlands: Measures to mitigate any possible impact to the wetland resource may include sedimentation controls (i.e., silt fences, silt socks, hay bales, silt sacks, sedimentation basin, etc.) as necessary to prevent any siltation.
- Historic Properties: No mitigation measures related to historical resources are proposed at this time. However, the construction documents will include provisions to halt construction activities if any artifacts are discovered during the construction period. In addition to halting construction activities, the MHC will be notified immediately if any artifacts are discovered during construction.
- Water Quality Issues: To address any possible short-term concerns regarding erosion, sedimentation, or dewatering, the contract documents will outline specific erosion control and dewatering measures for the contractor to adhere to.
- Miscellaneous Issues: The construction documents will include provisions for dust control, working hours, and traffic control during construction.

The project as proposed has been evaluated to be consistent with the National Environmental Policy Act, Other Federal, State, tribal, and local laws, regulations and or permits may apply or be required. If the project or any project element deviates from or is modified from the originally-approved project, additional environmental review may be required.

11. Engineering Services – You have been required to complete an Agreement for Engineering Services, which should consist of the Engineers Joint Contract Documents Committee (EJCDC) documents as indicated in RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance,” or other approved form of agreement. The Agency will provide concurrence prior to advertising for bids, and must approve any modifications to this agreement.
12. American Iron and Steel

Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) applies a new American Iron and Steel requirement:

(1) No Federal funds made available for this fiscal year for the rural water, waste water, waste disposal, and solid waste management programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.

(2) The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(3) The requirement shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the "Secretary") or the designee of the Secretary finds that—

A. applying the requirement would be inconsistent with the public interest;
B. iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
C. inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.


a. The contract documents must consist of the EJCDC construction contract documents as indicated in RUS Bulletin 1780-26 or other Agency-approved forms of agreement.

b. The contract documents, final plans, and specifications must comply with RUS Instruction 1780. Subpart C – Planning, Designing, Bidding, Contracting, Constructing and Inspections, and must be submitted to the Agency for concurrence prior to advertising for bids along with an updated cost estimate. The Agency may require another updated cost estimate if a significant amount of time elapses between the original submission and advertising for bids.

c. The use of any procurement method other than competitive sealed bids must be requested in writing and approved by the Agency.

14. Legal Services – You have been required to execute a legal services agreement with your attorney and bond counsel, if applicable, for any legal work needed in connection with this project. The agreement should stipulate an hourly rate for the work, with a "not to exceed" amount for the services, including reimbursable expenses. RUS Bulletin 1780-7, "Legal Services Agreement," or similar format may be used. The Agency will provide concurrence prior to advertising for bids. Any
changes to the fees or services spelled out in the original agreement must be reflected in an amendment to the agreement and have prior Agency concurrence.

The following legal forms are anticipated in consideration of this project:

- **Form RD MA 1942-1**, "Attorney’s Opinion" (on each contract).
- **Form RD MA 1942-2**, "Certificate as to Title to Project Site."
- **Form RD MA 1942-3**, "Attorney’s Certificate as to No Litigation" executed on the date of loan closing.

15. **Property Rights** - Prior to advertising for bids, you and your legal counsel must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights-of-way needed for the project. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Such control over the lands and rights will be evidenced by the following:

   a. **Right-of-Way Map** – Your engineer will provide a map clearly showing the location of all lands and rights-of-way needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.

   b. **Form RD 442-20**, "Right-of-Way Easement" – This form may be used to obtain any necessary easements for the proposed project.

   c. **Form RD 442-21**, "Right-of-Way Certificate" – You will provide a certification on this form that all right-of-way requirements have been obtained for the proposed project.

   d. **Form RD 442-22**, "Opinion of Counsel Relative to Rights-of-Way" – Your attorney will provide a certification and legal opinion on this form addressing rights-of-way, easements, and title.

The approving official may waive title defects or restrictions, such as utility easements, that do not adversely affect the suitability, successful operation, security value, or transferability of the facility. Any such waivers must be provided by the approving official in writing prior to closing or the start of construction, whichever occurs first.

You are responsible for the acquisition of all property rights necessary for the project and for determining that prices paid are reasonable and fair. The Agency may require an appraisal by an independent appraiser or Agency employee in order to validate the price to be paid.

16. **System Policies, Procedures, Contracts, and Agreements** – The facility must be operated on a sound business plan. You must adopt policies, procedures, and/or ordinances outlining the conditions of service and use of the proposed system. Mandatory connection policies should be used where enforceable. The policies, procedures, and/or ordinances must contain an effective collection policy for accounts not paid in full within a specified number of days after the date of billing. They should include appropriate late fees, specified timeframes for disconnection of service, and reconnection fees. A draft of these policies, procedures, and/or ordinances must be submitted for Agency review and concurrence, along with the documents below, before closing instructions may be issued unless otherwise stated.
a. **Conflict of Interest Policy** – Prior to obligation of funds, you must certify in writing that your organization has in place an up-to-date written policy on conflict of interest. The policy will include, at a minimum: (1) a requirement for those with a conflict or potential conflict to disclose the conflict/potential conflict; (2) a clause that prohibits interested members of the applicant’s governing body from voting on any matter in which there is a conflict, and (3) a description of the specific process by which the governing body will manage identified or potential conflicts.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Disclosure must be in the form of a written letter signed and dated by the applicant’s official. A negative disclosure in the same format is required if no conflicts are anticipated.


Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

b. **Water User Agreement** – Projects not involving mandatory connection require users to execute a Water Users Agreement. The draft agreement must receive RD concurrence prior to advertising for bids. RUS Bulletin 1780-9, “Water Users Agreement,” or similar format may be used.

c. **Contracts for Other Services/Lease Agreement** – Drafts of any contracts or other forms of agreements for other services, including audit, management, operation, and maintenance, or lease agreements covering real property essential to the successful operation of the facility, must be submitted to the Agency for review and concurrence prior to advertising for bids.

Fully executed copies of any policies, procedures, ordinances, contracts, or agreements must be submitted prior to loan closing, with the exception of the conflict of interest policy, which must be in place prior to obligation of funds.

17. **Closing Instructions** – The Agency will prepare closing instructions as soon as the requirements of the previous paragraphs are complete, as well as a draft of the security instruments. Closing instructions must be obtained prior to advertising for bids.

18. **Interim Financing** – For all loans exceeding $500,000, where loan funds can be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing will be used to preclude the necessity for multiple advances of Agency loan funds. You must provide the Agency with a copy of the interim loan financing agreement for review.
prior to advertising for bids. The Agency approving official may make an exception when interim financing is cost prohibitive or unavailable.

19. **Construction Account** – You must establish a construction account for all funds related to the project. Construction funds will be deposited with an acceptable financial institution or depository that meets the requirements of 31 CFR Part 202. A separate account will not be required for Federal funds and other funds; however, the recipient must be able to separately identify, report, and account for all Federal funds, including the receipt, obligation and expenditure of funds. Financial institutions or depositaries accepting deposits of public funds and providing other financial agency services to the Federal Government are required to pledge adequate, acceptable securities as collateral, in accordance with 31 CFR Part 202. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the construction account at any one time. Your financial institution can provide additional guidance on collateral pledge requirements.

Agency funds will be disbursed into the borrower’s depository account through an electronic transfer system. SF 3881, “ACH Vendor/Miscellaneous Payment Enrollment Form,” must be completed and submitted to the Agency prior to advertising for bids.

20. **System Users** – This letter of conditions is based upon your indication at application that there will be at least 2,150 residential users, and 197 non-residential users, on the existing system when construction is completed.

Before the Agency can agree to the project being advertised for construction bids, you must certify that the number of users indicated at application are currently using the system or signed up to use the system once it is operational.

If the actual number of existing and/or proposed users that have signed up for service is less than the number indicated at the time of application, you must provide the Agency with a written plan on how you will obtain the necessary revenue to adequately cash flow the expected operation, maintenance, debt service, and reserve requirements of the proposed project (e.g., increase user rates, sign up an adequate number of other users, reduce project scope, etc.). Similar action is required if there is cause to modify the anticipated flows or volumes presented following approval.

a. **Positive Program to Encourage Connections** – You must provide a positive program to encourage connection by all users as soon as service is available. The program will be reviewed by the Agency prior to advertising for bids. A guide for developing your positive program is available from the Agency.

b. **Water User Agreements** – Users will be required to execute a Water Users Agreement prior to advertising for construction bids. The amount of cash contributions required will be set by you and concurred with by the Agency. Contributions should be an amount high enough to indicate sincere interest on the part of the potential user, but not so high as to preclude service to low income families, and have a deadline for the contribution to be used or forfeited. RUS Bulletin 1780-9, “Water Users Agreement,” or similar agreement may be used.
c. Service Declination Statement – Each potential user who is located along planned lines and declines the offered service will be provided an opportunity to sign a “Service Declination Statement.”

21. Other Funding – Prior to advertising for bids, you must provide evidence of applicant contributions and approval of other funding sources. This evidence should include a copy of the commitment letter from each source.

22. Proposed Operating Budget – You must establish and/or maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance (O&M), debt service, and reserves. Prior to advertising for bids, you must submit a proposed annual operating budget to the Agency which supports the operation, maintenance, debt service, and reserves, as well as your proposed rate schedule. The operating budget should be based on a typical year cash flow after completion of the construction phase and should be signed by the appropriate official of your organization. Form RD 442-7, “Operating Budget,” or similar format may be utilized for this purpose. It is expected that O&M will change over each successive year and user rates will need to be adjusted on a regular basis.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system. This assistance is available free to your organization. If you are interested please contact our office for information.

23. Permits – The owner or responsible party will be required to obtain all applicable permits for the project, prior to advertising for bids. The consulting engineer must submit written evidence that all applicable permits required prior to construction have been obtained with submission to the Agency of the final plans, specifications, and bid documents.

24. Vulnerability Assessment/Emergency Response Plan (VA/ERP) – The Agency requires all financed water and wastewater systems to have a VA/ERP in place. Borrowers with existing systems must provide a certification that a VA/ERP has been completed prior to advertising for bids. The VA/ERP documents themselves are not submitted to the Agency. The VA/ERP must address potential impacts from natural disasters and other emergency events. In particular, it should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every three years at a minimum.

For new systems, see Section V of this letter of conditions. For VA/ERP requirements throughout the life of the loan, see Section VII. Technical assistance at no cost is available in preparing these documents.

25. Bid Authorization - Once all the conditions outlined in Section III of this letter have been met, the Agency will authorize you to advertise the project for construction bids. Such advertisement must be in accordance with applicable State statutes.
SECTION IV - REQUIREMENTS PRIOR TO START OF CONSTRUCTION

26. **Bid Tabulation** – Immediately after bid opening, you must provide the Agency with the bid tabulation and your engineer’s evaluation of bids and recommendations for contract awards. If the Agency agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the requirements of Section III of this letter have been satisfied, the Agency will authorize you to issue the Notice of Award.

a. **Cost Overruns.** If bids are higher than expected, or if unexpected construction problems are encountered, you must utilize all options to reduce cost overruns. Negotiations, redesign, use of bidding alternatives, rebidding or other means will be considered prior to commitment of subsequent funding by the Agency. Any requests for subsequent funding to cover cost overruns will be contingent on the availability of funds. Cost overruns exceeding 20% of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date.

b. **Excess Funds.** If bids are lower than anticipated at time of obligation, excess funds must be deobligated prior to start of construction except in the cases addressed in this paragraph. In cases where the original PER for the project included items that were not bid, or were bid as an alternate, the State Office official may modify the project to fully utilize obligated funds for those items. Amendments to the PER, ER, and letter of conditions may be needed for any work not included in the original project scope. In all cases, prior to start of construction, excess funds will be deobligated, with grant funds being deobligated first. Excess funds do not include contingency funds as described in this letter.

27. **Contract Review** – Your attorney will certify that the executed contract documents, including performance and payment, if required, are adequate and that the persons executing these documents have been properly authorized to do so in accordance with RUS Instruction 1780.61(b).

Once your attorney has certified that they are acceptable, the contract documents will be submitted to the Agency for its concurrence. The Notice to Proceed cannot be issued until the Agency has concurred with the construction contracts.

28. **Final Rights-of-Way** – If any of the rights-of-way forms listed previously in this letter contain exceptions that do not adversely affect the suitability, successful operation, security value, or transferability of the facility, the approving official must provide a written waiver prior to the issuance of the Notice to Proceed. For projects involving the acquisition of land, you must provide evidence that you have clear title to the land prior to the issuance of the Notice to Proceed.

29. **Insurance and Bonding Requirements** - Prior to the start of construction or loan closing, whichever occurs first, you must acquire and submit to the Agency proof of the types of insurance and bond coverage for the borrower shown below. The use of deductibles may be allowed, providing you have the financial resources to cover potential claims requiring payment of the deductible. The Agency strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible
provisions. It is your responsibility and not that of the Agency to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.

a. **General Liability Insurance** – Include vehicular coverage.
b. **Workers' Compensation** – In accordance with appropriate State laws.
c. **Fidelity or Employee Dishonesty Bonds** – Include coverage for all persons who have access to funds, including persons working under a contract or management agreement. Coverage may be provided either for all individual positions or persons, or through blanket coverage providing protection for all appropriate workers. During construction, each position should be bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The coverage may be increased during construction based on the anticipated monthly advances. After construction and throughout the life of the loan, the amount of coverage must be for at least the total annual debt service of all outstanding Agency loans. The Agency will be identified in the fidelity bond for receipt of notices. Form RD 440-24, “Position Fidelity Schedule Bond,” or similar format may be used.
d. **National Flood Insurance** - If the project involves acquisition or construction in designated special flood or mudslide prone areas, you must purchase a flood insurance policy at the time of loan closing.
e. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally insured, and subsurface lift stations except for the value of electrical and pumping equipment. The Agency will be listed as mortgagee on the policy when the Agency has a lien on the property. Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

Insurance types described above are required to be continued throughout the life of the loan. See Section VII.

30. **Initial Compliance Review** – The Agency will conduct an initial compliance review of the borrower prior to loan closing or start of construction, whichever occurs first, in accordance with 7 CFR 1901. Subpart E.

**SECTION V – REQUIREMENTS PRIOR TO LOAN CLOSING**

31. **Interim Financing** – Interim financing is being used. Loan closing will occur near the end of construction when interim funds are about to be completely disbursed. Documents detailed above from Sections II and III regarding security, electronic payments (Form 3550-28), and system policies, procedures, contracts, and agreements must be adopted and/or executed and submitted to the Agency prior to loan closing. In addition, the following items are required prior to closing:

32. **Vulnerability Assessment/Emergency Response Plan (VA/ERP)** – The Agency requires all financed water and wastewater systems to have a VA/ERP in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operation, and a certification that a VA is complete must be submitted within one year of the start of operation. Borrowers with existing systems must provide a certification that a VA and ERP are completed prior to authorization to advertise for bids. The VA/ERP documents are not submitted to the Agency.
Technical assistance is available in preparing these documents at no cost to you. The VA/ERP must address potential impacts from natural disasters and other emergency events. In particular, it should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every three years at a minimum.

33. **Other Requirements** – All requirements contained in the Agency’s closing instructions, as well as any requirements of your bond counsel and/or attorney, must be met prior to loan closing.

   a. **System for Award Management.** You will be required to maintain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain an active registration in the System for Award Management (SAM) database. Renewal can be done on-line at: [http://sam.gov](http://sam.gov). This registration must be renewed and revalidated every twelve (12) months for as long as there are Agency funds to be expended. See Appendix A.

   To ensure the information is current, accurate and complete, and to prevent the SAM account expiration, the review and updates must be performed within 365 days of the activation date, commonly referred to as the expiration date. The registration process may take up to 10 business days. (See 2 CFR Part 25 and the “Help” section at [http://sam.gov](http://sam.gov)).

   b. **Litigation.** You are required to notify the Agency within 30 days of receiving notification of being involved in any type of litigation prior to loan closing or start of construction, whichever occurs first. Additional documentation regarding the situation and litigation may be requested by the Agency.

   c. **Certified Operator.** Evidence must be provided that your system has or will have, as defined by applicable State or Federal requirements, a certified operator available prior to the system becoming operational, or that a suitable supervisory agreement with a certified operator is in effect.

**SECTION VI – REQUIREMENTS DURING CONSTRUCTION AND POST CONSTRUCTION**

34. **Resident Inspector(s)** – Full-time inspection is required unless you request an exception. Such requests must be made in writing and the Agency must concur with the request. Inspection services are to be provided by the consulting engineer unless other arrangements are requested in writing and concurred with by the Agency. A resume of qualifications of any resident inspector(s) will be submitted to the owner and Agency for review and concurrence prior to the pre-construction conference. The resident inspector(s) must attend the pre-construction conference.

35. **Preconstruction Conference** – A preconstruction conference will be held prior to the issuance of the Notice to Proceed. The consulting engineer will review the planned development with the Agency, owner, resident inspector, attorney, contractor, other funders, and other interested parties, and will provide minutes of this meeting to the owner and Agency.

36. **Inspections** – The Agency requires a pre-construction conference, pre-final and final inspections, and a warranty inspection. The agency reserves the right to conduct additional
inspections as needed. Your engineer will schedule a warranty inspection with the contractor and the Agency before the end of the one-year warranty period to address and/or resolve any warranty issues. The Agency will conduct an inspection with you of your records management system at the same time, and will continue to inspect the facility and your records system every three years for the life of the loan. See Section VII of this letter.

37. Change Orders – Prior Agency concurrence is required for all Change Orders.

38. Payments – Prior Agency concurrence is required for all Invoices and Partial Payment Estimates before Agency funds will be released. Requests for payment related to a contract or service agreement will be signed by the owner, project engineer, and contractor or service provider prior to Agency concurrence. Invoices not related to a construction contract or service agreement will include the owner’s written concurrence.

39. Use of Remaining Funds – Applicant contribution and connection or tap fees will be the first funds expended in the project, followed by non-Agency sources of funds. Remaining funds may be considered in direct proportion to the amounts obtained from each source and handled as follows:

a. Remaining funds may be used for eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same.

b. Interim financing. Loan funds that are not needed will be cancelled (de-obligated) prior to loan closing.

40. Technical, Managerial and Financial Capacity – It is required that members of the Board of Directors, City Council members, trustees, commissioners and other governing members possess the necessary technical, managerial, and financial capacity skills to consistently comply with pertinent Federal and State laws and requirements. It is recommended members receive training within one year of appointment or election to the governing board, and a refresher training for all governing members on a routine basis. The content and amount of training should be tailored to the needs of the particular individual and the utility system. Technical assistance providers are available to provide this training for your organization, often at no cost. Contact the Agency for information.

41. Reporting Requirements Related to Expenditure of Funds

a. Financial Audit – An annual audit under the Single Audit Act is required if you expend $750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the Agency. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal auditor if allowed by State law, and must be submitted within 9 months of your fiscal year end.
If an audit is required, you must enter into a written agreement with the auditor and submit a copy to the Agency prior to the advertisement of bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit to be completed, the time frame in which the audit will be completed, and how irregularities will be reported.

b. **Reporting Subawards and Executive Compensation** – You as a recipient of Federal funds and your first-tier contractors are required by 2 CFR Part 170 to report disbursements to subrecipients in accordance with Appendix B of this letter and [www.fsrs.gov](http://www.fsrs.gov). Your Agency processing office can provide more information.

## SECTION VII – SERVICING REQUIREMENTS DURING THE TERM OF THE LOAN

**42. Prepayment and Extra Payments** – Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower, with no penalty.

Security instruments, including bonding documents, must contain the following language regarding extra payments, unless prohibited by State statute:

> Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the installments last to become due under this note and shall not affect the obligation of borrower to pay the remaining installments as scheduled in your security instruments.

**43. Graduation** - By accepting this loan, you are also agreeing to refinance (graduate) the unpaid loan balance in whole, or in part, upon request of the Government. If at any time the Agency determines you are able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms, you will be requested to refinance. Your ability to refinance will be assessed every other year for those loans that are five years old or older.

**44. Security/Operational Inspections** – The Agency will inspect the facility and conduct a review of your operations and records management system and conflict of interest policy every three years for the life of the loan. You must participate in these inspections and provide the required information.

**45. Annual Financial Reporting/Audit Requirements** – You are required to submit an annual financial report at the end of each fiscal year. The annual report will be certified by the appropriate organization official, and will consist of financial information and a rate schedule. Financial statements must be prepared on the accrual basis of accounting in accordance with generally accepted accounting principles (GAAP), and must include at a minimum a balance sheet and income and expense statement. The annual report will include separate reporting for each water and waste disposal facility, and itemize cash accounts by type (debt service, short-lived assets, etc.) under each facility. All records, books and supporting material are to be retained for three years after the
issuance of the annual report. Technical assistance is available at no cost with preparing financial reports.

The type of financial information that must be submitted is specified below:

a. **Audits** – An annual audit under the Single Audit Act is required if you expend $750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the Agency. It is not intended that audits required by this part be separate and apart from audits performed in accordance with State and local laws. To the extent feasible, the audit work should be done in conjunction with those audits. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal auditor if allowed by State law, and must be submitted within 9 months of your fiscal year end.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy to the Agency prior to the advertisement of bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit or financial statements to be completed, the time frame in which the audit or financial statements will be completed, what type of reports will be generated from the services provided, and how irregularities will be reported.

b. **Financial Statements** – If you expend less than $750,000 in Federal financial assistance per fiscal year, you may submit financial statements in lieu of an audit which include at a minimum a balance sheet and an income and expense statement. You may use Form RD 442-2, “Statement of Budget, Income and Equity,” and 442-3, “Balance Sheet,” or similar format to provide the financial information. The financial statements must be signed by the appropriate borrower official and submitted within 60 days of your fiscal year end.

46. **Annual Budget and Projected Cash Flow** - Thirty days prior to the beginning of each fiscal year, you will be required to submit an annual budget and projected cash flow to the Area Office. With the submission of the annual budget, you will be required to provide a current rate schedule, and a current listing of the Board or Council members and their terms. The budget must be signed by the appropriate borrower official. Form RD 442-2 or similar format may be used.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system, as well as completing the annual budget. If you are interested, please contact our office for information.

47. **Vulnerability Assessment/Emergency Response Plan (VA/ERP)** – You will be required to submit a certification to the servicing office every three years that the VA/ERP is current and covers all sites related to the facility. The documents themselves are not submitted to the Agency. The VA/ERP must address potential impacts from natural disasters and other emergency events. In
particular, it should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every three years at a minimum.

48. **Insurance** – You will be required to maintain insurance on the facility and employees as previously described in this letter for the life of the loan.

49. **Statutory and National Policy Requirements** – As a recipient of Federal funding, you are required to comply with U.S. statutory and public policy requirements, including but not limited to:

   a. **Section 504 of the Rehabilitation Act of 1973** – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no disabled individual in the United States shall, solely by reason of their disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance.

   b. **Civil Rights Act of 1964** – All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.

   c. **The Americans with Disabilities Act (ADA) of 1990** – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.

   d. **Age Discrimination Act of 1975** – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

   e. **Limited English Proficiency (LEP) under Executive Order 13166** – LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides. These protections are pursuant to Executive Order 13166 entitled, "Improving Access to Services by Persons with Limited English Proficiency" and further affirmed in the USDA Departmental Regulation 4330-005, "Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA."

Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental disability. You must display posters (provided by
the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during regular compliance reviews.

50. **Compliance Reviews and Data Collection** – The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1191. Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter. If beneficiaries (users) are required to complete an application or screening for the use of the facility or service that you provide, you must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.

**SECTION VIII – REMEDIES FOR NON-COMPLIANCE**

Non-compliance with the conditions in this letter or requirements of your security documents will be addressed under the provisions of 7 CFR 1782 and other applicable regulations, statutes, and policies.

We look forward to working with you to complete this project. If you have any questions, please contact Community Program Specialist Jennifer Sharrow at 413-585-1000 x. 3243 or by e-mail at Jennifer.Sharrow@ma.usda.gov.

Sincerely,

Jennifer R. Sharrow
Community Program Specialist

Attachments

cc: Acting Community Programs Director: Joanne Demars
    Auditor: Thomas Scanlon, Scanlon & Associates
    Attorney: Christopher Hays, Esq.
    Bond Counsel: Brenda McDonough, LockeLord LLP
    Engineer: Richard Protasovichki, Wright Pierce
To whom it may concern:

I am writing this letter with the intent to be appointed to the Zoning Board of Appeals. I have experience in the construction of commercial and residential buildings that I can use to help discern the difference between want and necessity, along with multiple positions on various boards and committees during my collegiate career. I am interested in this position to help the town grow and expand to be a better place, and to inject my youthfulness and energy into the administration of this town and to show others in my generation that the best way to enact change is to act.

Thank you for the time and consideration and I look forward from you.

Andrew Choquette
73 North Street
Ware, Ma 01082
Andrew Choquette
73 North Street, Ware MA 01082 – 413-687-8967–
Andrew.choquette@kellyfradet.com

Experience

**Outside Sales**
Kelly-Fradet Lumber, East Longmeadow MA
April 2016-Present
Read and interpret blue prints
Organize and manage projects
Assist homeowners and builders through the building process
Exceed sales metrics

**Millwork Specialist**
Lowe’s, Ware Ma
Dec 2011 – April 2016
Exceed sales metrics

Education

**Ware Public schools Class of 2010**
Worcester State University

Communication

Above average Microsoft office skills, cold calling, brainstorming

Leadership

Worcester State Pride Alliance- Various Positions (President, VP, and Treasurer)
Lowe’s Voice Team- Help increase job satisfaction, plan and organize community projects (Grenville Park Playground, Veteran’s Park Playground, Petersham Landscape Sweepstakes)
Boy Scouts of America Troop 201- Assistant Scoutmaster, Junior Assistant Scoutmaster, Senior Patrol Leader, Patrol Leader
Town of Ware
Application for Appointment to
Boards and Committees

Name: ELIZABETH CALVERT
Address: 24 Cottage St
Email: bcalvert2016@yahoo.com
Home Phone: 4133476555  Work:  Cell: 
Occupation: RECOVERY SPECIALIST  Years lived in Ware: 5
Ware Resident: Yes

Please indicate the Committee(s) you have interest in serving on: (Appointment subject to vacancies)

<table>
<thead>
<tr>
<th>Ware Agricultural Commission</th>
<th>Ware Cultural Council</th>
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<tbody>
<tr>
<td>ADA Commission</td>
<td>Finance Committee</td>
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<tr>
<td>Board of Registrars</td>
<td>Historical Commission</td>
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<td>Capital Planning Committee</td>
<td>Open Space Committee</td>
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<td>Community Development Authority</td>
<td>Tax Increment Financing (TIF) Committee</td>
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<tr>
<td>Conservation Commission</td>
<td>Zoning Board of Appeals</td>
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<td>Council on Aging</td>
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What skills and experience will you bring to this Board/Committee:
(resume attached)
I have a degree in public administration and covered municipal government for many years for the Republican. I have also been a government contract auditor for social services.

Are you currently serving or have you served on any Town committee: Yes  No
(if yes, please state what committee)

Required: Please read the following. By signing below, you state that you understand and agree:
The filing of this form does not guarantee my appointment. An application is kept on file for two (2) years. Being appointed to a committee, board or commission means that I am considered a Municipal Employee under MGL Chapter 268A and thereby subject to Conflict of Interest Law MGL Chapter 268A, Financial Disclosure Law MGL Chapter 268B, as well as Open Meeting Law. I understand that I will take the conflict of interest test after being appointed and that I also must be sworn in by the Town Clerk. IMPORTANT: Once this form is submitted, it becomes a public document. If there is information you do not want open to the public, please do not include it on this form!

Signature:  Date: 8/3/17

Please return this form to Stuart Beckley, Town Manager, 126 Main Street, Ware, MA 01082 or email to sbeckley@townofware.com.

7/25/2017
RELATED WORK

Cornerstone, Ware, MA  
Recovery Specialist, current  
Opening new program assisting young women in recovery from opiate and other addictions.

Way Finders (HAPHousing) Springfield, MA  
Quality Assurance/Compliance Specialist and Case Manager 3/15/2015-4/14/2017  
Designed and executed audit systems for Massachusetts Emergency Assistance shelter programs, Homebase stabilization programs, and Residential Assistance to Families in Transition (RAFT). Handled case load of clients in assessment for housing crisis. Designed and conducting high successful daily sessions in financial literacy for clients. Trained staff in methods to maintain compliance with state scope of services in a variety of state and city funded programs. Designed reporting systems for supervisors. Improved tracking of spending of state grant program.

Community Renewal Team, Hartford, CT  
Quality Assurance/Compliance Specialist. Assessed fiscal and programmatic compliance with government contracts in mental health, supportive housing, post-incarceration programs, and general case management for low income residents of Hartford. Designed new analytic tools. Wrote audit reports. Interviewed program managers on issues with compliance.

Springfield Public Schools, Springfield, MA, Grant Writer and Researcher.  
Researched new grant opportunities for a major urban k-12 district. Tracked federal and state grant opportunities to urban school districts. Coordinated district-wide response to grant opportunities. Designed grant response protocols. Wrote and edited proposals.  
Contributions: Prevented loss of $500,000 grant by negotiating new terms with state Department of Education. Established central repository of grant opportunities and district response. Created grants calendar.

University of Massachusetts Medical School  
Grant Researcher/Proposal Writer/Communications Specialist.  
Found grant sources, wrote grant proposals for health care research and service programs. Interviewed scientists, clinicians and other program providers about program design, research, project implementation, financing, management and evaluation. Communicated with foundation staff about grant opportunities and progress. Assisted in program design and evaluation. Wrote communications to potential donors on special projects. Learned in-house web programming language to update website for Corporate and Foundation Relations.
Selected Contributions: Connected epidemiologist with a medical transport non-profit for delivery of cancer meds to Africa; Wrote white paper on breast computed tomography that has been used to raise $525,000; Raised $50,000 with grant for breast cancer surgery fellowship. Wrote proposals raising $100,000 for anti-obesity projects with foster children, for controlling asthma in poor children, for injury prevention.

The Republican, Springfield, Ma.
Reporter
Covered science journalism, courts, government, public policy, features, technology.
Contributions: Kept local community highly informed and engaged in public debate on university research and higher education, local schools, technology, public works, courts, crime and business. Known for covering complex topics in engaging comprehensible fashion.

EDUCATION

University of Wisconsin, Madison
M.A., Public Policy and Administration, fellow

Macalester College
B.A., Political Science/Environmental Studies, with honors

REFERENCES (details available on request)

Toni Bator
Former supervisor, Director Housing Consumer Education Center
Way Finders

Angel Middleton, former supervisor, Compliance Department, Way Finders

Monica Escobar Lowell
V.P. Community Relations, UMass Memorial Health Care

Marianne Felice, MD
Principal Investigator, National Child Study
Former faculty at UMass Medical School
Former Physician-in-Chief Children’s Medical Center of UMass Memorial Medical Center
Midura, Mary

From: Beckley, Stuart
Sent: Wednesday, August 30, 2017 4:46 PM
To: Midura, Mary
Subject: FW: Workshop 13 Removal of Deed Restriction
Attachments: Vote to remove deed restriction.PDF

Please add to agenda “Affirmation of vote – Removal of deed restriction, Workshop 13) Per below. Please include the email from Mr. Opalinski and the attachment.

Thank you

From: Paul Opalinski [mailto:aaspmo@comcast.net]
Sent: Wednesday, August 30, 2017 4:37 PM
To: Beckley, Stuart <sbeckley@townofware.com>
Subject: FW: Workshop 13 Removal of Deed Restriction

Hi Stuart

Our attorney is trying to record the removal of the deed restriction. He noted because the board vote was prior to the town vote giving the selectman authorization then the board of selectman should vote again on the removal.

Please add this item to the agenda for the next selectman’s meeting.

Thanks
Paul M. Opalinski
President
American Athletic Shoe Co., Inc.
15 South Street
Ware, MA 01082
413-967-3511
www.americanathleticshoe.com

From: Greg Galanek [mailto:gg54@verizon.net]
Sent: Wednesday, August 30, 2017 4:24 PM
To: 'Paul Opalinski' <aaspmo@comcast.net>
Subject: RE: Workshop 13 Removal of Deed Restriction

Paul,

On March 7th the Select Board did not have the authority to waive the restriction. They received the authority from the Article at the May 8th special town meeting. If the wording of the Article from the Town meeting such that it confirmed/approved the March 7th vote then it would not be a problem. However the Article did not do provide confirmation of the March 7th vote, it gave the Select Board the authority to waive the restriction.
Now that the Select Board has the authority as granted by the Special Town Meeting to waive the restriction, they just need to vote to waive the restriction. Once they vote to remove the restriction, then I just need a certified copy for recording.

I have asked my title company if they can get me an answer sooner, but I would expect that it will be the same as my title examiner who is an attorney that just does title exams and has been doing it for a long time.

Greg

From: Paul Opalinski [mailto:aaspmo@comcast.net]
Sent: Wednesday, August 30, 2017 3:23 PM
To: 'Greg Galanek' <gg54@verizon.net>
Subject: RE: Workshop 13 Removal of Deed Restriction

Hi Greg

The Board of Selectman did vote to remove the restriction in their March 7th meeting.

Paul M. Opalinski
President
American Athletic Shoe Co., Inc.
15 South Street
Ware, MA 01082
413-967-3511
www.americanathleticshoe.com

From: Greg Galanek [mailto:gg54@verizon.net]
Sent: Wednesday, August 30, 2017 2:29 PM
To: 'Paul Opalinski' <aaspmo@comcast.net>
Subject: RE: Workshop 13 Removal of Deed Restriction

Paul,

I did get one answer back from my title examiner. Based on his reading of the resolutions, it appears that the votes authorized the Select Board to release the restriction. Now it would appear that the Select Board has to vote to remove the restriction. I had my title examiner review because my title company was moving their offices and with vacations they have been slow to get back to me. I have still asked them to review but they said they would not get back to me until next week.

Greg

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Circular 230 disclosure: Any tax advice contained in this communication was not intended or written to be used, and cannot be used, for the purpose of avoiding tax related penalties or promoting, marketing or recommending to another party any tax related matter addressed herein.

Gregory A. Galanek, Esq.
35 Turkey Hill Road, Suite 201A
PO Box 1079 (MAILING)
Belchertown, MA 01007
Tel. 413-323-8886
Fax 866-405-1597
email: info@galaneklaw.com

From: Paul Opalinski [mailto:aaspmo@comcast.net]
Sent: Tuesday, August 29, 2017 12:14 PM
To: 'Greg Galanek' <gg54@verizon.net>
Cc: roc@workshop13.org; chris@lindersinc.com
Subject: RE: Workshop 13 Removal of Deed Restriction

Hi Greg

Any word from the title co. regarding filing of deed restriction. We have a board meeting Wednesday night and I would like to provide an update.

Please let me know.

Paul M. Opalinski
President
American Athletic Shoe Co., Inc.
15 South Street
Ware, MA 01082
413-967-3511
www.americanathleticshoecom
From: Greg Galanek [mailto:gg54@verizon.net]
Sent: Thursday, June 15, 2017 3:40 PM
To: 'Paul Opalinski' <aaspmo@comcast.net>
Subject: RE: Workshop 13 Removal of Deed Restriction

Paul,

I reviewed the docs you sent. I have a question that I sent over to my title co. to make sure the removal of the deed restriction will be fine in the chain of title. I have not heard back from them yet. If I do not hear back by Monday I will call them again and follow up with my question.

I should have things wrapped up this coming week.

Greg

From: Paul Opalinski [mailto:aaspmo@comcast.net]
Sent: Thursday, June 01, 2017 10:41 AM
To: 'Greg Galanek' <gg54@verizon.net>
Cc: 'Roc Goudreau' <roco@comcast.net>; 'Chris DiMarzio' <chris@lindersinc.com>
Subject: Workshop 13 Removal of Deed Restriction

Hi Greg

It's been a while but we can finally move forward with the transfer of the building from Roc and Chris to Workshop 13. I am attaching 2 documents from the Town of Ware removing the deed restriction for 13 Church St in Ware.

1. Board of Selectmen Meeting Minutes dated March 7, 2017. Vote was 5-0 in favor of removing the deed restriction. See page 3.
2. Town of Ware Special Town meeting Dated May 8, 2017. Town authorizes the Board of Selectmen to amend the deed restriction. Please see Article 4.

Please let us know if you need anything else to record the removal of the restriction.

I am also attaching the building appraisal. Generally, we have discussed a bargain purchase price of $150,000 with seller financing. The note payable should be at a lowest possible interest rate, amortized over 15-30 years with a balloon in 5 to 10 years. Payments should be made semi-annually or annually in arrears as Workshop 13 will have to fundraise to make the payments. FYI-The Board has not yet formally voted on the transfer.

Please let us know if we should get together to discuss or how you would like to proceed.

Thanks
Paul M. Opalinski
President
American Athletic Shoe Co., Inc.
15 South Street
Ware, MA 01082
413-967-3511
www.americanathleticshoe.com
Board of Selectmen
Ware Town Hall, 126 Main Street, Meeting Room

Meeting Minutes
Tuesday, March 7, 2017 at 7:00 p.m.

Present: Selectman Carroll, Selectman Desmond, Selectman Talbot, Selectman Fountain, Selectman Whitney, Stuart Beckley, Mary Midura, Stanley Ciukaj

Meeting Opened by Chairman Carroll at 7:00 p.m. There was a moment of silence to honor the deaths of Richard Severy, former Ware High School Principal and teacher in the Ware Public Schools, Edward Lavella, former co-owner of Snow's Restaurant and Cemetery Commissioner for the Town of Ware, and Gloria Jordan, co-owner of Ware Foundry.

Opening Remarks, Announcements, and Agenda review by Chair - none

Consent Agenda
- Approval of Meeting Minutes of February 21, 2017, October 18, 2016, November 1, 2016, and November 15, 2016
  Selectman Talbot moved approval of the above minutes; Selectman Fountain seconded. The motion passed unanimously (5-0).

Comments and Concerns of Citizens
- Citizen Comments RE: Pleasant Street speed and sign

Residents questioned the process for hiring the new police chief, and stated his hopes that the town would give preference to young, good officers in the town. Selectman Carroll noted that there is an internal list and an external list, and the best candidate will be considered. Resident Phil Hamel also stated his hopes that the town would promote from within the police department. Resident Cathy Cascio noted that the best candidate who will lead the department should be hired.

Ms. Cascio noted she is not running for selectman, and noted her pride as a citizen for the honor shown this past week by the Town of Ware and residents for Pfc. Brian Ordiomo and his family. Ms. Cascio questioned grants used for firefighter positions; Mr. Beckley noted that the department cannot be reduced while using a grant. Ms. Cascio questioned a police department vacancy; Mr. Beckley noted that the proposed 2018 budget does not currently fill this position.

Resident Lynn Kiener, 106 Pleasant Street, spoke of speeding, 6 accidents, and need for a speed sign on Pleasant Street. Mr. Kiener noted that the 25 MPH sign is attached to a telephone pole at present. Mr. Kiener noted extensive damage to his property, including a town fire hydrant, due to a recent accident. Mr. Kiener noted that police have not issued a BOLO and have not enforced the speed limit. Selectman Carroll offered his property to set up a speed trailer.

A True Copy Attest
Nancy J. Talbot
Town Clerk

Page 1 of 5
Scheduled Appearances

- 7:05 p.m. Healthwise Foundation, INC, Letter of Non-Opposition, Public Discussion

Mr. Beckley noted that the company withdrew the application tonight. Judy Metcalf, Board of Health Director, noted that this application situation points out that the town should develop local regulations as this issue continues to be on the radar and there should be community controls on location, advertising, and impact to the town. Selectman Desmond noted that this should be discussed with legislators and educate the public on regulations. Resident Dar Sojka quoted from the Town Master Plan regarding substance abuse and security concerns. Resident Mr. Jackson questioned if the application can be re-submitted; Mr. Beckley noted that applicants can still apply, but the Planning Board talked with Ruben Flores-Marzan regarding language modeled as liquor sales. That language would have to be approved at a Town meeting. Selectman Talbot noted that the new regulations would not be ready in time for the May 8, 2017 town meeting. Resident Roy St. George questioned if the moratorium could be brought up at the next town meeting; Selectman Carroll indicated that could be done.

Old Business

- Disposition of South Street School

Mr. Beckley stated there is interest in the property, and if put out as RFP, bids would have to be returned by April 14, 2017 and acted upon by April 18, 2017. Mr. Beckley noted that the Board may consider a demolition permit in the RFP.

Michael McCarthy and Christian Boysen of Optimus spoke to the Board regarding their interest in building a senior living facility such as Arbor Village or Coldbrook Village. The 100 bed facility would be self-contained, with independent living, assisted living, and memory care living facilities. Discussion with BMLH regarding land parcel between to be sold as part of this development. The facility would be for working middle class and private pay. The business plan would bring approximately 50 new jobs for a four-story facility. The plan would also be to take down the existing building and ask for a TIF.

Selectman Carroll stated his hopes that this works out for the benefit of the town. Selectman Talbot noted that all plans must conform per Chapter 30B.

Resident Roy St. George noted the positive economic impact to the town, families will visit, it may boost real estate, and may help keep the hospital here.

Resident Cathy Caseio noted that this area has lacked a facility for dementia.

Planning Board member Chris DiMarzio noted that the Planning Board has had discussions regarding this proposal.

Selectman Talbot thanked Mr. McCarthy and Mr. Boysen for considering Ware for this project.

Selectman Desmond moved to approve the request of the Town of Ware to apply for a demolition permit; Selectman Talbot seconded. The motion passed unanimously (5-0).
Selectman Desmond moved to approve the issuance of a request for proposals for the sale of the property; Selectman Talbot seconded. The motion passed unanimously (5-0).
• Vote of Revocation of License No. 00029-RS-1326 – Annual All Alcoholic Restaurant, JHN Enterprises, Inc. d/b/a Snow’s Restaurant, 136 Pleasant Street, Ware, MA (licenses/permits not paid, real estate taxes outstanding), and revocation of Common Vintualler License, Entertainment License, and Automatic Amusement Devices License

Mr. Beckley noted that the correct process to give notice to the licensee has been tracked. There are outstanding taxes and liens still due on the property.

Selectman Talbot moved to REVOKE Annual All Alcoholic Restaurant, JHN Enterprises, Inc. d/b/a Snow’s Restaurant, 136 Pleasant Street, Ware, MA, and to REVOKE Common Vintualler License, Entertainment License, and Automatic Amusement Devices License; Selectman Whitney seconded. The motion passed unanimously (5-0).

• Update of RT’s Welding Fabrication & Auto Repair, Inc.
Selectman Talbot moved to postpone discussion to March 21, 2017 at 7:05 p.m.; Selectman Whitney seconded. The motion passed unanimously (5-0).

New Business
• Request to change Tax Restriction, Workshop 13
Chris DiMarzio noted the culture of Workshop 13 and the robust board of directors with many offerings of events for the community. The next step would be to purchase the building under the non-profit status of Workshop 13, and this would give potential to many grants. Workshop 13 is a benefit and value to the community. Mr. DiMarzio also offered to pay for the recording of the lifting of the deed restriction.
Resident Cindy LaBomand spoke in favor of this request as Workshop 13 has been a great boost to music, theater and education. Resident Jack Cascio spoke in favor of the beautifully restored building, Open Mic nights, entertainers like James Montgomery, and stated that “Workshop 13 has been compared to the nightlife of Northampton”. Resident Carol Zins spoke in favor of this request, noting that there was no tax base in the past use as a church. Resident Tracy Opalinski spoke in favor of this request on behalf of the WBCA.

Selectman Desmond moved to remove the deed restriction; Selectman Talbot seconded. The motion passed unanimously (5-0).

• Planning & Community Development: Request for Subordination
Mr. Brad DiMero appeared before the Board to request subordination for the full $42,000, stating that he has already put $20,000 into home improvements.
Selectman Desmond move to approve request for subordination of $5,000 as recommended by Planning & Community Development; Selectman Talbot seconded. Mr. DiMero stated that was not what he understood to be done.
Selectman Desmond withdrew his motion; Selectman Talbot withdrew her second.
Selectman Talbot moved to table this item, applicant should consult Planning & Community Development Office; Selectman Whitney seconded. The motion to table passed unanimously (5-0).
• Request to Open Warrant for Special Town Meeting
• Request to Open Warrant for Annual Town Meeting

Selectman Talbot moved to open the Warrant for Annual Town Meeting May 8, 2017 and to open the Warrant for Special Town Meeting May 8, 2017, to begin March 7, 2017 and to close at 12:00 p.m. March 30, 2017, review on April 4, 2017; Selectman Desmond seconded. The motion passed unanimously (5-0).

• Approval of One-Day Liquor Licenses for Workshop 13 – Saturday, March 18, Friday, March 24, Friday, April 7, Saturday, April 8, Friday, April 21, 2017

Selectman Talbot moved approval of the one-day liquor licenses as noted; Selectman Desmond seconded. The motion passed unanimously (5-0).

• Request for Intermunicipal Agreement/Joint Meeting – Town of Hardwick

Mr. Beckley explained that this is a request from Ware Fire Department for the Ware Board of Selectmen to meet with Hardwick Board of Selectmen to discuss WFD providing of ambulance service to Hardwick. Fire Chief Coulombe noted that this would charge an upfront fee for service. Chief Coulombe noted many area towns working together in Regionalization to provide needed services. Resident Cathy Cascio stated that this town should take care of its own and not use budget money for other towns, also noting ambulance transport restrictions and cost factor to the town. Chief Coulombe noted that the ambulance previously transported 24/7, but was told by the Board of Selectmen to only do transports from 8:00 am – 5:00 pm. Mr. Beckley noted that WFD already provides service to Hardwick, and this fee should cover the cost to the town. Regionalization would benefit both towns. Ambulance funds are offset by ambulance receipts. Mr. Beckley was asked to set up a meeting with Ware and Hardwick Boards of Selectmen.

Town Manager Report

Mr. Beckley noted that the Board is invited to the Pathfinder Budget Meeting on Wednesday, March 15, 2017 at 7:00 pm. All departments, veterans, State and Local officials and residents did a wonderful job paying tribute to Private First Class Odiorne. The Town is extremely grateful for the support.

The RFP for solar power on Robbins Road landfill and Banas property will be advertised on March 15, 2017.

The IAC has received a proposed premium increase of 14.7%. Most towns have at least a 10% increase. The IAC has a representative from each of the eight unions and retirement, and employees work very hard to keep costs down. The Town, through its consultant, will seek quotes from three other insurance carriers.

Resident Phil Hamel asked if there had been any noise complaints from the solar panels; Mr. Beckley noted there had been a power surge at the facility and Comcast was working on the issue. Resident Mr. Jackson questioned what happens after the 20 year life of the panels; Mr. DiMarzio noted that the Planning Board had a clause for discontinuance and disposal.

Mr. Beckley noted the Attorney General’s office conducted a conference call which the Town and the Quabog Valley Community Development Corporation participated in. There are possible programs through the AG which would apply to the removal of decrepit buildings such as 73 West Main Street; this is a very long process.
Mr. Beckley gave the Board of Selectmen copies of the Preliminary Budget that was submitted to the Finance Committee. A full copy with department proposals will be available on Monday.

Ware Community Television has filmed a 26 minute informational video with Jac Piatrassi and John Zienowicz to introduce the Quaboag Connector. The video will air at 6:00 pm beginning March 8, 2017 and will run Monday through Friday for two weeks.

A Selectmen’s Candidates Forum will be held on Saturday, March 25, 2017 at 10:00 am at Ware Town Hall in the Selectmen’s Hearing Room. There are five candidates for the two available selectmen’s seats in the April 10, 2017 Annual Election. The debate will be a question and answer format. It will be shown live and residents are welcome to attend. Residents are also encouraged to send questions to Ware River News Editor Eileen Kennedy at ekennedy@turley.com as she will be asked the questions of the candidates.

Executive Session: MGL Chapter 30A, Section 21 (a) #3, Litigation

Selectman Talbot moved to Adjourn Regular Session at 8:49 p.m., to move into Executive Session per MGL Chapter 30A, Section 21 (a) #3, Litigation, NOT TO RECONVENE IN OPEN SESSION; Selectman Whitney seconded. The motion passed on a Roll Call Vote of 5 Yes, 0 No:

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<tr>
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<tr>
<td>John A. Desmond</td>
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<td>Michael Fountain</td>
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<td>Alan G. Whitney</td>
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<td>Nancy J. Talbot</td>
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Attest:  
Mary L. Mihura, Executive Assistant
SPECIAL TOWN MEETING
TOWN OF WARE
MONDAY – MAY 8, 2017

In accordance with the accompanying warrant, the Inhabitants of the Town of Ware, Precincts A, B & C, qualified to vote in town affairs, met on Monday - May 8, 2017 at six-thirty o’clock (6:30 PM) at Ware High School – 237 West St. Ware.

The quorum requirement per Town of Ware Charter in the amount One Hundred (100) registered voters was met with One Hundred Eighty Seven (187) present as reported to the Moderator by the Board of Registrars.

The Moderator Kathleen Coulombe called the meeting to order at 6:30 PM.

The Moderator went over rules and procedures for speaking and discussion of the articles with a five (5) minute time limit; exits were noted for departure in the event of an emergency, and a request to silence all cellphones and pagers was made.

Counters chosen by the Moderator for four (4) sections as follows – Section (1) – Jennifer McMartin and Jack Casacio; Section (2) David Grace and Norma Silloway; Section (3) Janice Ouimet and Brandy Bruso; Section (4) Michael Fountain and Denis Ouimette.

A moment of silence was requested for recently deceased municipal officials and town employees active or retired: Claire Bothwell, Irene and Wayne Higney, Anthony Krasnecky, Michalina Kalafarski, Gloria and Milton Jordon, Sr., Edward Lavella, Marilee MacKavitich, John Motyka, Sr., Richard A. Norton, Sr., Richard Seveney and William Towson.

Action as follows was taken on the following:

ARTICLE 1. Unanimously voted in favor that the Town TRANSFER the following sums of money to pay for prior year bills - $2,230.00 from FREE CASH to the Board of Health for payment of a landfill closure bill; and $200.00 from FREE CASH to the Department of Public Works for a water easement.

ARTICLE 2. Passed by a Majority vote in favor that the Town amend the following line items for the Fiscal Year 2017 Town Budget:

Transfer to:

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<td>135-5200</td>
<td>Town Accountant Purchase of Services</td>
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<tr>
<td>192-5100</td>
<td>Town Hall Custodian Salary</td>
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QUITCLAIM DEED

The Town of Ware, by its Board of Selectmen, Town Hall, 126 Main Street, Ware, Massachusetts

for the full consideration of ONE THOUSAND AND 00/100 ($1,000.00) Dollars paid

grants to Christopher DiMarzio of 5 Dora Street, Ware, Massachusetts and Ernest A. Goudreau
of 211 Monson Turnpike Road, Ware, Massachusetts

with quitclaim covenants a certain tract of land, with buildings thereon, situated on the easterly
side of Church Street in said Ware, bounded and described as follows:

Beginning at a point on the easterly side of said Church Street and said point being the
southwesterly corner of the premises herein to be conveyed; thence running

Northerly along said Church Street, eighty-eight and one-half (88-1/2) feet to a point;
thence running

Easterly along land now or formerly of Augusta L. Fenn, Anna A. Fenn and George C.
Fenn a distance of seventy-one (71) feet to a point; thence running

Southerly along land now or formerly of the Otis Company a distance of eighty-eight and
one-half (88-1/2) feet to a point; thence running

Westerly along the median line of Otis Avenue a distance of seventy-one (71) feet to the
point of beginning.

Being the same premises deeded to the grantor herein by deed of Teresa Sucharska, dated
March 11, 1978, and recorded in the Hampshire County Registry of Deeds in Book 2010,
Page 173.

The following restrictions are incorporated into this deed and run with the land and apply to the
grantees and all their heirs, successors and assigns who by acceptance of this deed or any
subsequent deed agree to be bound by these restrictions.
(A) The building which is the subject of this deed located at 11-13 Church Street is a historically significant structure and the current structure's exterior shall be maintained and will not be altered without the prior written approval of the Ware Board of Selectmen. No part of the building will be demolished or torn down except for reasons of public health or public safety and only with the prior written approval of the Ware Board of Selectmen. This restriction does not preclude required maintenance of the exterior of the building, or the replacement of exterior materials with modern construction materials provided that the appearance of the building is maintained.

(B) Part of the consideration for the conveyance of this property by the Town of Ware is the anticipated tax revenue to the Town in the form of real estate taxes based on the assessed value of the property. For a period of 30 years from the date of this deed, any ownership of this property by an entity not required by law to pay real estate taxes will be subject to the requirement of this restriction that payments in lieu of real estate taxes, in the amount of the real estate taxes which would otherwise be due, be paid annually to the Town of Ware. This restriction requiring these payments shall run with the land and shall be enforceable by an action at law brought by the Town of Ware against the owners of the property.

Executed as a sealed instrument this 6th day of December, 2012.

In witness whereof, the said Town of Ware has caused its corporate seal to be hereto affixed and these presents to be signed in its name and behalf by

this 6th day of December, 2012

TOWN OF WARE

By its Selectmen

[Signatures]
COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

On this 6th day of December, 2012, before me the undersigned Notary Public, personally appeared the Board of Selectmen, proved to me through satisfactory evidence of identification, which was known personally, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Margaret D. Sorel
Notary Public (seal) margaret D. Sorel
My commission expires: 09-10-2015

T:\REALWAREG101\13 Church St Sale\wareg101.Deed.Church st.wpd

3

ATTEST: HAMPShIRE, petraie A. Page, REGISTER
Patriot A. Pl/EA
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And to fund these increases by:

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ARTICLE 3. Unanimously approved to authorize the Board of Selectmen on behalf of the Town to accept an easement substantially in the form attached hereto, for the purpose of a trail connecting community cemeteries as show on the plan included in the Town Meeting packet. *(Map only in Town Meeting Booklet – see attachment.)*

ARTICLE 4. Passed by a majority vote in favor with one (1) opposed that the Town authorize the Board of Selectmen to amend the deed restrictions for 13 Church Street; the amendments attached hereto *(See copy of deed attached with notation to remove condition under Section (B)).*

ARTICLE 5. Passed by a majority vote in favor with two (2) opposed that the Town appropriate $22,500.00 for the purpose of purchasing new patient care reporting software and for upgrade of computers for a system upgrade for the Ambulance Service and to meet said appropriation by transferring $22,500.00 from Ambulance Reserve Receipts.

There being no further action needed a motion was made and seconded to dissolve the Special Town Meeting at 6:59 PM. All in favor.

A true copy attest: 

[Signature]

Nancy J. Talbot – Town Clerk, Ware, MA
August 30, 2017

To : Board of Selectmen
From : Stuart Beckley & Richard Kilhart
Subject: Solar Facility

In May, the Town received five proposals for lease of Town property on Robbins Road for the construction of a solar facility. After review, it was determined that the Town would benefit from an outside eye. Working with RJ Walsh of Ware, the proposals were reviewed.

Based on Mr. Walsh’s review, I recommend that the Board move forward with an agreement with Forefront Energy to lease the Robbins Road land and construct a solar facility. Forefront has the best understanding of the Massachusetts credits program and has offered a strong value for the lease.

Thank you.
August 22, 2017

Town of Ware
Board of Selectmen
Solar Consulting Services

Re: Solar Array Proposal Review & Analysis

I have reviewed the (5) Proposals submitted to the Town of Ware regarding the development, construction, operation of a ground mounted photovoltaic solar array (s) located on the Ware Landfill and adjacent territory. Proposals were received from Citizens Enterprises Corporation, Forefront Power, Solsystems, SWEB Development USA, LLC, and Kearsarge Energy/Industria Engineering/Tighe & Bond.

After careful review of the 5 proposals, I am recommending Forefront Energy for developing the Ware Landfill Solar site. This decision is based upon the quality of the proposal submitted. Forefront carried the most detail oriented proposal, ranging from the most detailed conceptual drawings, schedule, and phasing plan; as well as the best lease terms, portfolio experience, and financial backing. Although they are not a local based company, they will have the opportunity to use a local EPC contractor to build and maintain the array.

Please review the attached Proposal Analysis for further details regarding the submitted proposals.

Respectfully Submitted,

R.J. Walsh
Solar Consulting Services
Analysis Summary Report

Project:

Town of Ware, Photovoltaic Solar Array Proposal review

1. Scope: The scope of work was to provide the town of Ware a Solar Proposal for the development, installation, and operation/maintenance of a ballasted and/or ground mounted photovoltaic Solar Array located at the Ware Landfill off of Robbins Rd.

2. Procurement method used: Invitations to submit proposals were distributed to list of prequalified companies.

3. Number of proposals received by closing date: 5 Proposals received
<table>
<thead>
<tr>
<th></th>
<th>Kearsarge Energy, Industria Engineering, Tighe &amp; Bond</th>
<th>Forefront Power</th>
<th>SWEB Development USA, LLC</th>
<th>Solsystems</th>
<th>Citizens Enterprises Corporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>MW DC/AC</td>
<td>4.02 MW DC</td>
<td>999kW AC &amp; 2MW AC</td>
<td>2MW DC</td>
<td>2.2 MW DC</td>
<td>2MW DC</td>
</tr>
<tr>
<td>Lease/Tax</td>
<td>N/A</td>
<td>$100,800 annual lease, 49k property tax* (*if tax is assessed less, difference is added to lease)</td>
<td>35k annual lease</td>
<td><strong>175k annual lease</strong> dependent upon interconnect cost w/ grid. -10k from lease for every 50k increase/decrease</td>
<td>N/A</td>
</tr>
<tr>
<td>SREC2/ STAR Program</td>
<td>Proposal for SREC2 (*obsolete), STAR to be evaluated.</td>
<td>Proposal for STAR Program- Block 1, max. incentives</td>
<td>Proposal for STAR Program- Block 2 or 3</td>
<td>Proposal for STAR Program- Block 1</td>
<td>Proposal for SREC2 (*obsolete)</td>
</tr>
<tr>
<td>Location</td>
<td>Watertown, MA</td>
<td>California</td>
<td>Austria</td>
<td>Washington DC</td>
<td>Boston MA</td>
</tr>
<tr>
<td>EPC Contractor (engineer, procurement, construction)</td>
<td>Industria Engineering</td>
<td>TBD, will use EPC contractor</td>
<td>TBD, will use EPC contractor</td>
<td>TBD, will use EPC contractor</td>
<td>CONTI</td>
</tr>
<tr>
<td>Local Projects</td>
<td>YES</td>
<td>YES</td>
<td>N/A</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Capped Landfill Projects</td>
<td>YES</td>
<td>YES</td>
<td>N/A</td>
<td>N/A</td>
<td>YES</td>
</tr>
</tbody>
</table>
To: Board of Selectmen

From: Stuart Beckley, Town Manager

A request was made at the last meeting for the adoption of a Social Media Policy. After review of Policies from several communities, attached is a draft derived from the Policy from the Town of Sturbridge.

Some towns have separate policies for officials; I found that the Sturbridge policy incorporated most of those points. An example from Easton is attached.
SOCIAL MEDIA POLICY

I. INTRODUCTION

The Town of Ware permits departments to utilize social media sites and social networking sites (collectively “social media sites”) to further enhance communications with its residents and various stakeholders in support of Town goals and objectives. Town officials and Town departments have the ability to publish articles, facilitate discussions and communicate information through such media to conduct Town business. Social media sites facilitate further discussion of Town issues, operations and services by providing members of the public the opportunity to participate in many ways using the Internet.

This policy establishes guidelines for the official use of social media by Town employees and officials, for government-related purposes. Questions regarding this Policy should be directed to the Town Manager. This Policy may be supplemented by more specific administrative procedures and rules as may be issued. Furthermore, this Policy may be amended from time to time, and is meant to be read in conjunction with all other applicable policies and procedures of the Town of Ware.

The Policy applies to all employees, officers, and officials (elected or appointed) of the Town of Ware. Employees whose employment is governed by law or a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.

Nothing in this Policy is designed to interfere with, restrain or prevent employee communications that are otherwise protected under law (i.e., First Amendment, Whistleblower, Union Activities).

II. DEFINITIONS

The following definitions apply for purposes of this Policy:

1. “Social media sites” and “social networking sites” refer to websites that facilitate user participation, networking, and collaboration through the submission of user generated content. Social media in general includes tools such as: blogs, wikis, microblogging sites, such as Twitter; social networking sites, such as Facebook and LinkedIn; video sharing sites, such as YouTube; bookmarking sites such as Pinterest; and messaging applications such as Snapchat and Instagram.

2. A “social media identity” is a specific user identity or account that has been registered on a third party social media site.

3. A “blog” (an abridgement of the term web log) is a Town of Ware website with regular entries of commentary, descriptions of events, or other material such as graphics or video.
4. A “moderator” is an authorized Town of Ware official (appointed or elected) or employee, who reviews, authorizes and allows content submitted by the Town officials, employees and public commentators to be posted to a Town of Ware social media site or sites.

5. “Town Systems” are any electronic communication and information equipment and systems. Such Systems include, but are not limited to, computer workstations, hardware and software, electronic mail (e-mail), telephones, cellular phones, “smartphones”/PDA-style devices, tablets, pagers, facsimile machines, and the Internet.

6. “Town social media site” is any official social media site established by or for a Town department, with the authorization of the Town Manager.

7. “Social media” includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else’s web log or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or a chat room, whether or not associated or affiliated with the Town, as well as any other form of electronic communication.

III. POLICY

1. All Town social media sites shall be: a) approved by the Town Manager; and b) published using social media platform and tools approved by the Information Technology Department (“IT”) or its equivalent.

2. The official posting for the Town will be done by the Town Manager or their designee.

3. Subject to prior approval of the Town Manager, departments have the option of allowing employees to participate in existing social media sites as part of their job duties, or allowing employees to create social media sites as part of their job duties. Department Managers may allow or disallow employee participation in any social media activities in their departments. All employees should be reminded that personal use of social media is strictly prohibited during work hours.

4. All Town social media sites shall adhere to applicable state, federal and local laws, regulations and policies including the Open Meeting Law, Public Records Law, Public Records retention schedules, Conflict of Interest Law, Copyright Law, Campaign and Political Finance laws and rules, and other applicable Town policies.

5. Public Records Law and e-discovery laws and policies apply to social media content. Accordingly, such content must be able to be managed, stored and retrieved to comply with these laws. Furthermore, once such content is posted on a social media site, it should stay posted, unless it is removed for one of the reasons set forth below in Number 10 and/or 11, or it is changed to fix spelling or grammar errors. A record shall be kept of any such
modifications.

6. All social media sites and entries shall clearly indicate that any content posted or submitted is subject to public disclosure. Wherever possible, social media sites should be set up so as to not permit anonymous posters/postings.

7. Each Town social media site shall include an introductory statement which clearly specifies the purpose and topical scope of the blog and social media/network site. Where possible, social media sites should link back to the official Town of Ware website for forms, documents and other information.

8. Each Town social media site shall indicate to users that the site is subject to a third party’s website Terms of Service. Furthermore, each Town social media site shall indicate that the social media site provider could collect personal information through user’s use of the social media site; and that this personal information may be disseminated by the third party; and that such dissemination may not be governed or limited by any state, federal or local law or policy applicable to the Town.

9. All social media sites shall clearly indicate they are maintained by the Town of Ware and shall have the Town of Ware contact information prominently displayed, and if possible, the Town Seal.

10. The Town reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law.

11. Town social media content and comments containing any of the following forms of content shall not be allowed for posting: a) Comments not topically related to the particular site or blog article being commented upon; b) Profane, obscene, or vulgar language or content; c) Content that promotes, fosters or perpetuates discrimination on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, maternity leave, genetic information, or active military status; d) Sexual content or links to sexual content; e) Conduct or encouragement of illegal activity; f) Information that may tend to compromise the safety or security of the public or public systems; or g) Content that violates a legal ownership interest of any other party.

12. All Town social media moderators shall be trained regarding the terms of this policy, including their responsibilities to review content submitted for posting to ensure compliance with the policy.

13. To the extent applicable, Town IT security policies shall apply to all social media sites and articles.

14. Officials (elected or appointed) and employees representing the Town via social media sites must conduct themselves at all times as a representative of the Town and in accordance with all applicable rules, regulations, and policies (including personnel policies) of the Town of Ware. Any Town employee or official, Town board member or Town committee
member shall not use a title unless they are posting in an official capacity or on an official Town social media site, with authority to do so. See Section IV, Employee Guidelines for Use of Social Media Sites.

15. No Town or department social media site can endorse or otherwise cite (either with approval or disapproval) vendors, suppliers, clients, citizens, co-workers or other stakeholders, including political candidates. As prohibited by the Campaign Finance Law, employees may not use public resources for political purposes, such as engaging in political or campaigning activity during working hours, or using Town resources, equipment, and facilities (including work areas). This would include, but not be limited to, engaging in political activity, including the endorsement of any candidate for elective office, via a Town social media site.

16. Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

IV. EMPLOYEE GUIDELINES FOR USE OF SOCIAL MEDIA SITES

1. Electronic Communications and Computer Usage Policy. All employees are responsible for understanding and following the Town's Computer Usage and Electronic Communication Policy, in addition to this Policy.

2. First Amendment Protected Speech. Although the Town can moderate the social media sites that accept comments from the public (such as blogs and wikis) to restrict speech that is obscene, threatening, discriminatory, harassing, or off topic, employees cannot use the moderation function to restrict speech with which the Town merely disagrees (i.e. subject matter restrictions). Users have some First Amendment rights in posting content to public social media sites hosted by municipalities. Moderators must respect those rights by posting all comments other than those excluded for specific legitimate reasons, as referenced above. However, as moderating of the social media sites may not always be possible or may be limited, the Town reserves the right to disable public comments on the Town’s social media sites.

3. Copyright Law. Employees must abide by laws governing copyright and fair use of copyrighted material owned by others. Never reprint whole articles or publications without first receiving written permission from the publication owner. Never quote more than a short excerpt of someone else’s work without acknowledging the source and, if possible, provide a link to the original.

4. Conflict of Interest. Employees are prohibited from using social media to engage in any activity that constitutes a conflict of interest for the Town or any of its employees, as defined by G.L. c. 268A.

5. Protect Confidential Information. Never post legally protected personal information that has been obtained during the course of performing official duties (e.g., information that is not public record under the Public Records Law, G.L. c.66, §10 and G.L. c. 4, §7(26), or
whose dissemination is restricted under applicable Federal or State privacy laws or regulations). Conversations that occur amongst Town officials/employees outside public forums should not be published or reported on, unless authorized by the Town Manager. Information about policies, rules, or plans that have not been finalized or officially adopted by the Town should not be posted unless explicitly approved in advance by the Town Manager or relevant Department Head, for instance, where public comment or input is being solicited.

6. Consider Your Content. As informal as social media sites are meant to be, if they are on a government domain or a government identity, they are official government communications. Social media sites will be sought out by mainstream media – so a great deal of thought needs to go into how you will use the social media in a way that benefits both the Town and the public. Employees should not comment about rumors, political disputes, or personnel issues, for example.

7. Handling Negative Comments. Because the purpose of many social media sites, particularly department blogs and wikis, is to get feedback from the public, you should expect that some of the feedback you receive will be negative. Some effective ways to respond to negative comments include: a) Providing accurate information in the spirit of being helpful; b) Respectfully disagreeing; and c) Acknowledging that it is possible to hold different points of view.

8. Respect Your Audience and Town Employees and Officials. Do not use ethnic slurs, personal insults, obscenity, or engage in any conduct that would not be acceptable in your department’s workplace. This includes not only the obvious (no ethnic slurs, personal insults, obscenity, threats of violence, etc.) but also proper consideration of privacy and of topics that may be considered objectionable or inflammatory—such as party politics and religion. The Town’s social media presence should not be used to communicate among Town employees for work purposes.

9. Use the Social Media Site or Identity only to contribute to your Department’s Mission. When you contribute to your department’s social media site or identity, provide worthwhile information and perspective that contribute to your department’s mission of serving the public. What you publish will reflect on the Town. Social media sites and identities should be used in a way that contributes to the Town’s mission by: a) Helping you and your coworkers perform their jobs better; b) Informing citizens about government services and how to access them; c) Making the operations of your department transparent and accessible to the public; d) Creating a forum for the receipt of candid comments from residents about how government can be improved; and e) Encouraging civic engagement. You should never use social media sites to promote charitable or religious events that do not directly relate to the core mission of your department. Any requests to post that type of material should be directed to the Town Manager.

10. Mistakes. The Town policy is that once something is posted, it should stay posted. Only spelling errors or grammar fixes should be made without making the change evident to users. If you choose to modify an earlier post, make it clear that you have done so—do not
remove or delete the incorrect content; provide the correct information and apologize for the error. Ways to accomplish this include: a) Strike through the error and correct; or b) Create a new post with the correct information, and link to it from the post you need to correct or clarify. Either method is acceptable. In order for the social media identity or site to achieve transparency, the Town cannot change content that has already been published without making the changes clearly evident to users.

11. Media Inquiries. Town or department social media identities or sites may lead to increased inquiries from the media. If you are contacted directly by a reporter, you should refer media questions to Town Manager.

12. Personal Comments. Make it clear when you are speaking for yourself as a resident or stakeholder, and not on behalf of the Town of Ware. If you publish content on any website of the Town and it has something to do with the work you do or subjects associated with the Town, use a disclaimer such as this: “The postings on this site are my own and don’t necessarily represent the Town’s positions or opinions.”

13. Employee or Official Profile. If you identify yourself as a Town employee or official, ensure your profile and related content is consistent with how you wish to present yourself to colleagues, residents and other stakeholders.

14. Defamation. Be aware that employees acting in their individual capacity (not on behalf of the Town) are not immune from defamation claims. Under Massachusetts law, defamation is established by showing that the defendant published a false, non-privileged statement about the plaintiff to a third party that either caused the plaintiff economic loss or was of the type that is actionable without proof of economic loss. Some statements, like imputation of a crime, are defamatory per se. Avoid statements that may be interpreted as defamatory.

15. Records Retention. Social media sites will contain communications sent to or received by Town officials and employees, and are therefore Public Records. Ensure that the Town or department retains a copy of the social media content in accordance with Public Records Retention Schedules. Review the third party social media service provider’s terms of service for its record retention practices. Note that while third party social media providers will most likely save your content for some period of time, they generally will not save it indefinitely. To the extent their policies are inconsistent with Public Records Retention Schedules, the Town or department should retain copies of social media posts such as by printing or otherwise storing periodic “snapshots” of the social media sites.

16. Open Meeting Law. Be aware of the Open Meeting Law and possible violations for improper deliberations outside of a posted meeting. A series of individual postings on a social media site cumulatively may convey the position of a quorum of a governmental body regarding a subject within its jurisdiction, and may constitute improper deliberation among the members of a board or committee.

17. Retaliation is Prohibited. The Town prohibits taking negative action against any
employee for reporting a possible deviation from, or violation of, this Policy, or for cooperating in an investigation of same.

18. More Information. If you have questions or need further guidance regarding the Town’s Social Media Policy, please contact the Town Manager’s Office.

SOCIAL MEDIA POLICY

This acknowledges that I have received and reviewed the Social Media Policy, with attachments, of the Town of Ware (“Policy”). By signing this form, I agree to abide by the Policy and any Guidelines promulgated thereunder, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding use of Social Media are continually evolving. Therefore, I understand that my regular review of this Policy, as it may be amended, is required.

Print Name: ______________________________________________________________________

Signature: _______________________________________________________________________ Date: __________

To be included in employee’s personnel file.
TOWN OF EASTON SOCIAL MEDIA POLICY
FOR APPOINTED AND ELECTED BOARD/COMMITTEE MEMBERS

Social Media Policy

I. Policy:

A. **Introduction.** The Town of Town of Easton (the “Town”) depends upon an environment of tolerance and respect for the achievement of its goals in serving the citizens of the Town.

B. **Purpose.** The purpose of this policy is to provide notice to appointed and elected board and committee members that their use of social media must conform to the law and this policy. This policy is designed to promote and govern the professional and personal use of social media in a responsible manner and to avoid uses that can: (1) breach confidentiality by revealing protected information about the Town, its citizens, or its employees; (2) expose the Town to liability for behavior that may be harassing, offensive, or maliciously false; or (3) interfere with productivity and/or ability to perform the duties and responsibilities as Officials of the Town.

II. Definitions:

1. The Town: Town of Easton.
2. Official: An individual who holds office in the Town, whether elected or appointed.
3. Social Media: Online forums in which individuals participate in the exchange of ideas, messages, and content, including but not limited to, blogs, microblogs, and social networking sites (e.g., Facebook, LinkedIn, Twitter).
4. Electronic Media: All forms of electronic communication, transmission, or storage, including but not limited to, websites and any content contained therein or related thereto.

III. General Provisions:

A. While Officials may maintain and use personal web pages and websites, blogs, microblogs, social networking sites and other forms of social media while off-duty, their status as Officials of the Town requires that the content of any postings on those social media sites or other web pages not be in violation of existing Town by-laws, policies, directives, rules or regulations. The Town’s image as a professional organization comprised of professionals is critical to maintaining the respect of its constituents. Although the Town recognizes that Officials may choose to express themselves by posting personal information upon electronic media sites through personal websites, social networking sites, blogs, microblogs, chat rooms, or other electronic means or by making comments upon electronic sites hosted by other persons, groups or organizations, this right of expression should not interfere with the operation of the Town. That is, although the Town acknowledges its Officials have the First Amendment right to free speech, the right is not absolute and extends only to matters of public concern. Therefore, Officials should exercise caution with respect to comments they post, particularly those concerning the Town and the business of the Town.

Approved by Board of Selectmen 9/12/16
TOWN OF EASTON SOCIAL MEDIA POLICY
FOR APPOINTED AND ELECTED BOARD/COMMITTEE MEMBERS

B. This section describes acceptable and unacceptable uses of all social media by Officials. Officials should use their best personal judgment when using any form of social media and must ensure that their use does not violate this or any other Town policy.

C. Use of social media is also subject to the Town’s Computers and Communications Policy, Sexual Harassment Policy, and Harassment of Individuals in Protected Classes Policy, as well as the Town’s other policies and standards of conduct, rules, regulations, and by-laws.

D. All use of social media is subject to the following conditions:

1. There is no guarantee of privacy for electronic communications through Town systems or equipment. The Town reserves the right to review and/or monitor all electronic records and communications, at any time, with or without notice, including individual user folders and other information stored on the Town’s electronic communications systems. In accessing the Internet, including social media sites, users should assume that all connections and sites visited using the Town’s network will be monitored and recorded. This examination helps to ensure compliance with Town policies, assists when internal investigations must be conducted and supports the management of the Town’s information systems. Use of the Town’s electronic communication devices including, but not limited to, Town-issued email accounts, Internet services, Intranet, Town-owned lap tops and computers provided for remote use, and computer software constitutes acceptance of such monitoring. Content maintained electronically is also subject to the Public Records Law.

2. All Officials are expected and required to conduct themselves in a manner consistent with the Town’s policies and standards of conduct.

3. Officials must not reveal any confidential or privileged information about the Town, its constituents, or its contractors. Officials must be particularly careful to protect against the inadvertent disclosure of confidential information.

4. Officials must not harass others in contravention of the Town’s Computers and Communications Policy, Sexual Harassment Policy, and Harassment of Individuals in Protected Classes Policy, regardless of the time, place, form, or manner in which the information is posted or transmitted. Comments may be deemed to violate this Policy even if the Town’s name or the name(s) of any individual is not specifically referenced.

5. Officials should be honest and accurate when posting information or news, and if they make a mistake must correct it quickly. Officials should not post any information or rumors they know to be false about the Town, its

Approved by Board of Selectmen 9/12/16
TOWN OF EASTON SOCIAL MEDIA POLICY
FOR APPOINTED AND ELECTED BOARD/COMMITTEE MEMBERS

employees, constituents, officials, suppliers, vendors, contractors or any other entities or individuals.

6. Officials may express only their personal opinions and should never represent themselves as a spokesperson for the Town, their board or committee unless designated to do so. If the Town is a subject of the content created by an Official, the Official should be clear and open about the fact that he/she is an Official of the Town and should make it clear that his/her personal views do not represent those of the Town, or its employees, officials, suppliers, vendors, or any other agent of the Town unless designated to do so. Officials who publish blogs or other online posts related to their role with the Town should make clear that they are not speaking on behalf of the Town (unless designated to do so). Further, an Official’s decision to express their personal opinions does not alleviate their responsibility as an Official to take appropriate action under the circumstances, which may include, but not be limited to, taking action themselves or reporting an issue to a supervisor.

7. Officials must also recognize that posting content regarding Town-related matters may result in the violation of the Open Meeting Law. Officials should consult the Open Meeting Law Guide provided to them by the Town Clerk’s Office for more information. Town Counsel may also be consulted subject to the prior approval of the Town Administrator.

8. Officials are expressly prohibited from using social media to engage in any activity or conduct that violates federal, state, or local law (e.g., software or data piracy, child pornography, etc.).

9. Officials are prohibited from using social media to engage in any activity that constitutes a conflict of interest.

10. Officials are generally not authorized to provide employee references and are prohibited from using any review or recommendation feature or system on a social media site (e.g., LinkedIn) to post reviews or other comments about employees.

11. Officials must be mindful that residents, property owners and others appearing before Town boards or committees come from all walks of life. Public comments, in any forum, that contain racial slurs, express bigotry toward a group based on their race, religion, national origin, sexual orientation, gender, gender identity or any other legally protected classification shall be considered conduct unbecoming a Town Official and shall constitute good cause for removal for any appointed Official.

Approved by Board of Selectmen 9/12/16
TOWN OF EASTON SOCIAL MEDIA POLICY
FOR APPOINTED AND ELECTED BOARD/COMMITTEE MEMBERS

E. The Town encourages anyone who uses social media in contravention of this policy to be honest and admit the error as soon as it occurs. Although errors cannot always be erased, prompt notification can make a significant difference in the Town's ability to correct or remedy the issue.

F. Beyond the above general provisions, appointed and elected board/committee members are strongly encouraged to consider the impact of their statements before making them. The Town strives to be professional in its operations and processes. Posts that suggest a likelihood of more or less favorable treatment toward any individual or group of individuals, e.g., based upon race, gender, national origin, sexual orientation, reflects poorly on the individual making an inappropriate statement as well as the Town and its citizens. Further, comments suggesting such treatment can expose the Town to liability and legal costs. All are strongly encouraged to carefully consider their comments before posting them.

IV. Complaints or Problems of Misuse:

Should any Official receive or become aware of a violation of this policy, the Official should report the violation to the Grievance Officer as soon as possible. The current Grievance Officers are David Colton and Mary Southworth, both of whom can be reached at the Town Offices located at 136 Elm Street, North Easton, MA 02356, (508) 230-0510.

The Town prohibits taking action against anyone for reporting a possible violation of this Policy or for cooperating in an investigation.

V. Questions:

Anyone who is unsure whether a particular posting or contribution to online social media violates this policy is encouraged to ask the Town Administrator.

VI. Discipline.

Violation of this Policy may constitute good cause for removal of appointed Officials under the Town Charter. Elected officials may be subject to a request for their resignation, public censure or reprimand or a recall petition in accordance with the Town Charter. A failure to enforce this Policy does not constitute a subsequent waiver of any violation of this Policy. This Policy shall be read and interpreted in conjunction with all other Town policies and procedures.

Approved by Board of Selectmen 9/12/16
TOWN OF EASTON SOCIAL MEDIA POLICY
FOR APPOINTED AND ELECTED BOARD/COMMITTEE MEMBERS

Acknowledgment of Receipt of Policy

I acknowledge receipt of this Social Media Policy for Appointed and Elected Board/Committee Members, and that I have read it. I understand that all social media usage and all information transmitted by, received from, or stored in these systems are the property of the Town. I also understand that I have no expectation of privacy in connection with the use of the Town’s electronic communications or with the transmission, receipt or storage of information in these systems. I acknowledge and consent to the Town monitoring my use of its electronic communications at any time, at its discretion. Such monitoring may include reviewing Internet websites visited, including social media sites, printing and reading all e-mail entering, leaving or stored in these systems, and/or reviewing all documents created or downloaded. I understand that all e-mail messages are subject to the Town’s e-mail deletion and retention procedures.

______________________________
Name (Print)

______________________________
Signature

______________________________
Date

______________________________
Witness

Approved by Board of Selectmen 9/12/16