

Board of Selectmen

Ware Town Hall, Meeting Room, 126 Main Street
Regular Meeting Notice Agenda – Tuesday, July 7, 2020 at 7:00 p.m.

Instructions for call in option: at or before 7:00 p.m., call the phone number below and when prompted enter the Meeting ID number. The platform is Zoom Meetings.
Join online: <https://us02web.zoom.us/j/7846041861> (the online option will require a download).

Meeting ID: 784 604 1861

Phone: 929-205-6099

Meeting Opened

Board of Selectmen Reorganization

Opening Remarks, Announcements, and Agenda review by Chair

Consent Agenda

- Approval of June 16, 2020 Minutes

Scheduled Appearances

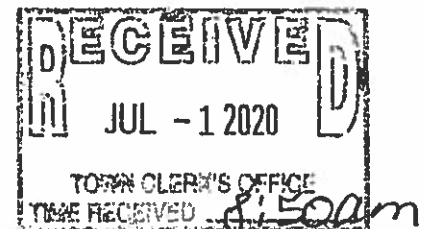
- 7:15 p.m. Public Hearing RE: 114 Main Street
- Hardwick Board of Selectmen: Ambulance Agreement Review

Old Business

- Forefront Solar Agreement
- Update of Available Grants

New Business

- Resignation: John Morrin, Parks Commission
- Announcement of Vacancies
 - Parks Commission (1)
 - Planning Board Alternate (1)
 - Conservation Commission (1)
 - Council on Aging (4)
 - Cultural Council (1)
 - Finance Committee (2)
 - Capital Planning Committee/Finance Committee Representative (1)
 - Tax Increment Financing Authority/Finance Committee Representative (1)
 - Pioneer Valley Regional Transit Authority: Selectman Representative



Comments and Concerns of Citizens

Town Manager Report

Adjournment

Executive Session: M.G.L. Chapter 30A, Section 21 (a) #1 Discussion of Complaints Regarding Public Employee: Town Manager



Board of Selectmen

Ware Town Hall, Meeting Room, 126 Main Street

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Present: Selectman Alan G. Whitney, Selectman Tracy R. Opalinski, Selectman Nancy J. Talbot, Selectman Keith J. Kruckas, Town Manager Stuart Beckley, Lt. James Martinez, Acting Fire Chief Christopher Gagnon, Police Chief Shawn Crevier, DPW Director Gilbert St. George-Sorel

Present Via Zoom: Selectman John E. Carroll, PCD Director Rebekah DeCoursey, Health Director Judy Metcalf, Town Accountant Tracy Meehan

Meeting Opened

Opening Remarks, Announcements, and Agenda review by Chair

Chairman Whitney announced a Commendation of Service of 9 Years to Selectman Carroll. He announced and presented a Commendation of Service of 3 Years to Selectman Opalinski.

Selectman Opalinski thanked voters and noted she did her best for the town.

Selectman Talbot noted the Town Election is June 29, 2020 from 7am – 8pm, with early ballot deadline of June 26.

Selectman Kruckas noted his opinion that town employees should not be on the Board of Selectmen. He noted such employee must recuse from voting on certain items, and this does not benefit the town.

Consent Agenda

- **Approval of June 2, 2020 Minutes**

Selectman Opalinski made the motion to approve the consent agenda. Selectman Talbot seconded the motion. The motion passed unanimously (5-0).

Scheduled Appearances

- **Judy Metcalf, Director Health Department**

Ms. Metcalf noted she has interest in agenda items regarding Forefront Solar and food establishments serving outdoors. For COVID-19 update, Ms. Metcalf noted many calls, emails and guidance regarding the Governor's re-opening rules and regulations. The Health Department is available to all businesses, and education is key to a good working relationship with the businesses. There were 2 cases in Ware of COVID-19 positive results last week, and one case this week. It is vital to maintain the rules to keep all residents safe.

- **Hardwick Ambulance Agreement Review**

Mr. Beckley noted that the Hardwick Board of Selectmen were unable to attend, but may be able to attend on July 7, 2020. The agreement expires June 30, 2020, but there is a 90-day notice.

Old Business

- **Complete Streets Board of Selectmen's Priorities List Approval**

Selectman Kruckas questioned the process and he noted that the Planner, Building Inspector and Town Manager should be seeking more grants, and not ask taxpayers to cover. Mr. Beckley noted PVPC and Mass Grants are sought on a regular basis.

Selectman Talbot made the motion to approve the Complete Streets Priorities List. Selectman Opalinski seconded the motion. The motion passed on a vote of 4 Yes, 1 No (Selectman Kruckas).

The Board requested Mr. Beckley provide a list of grants available to address buildings in disrepair for the July 7, 2020 meeting.

- **Consideration of Reduction of Town Meeting Quorum, Annual Town Meeting June 22, 2020**

Selectman Talbot read the public notice.

Selectman Talbot made the motion to reduce the Town Meeting Quorum of the Annual Town Meeting of June 22, 2020 to 25. Selectman Opalinski seconded the motion. The motion passed unanimously (5-0).

- **Update: Bylaws Process**

Selectman Talbot noted that all documents were scanned. There is an upcoming conference call with General Code.

Selectman Kruckas questioned if there is a bylaw for unkempt property. Mr. Beckley noted it is a Nuisance bylaw. Selectman Kruckas noted he has a list of unkempt properties for the Building Department.

At General Code, Carol has replaced Suzanne Owens, and work will continue to determine what is legal and what must be rescinded by town meeting vote. To answer Selectman Opalinski, Selectman Talbot could not give a definite if the bylaws will be ready for November town meeting.

New Business

- **Review & Approval of 1/12 FY2021 Budget: July**

Mr. Beckley presented the July 1/12th FY2021 Budget. This must be sent to DOR on June 17, 2020. Town Accountant Tracy Meehan noted that some line items are higher as those must be paid at Fiscal Year start.

Selectman Talbot made the motion to accept submission of the 1/12th budget for FY2021 for July, including the enterprise funds. Selectman Opalinski seconded the motion. The motion passed unanimously (5-0).

- **Review and Recommendations for Town Meeting Articles**

Mr. Beckley noted the Finance Committee met last week and their recommendations are written in. The Board of Selectmen reviewed each article and voted recommendations.

- **Deficit Spending Request, Chapter 44, Section 31**

Selectman Talbot made the motion to approve \$60,000 in Deficit Spending. Selectman Opalinski seconded the motion.

- **Discussion of Cannabis Committee for Donations**

The Board discussed the makeup of the committee to distribute \$20,000 donated funds from Curaleaf. There shall be a Curaleaf representative, a representative from the senior community or Council on Aging or Friends of Senior Center, a representative from Quaboag Coalition, a representative from the Ware Cultural Council, and a citizen representative. The Board stated that the Town Manager will choose the members. Donations are for fiscal year.

- **Extension of Option, Forefront Solar**

Mr. Beckley noted that the timing is 2-3 years on the National Grid schedule. Health Director Judy Metcalf stated that the original lease rented the property "as is" and there are still two areas of erosion that were to be corrected by March 2019 and still have not been fixed. Mr. Beckley noted the Town did two additional mowings.

Selectman Kruckas made the motion to grant the extension for six months, with the erosion corrected, upkeep plus \$500. Selectman Opalinski seconded the motion. The motion passed unanimously (5-0).

- **Application for Temporary Outdoor Dining: Wicked Wings Ware, Inc., 136 Pleasant Street**

Health Director Judy Metcalf noted that the Health Department oversees compliance with COVID-19 procedures, with an education component and warning system in place for complaints. Police Chief Crevier noted the plan for safety of patrons at tables. Selectman Opalinski asked about the take-out area; Mr. Norton referred to the diagram. Ms. Metcalf noted that live music is not permitted during this phase.

Selectman Opalinski made the motion to approve the Temporary Outdoor Dining application for Wicked Wings Ware, Inc. Selectman Talbot seconded the motion. The motion passed unanimously (5-0).

- **Application for Temporary Outdoor Dining: Crystal Springs Dairy Bar, 166 West Street**

DPW Interim Director Gilbert St. George-Sorel noted the revise plan including cones/barrels toward safety of patrons from cars driving through the parking lot.

Selectman Kruckas made the motion to approve the Temporary Outdoor Dining for Crystal Springs Dairy Bar. Selectman Talbot seconded the motion. The motion passed unanimously (5-0).

- **Application for Temporary Outdoor Dining: Hanna Devines**

Selectman Kruckas noted the generosity of the church to offer use of the rectory driveway to Hanna Devines. Ms. Metcalf has discussed with the owner the procedures for safely delivering food to patrons.

Selectman Opalinski made the motion to approve the Temporary Outdoor Dining for JRZ Enterprises, Inc. dba Hanna Devines. Selectman Talbot seconded the motion. The motion passed unanimously (5-0).

- **Reappointment: Finance Committee, Devin Peterson, Term to Expire June 30, 2023**

Selectman Kruckas made the motion to approve the reappointment of Devin Peterson. Selectman Talbot seconded the motion. The motion passed on a vote of 5 Yes, 0 No.

Comments and Concerns of Citizens -none

Town Manager Report

June 22, 6:30, Town Meeting at Town Hall

June 29, 7 a.m. to 8 p.m., Town Election

Bids are due tomorrow for the repairs of the Old Belchertown Road bridge.

Grants: The two CDBG COVID-related grants were submitted last week to the Department of Housing and Community Development.

The Ware Historical Commission received the Massachusetts Historical Commission grant for \$50,000 for the repairs and re-pointing of Town Hall.

114 Main Street. The Building Inspector, with the help of DPW and Ludlow Construction, will fence off the sidewalk in front of 114 Main Street for safety reasons. The building inspector did have contact with an owner's representative, but unknown as to whether there is progress. Mass DOT is aware and will address the impacts with Ludlow Construction and the Town. A delay in construction may have cost implications. Building Inspector is creating a timeline with the Town Attorney. Town Planner and Building Inspector are looking at grants for the removal with PVPC.

The Ware River has reached a low level that required the institution of the annual Water Use Restriction. Watering and washing between 9 a.m. and 5 p.m. is prohibited. Based on recent years and the low amount of rain, this will likely last through September.

Mr. St. George Sorel and I will meet with the Town's engineers on Thursday to discuss Town options for the Water Treatment Plant. Recent communications with USDA indicate a higher level review because of the higher cost estimate. The DPW director has been discussing design options with the engineers to consider. Mr. Beckley invited the Board members to join the meeting at 2 p.m.

Selectman Kruckas questioned the progress of the audit; Mr. Beckley noted that Scanlon Associates is not done with the school portion of the audit.

Selectman Kruckas again thanked Selectman Carrol and Selectman Opalinski for their service on the Board of Selectmen. Chairman Whitney and Selectman Talbot agreed.

Adjournment

Executive Session: M.G.L. Chapter 30A, Section 21(a) #1 Discussion of Complaints Regarding Public Employee: Town Manager

Selectman Opalinski made the motion at 8:41 p.m. to Adjourn to Executive Session: M.G.L. Chapter 30A, Section 21(a) #1 Discussion of Complaints Regarding Public Employee: Town Manager, NOT TO RECONVENE IN OPEN SESSION. Selectman Talbot seconded the motion. The motion passed on a roll call vote of 5 Yes, 0 No.

Selectman Alan G. Whitney	Yes√
Selectman John E. Carroll	Yes√
Selectman Keith J. Kruckas	Yes√
Selectman Tracy R. Opalinski	Yes√
Selectman Nancy J. Talbot	Yes√

Attest: _____
Mary L. Midura, Executive Assistant to
Town Manager
Minutes VIA TV15 Video



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082
Tel. 413-967-9648

PUBLIC HEARING NOTICE

The Board of Selectmen will conduct a Public Hearing on **Tuesday, July 7, 2020 at 7:15 p.m.**, in the Selectmen's Meeting Room, 126 Main Street, Ware, MA. The purpose of the Public Hearing is to determine if property at 114 Main Street, Ware, MA is dilapidated, dangerous, unsafe or otherwise constitutes a nuisance, in accordance with MGL Chapter 139, Section 1, and to take any action thereto. The Board of Selectmen will receive comments from interested residents at the hearing, or residents may send written comments to Town Manager, 126 Main Street, Ware, MA 01082. **This notice shall also be posted on the Massachusetts Newspaper Publishers Association's (MNPA) website (<http://masspublicnotices.org>).**

All interested parties are invited to attend.

Alan G. Whitney
Chairman
Board of Selectmen
June 24, 2020



TOWN OF WARE

Town Hall, 126 Main Street
Ware, Massachusetts 01082
413-96709648, ext. 100

June 24, 2020

114MAIN LLC
Attn: Daniel Barenboym, Manager/Resident Agent
Vladimir Gressel, Manager
6 Russel Road
Wayland, MA 01778

Reg: 114 Main Street, Ware, MA

To 114MAIN LLC:

Please be advised that the Board of Selectmen of the Town of Ware has received information that the building owned by 114MAIN LLC at 114 Main Street, Ware, MA may be in a dangerous and unsafe condition and may constitute a nuisance to the neighborhood. In particular, the Board of Selectmen has received correspondence dated June 18, 2020, from Ms. Anna S. Marques, the local Building Inspector together with a timeline with respect to the history of this property and a building evaluation from Craig, S. French, PE. dated May 19, 2020.

Copies of these documents are attached to this notice. The Board of Selectmen will hold a public hearing on July 7, 2020 to determine whether in fact the building at 114 Main Street, Ware, MA is dilapidated, dangerous, unsafe or otherwise constitutes a nuisance and if so, the Board of Selectmen will further consider an order adjudging whether it is a nuisance to the neighborhood or dangerous, and prescribing its disposition, alteration or regulation including demolition and removal.

At the hearing of July 7th, the Board of Selectmen will accept and consider all the relevant oral and written statements and information. You are hereby given written notice of this hearing pursuant to G.L. c.139 §1, and you are invited to attend and present whatever relevant information you have concerning the issue of whether or not the building at 114 Main Street is dangerous and/or constitutes a nuisance and whether or not it should be demolished, removed or otherwise disposed of, altered or regulated.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan G. Whitney". The signature is stylized and includes a large, sweeping flourish at the end.

Alan G. Whitney
Chairman, Board of Selectmen



TOWN OF WARE

BUILDING DEPARTMENT

126 Main Street, Ware, MA 01082
413-967-9648 x180

June 18, 2020

Board of Selectmen
Town of Ware
126 Main Street
Ware, MA 01082

Dear Board Members,

This letter is to inform you on the state of 114 Main Street. I have deemed it an unsafe structure.

A brief history leading up to the current state of the structure: 114 Main Street has changed ownership four times in 13 years. The initial collapse that posted the building as unsafe took place nine years ago. Each time, it was sold in its condemned condition. The partial roof collapse took place in 2011. Files show two letters were sent in March and June 2011 following the posting of the building. The property was then sold in 2013. A notice for "unsafe structure" was sent in 2014. A violation for an unsafe building was issued in 2016, followed by the property being sold again in the same month.

In the summer of 2016, with the building being owned by E.R.A. Development, efforts were made by the BOS Chairman, Town Manager, Town Planner, Dept of Housing Development and the Pioneer Valley Planning Commission to acquire a grant for the development of 114 Main Street. In one of the letters, it stated the grant could offer up to \$750,000. It seems the owner was not interested or did not have the same intentions due to not providing the required information despite efforts by the Town to assist. Later that year, in 2017, a violation was issued for an unsafe structure ordering repairs to be made in 30 days time. The owner or owner's representative contacted the Building Department requesting a demolition permit to remove the third floor. This resulted in a Nine-month Demo delay per Ware's Historical Demo Delay Bylaw. The owner began meeting with the Historical Commission. Conceptual plans were reviewed, options were discussed and in the end there was not a mutual agreement. The three design options varied in estimated costs from \$35k to \$400K. The owner was agreeable to the \$35K option. Several months later, the building was under new ownership again.

In the summer of 2019, a meeting took place with the new owner. It was discovered though there was a new LLC, the previous owner's representative was part of this new LLC (same group of people, new LLC). However, a new representative was now proposing the development for the property. The scope slightly changed. At this meeting, I asked the Owner if I could enter the building, to which he replied "not yet". I then requested a Building Code Review to be performed and submitted by a Registered Design Professional ensuring the proposed project would address the challenges and solutions to achieve code

compliance. Concurrently, the owner was also working with the Planning Department to file for the approvals they would need for the use of the building. Correspondences transpired requesting more information, informing them of the upcoming road construction on Main Street and responses were received stating the plans were being worked on.

On May 7, 2020, it was observed the condition of the eave appeared different. It was encroaching on the abutting parcel's structure. This elevated the concern and required action. I consulted with Town Counsel for advice on the course of action due to past violations on the property and the complication of the same owners but different LLCs. I issued a violation for an unsafe structure on May 12. I called the owner to inform him of what I found out from the demo inquiry and structural engineer and he replied that he will coming into Town shortly to act on it. That did not happen and after a few more additional calls/messages - I received a voice mail from the owner on May 21 that he's waiting to receive quotes from demolition contractors. During this time, I seeked out an opinion from a demolition contractor who informed me that given the site constraints, demolition would not be attempted without a demolition plan designed by a structural engineer. I had already requested a structural engineer to provide an evaluation of the property, which was received on May 19. An additional request was made for an estimated cost of the project to demo, which was provided on June 5. On June 15, a construction manager pulled into the town hall's parking lot inquiring about 114 Main Street. I learned that he was asked by the contact of the previous LLC to evaluate the property for providing a cost to renovate. It was understood, upon seeing the condition of the building, demolition would be required. On June 18, fencing was installed to block sidewalk access in front of 114 Main Street.

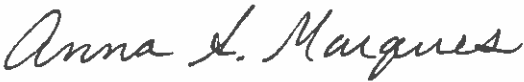
To the best of my knowledge and to the supporting letter of the structural engineer, this building is unsafe. I observed the roof from the clock tower of Town Hall. I have seen the inside of 114 Main Street from the roof of the building next door. Piles of wood are scattered throughout. Some areas appeared to be open through to the floors below. Attempts at repair were evident, though unclear when it took place. Plastic sheathing catching rain channels the water flow from the leaking roof down the side of the masonry (brick) wall supporting the eave of the roof which is now encroaching on the abutting parcel's structure, 116 Main Street. 116 Main Street occupies a successful business and provides several apartments for residents. In addition to this side (the west side, facing 116 Main St), the front side also is cause for concern. The brick is starting to show separation in some areas. If the compromised foundation (from the channeled water flow) fails, the walls may fall forward endangering the sidewalk abutting the building and Main Street in front. On the east side, there is an access drive to the rear property and another vacant building. However, it is believed that access drive is used. Vehicles are seen parked in the rear. The rear masonry (brick) wall is compromised with a large hole. There is concern there as well for failing, for the rear of the three buildings (116, 114 and 104/92) is utilized by residents for parking and the area is travelled. There is also the construction of Main Street. The recent observance of the progressing failure may deem the structure to be inferior and possibly not able to handle vibrations and movement due to the road construction. This could potentially cause the project to be delayed which would be detrimental to Main Street and the rest of Ware.

Upon consulting with Town Counsel, I am requesting the Board of Selectmen to schedule an emergency meeting to review this matter as soon as possible to then consider scheduling a hearing with the owner of 114 Main Street per MGL 139 Sec. 1. I strongly urge immediate action for public safety and avoiding construction delay of Main Street. Attached is a letter from Attorney David A. Wojcik to provide you with guidance on this action. The next scheduled BOS meeting is July 7. To request a hearing on this building, if you decide to do

so, an emergency meeting needs to be scheduled prior to that for proper notification to the owner to appear. This would happen if the BOS chooses to schedule a meeting in the next few days and vote to hold the hearing on the matter.

I have enclosed the structural evaluation, the timeline of the events with supporting documentation along with Attorney Wojcik's letter. I want to provide as much information you need to elaborate on accordingly. If you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Anna S. Marques".

Anna S. Marques
Local Inspector, Zoning Enforcement Officer

Cc: SB/Town Manager
GS/Interim DPW Director
CG/Acting Fire Chief
SC/Police Chief
RD/Town Planner



TOWN OF WARE

Department of Public Works
4 ½ Church Street
Ware, MA 01082
Tel. 413-967-9620 Fax 413-967-9622
email: gsorel@townofware.com

June 18, 2020

Board of Selectmen
Stuart Beckley, **TOWN MANAGER**
126 Main Street
Ware, MA 01082

RE: DEMOLITION - 114 MAIN STREET

Dear Board Members, Stuart:

The purpose of this letter is to document a serious problem with the deteriorated brick building at #114 Main Street. I have visited the site with Building Inspector Anna Marques and Acting Fire Chief Chris Gagnon.

Apparently, the mansard portion of the roof has been leaking for approximately 10 years (there is an unsafe structure sign on the front door that is dated February 9, 2011). As a result, the wooden structural members that support and distribute the weight of the roof itself, and the weight of the snow and ice that accumulates on the roof during the winter months have deteriorated and portions of these weights (loads) are now being horizontally transferred to the brick outer wall of the building. The brick outer wall is designed to withstand vertical loads, but not horizontal loads. Upon close examination, it is possible to see places where the brick outer wall is already bowing out and portions of the western outer wall and fascia and soffit are actually starting to lean against the wall of the adjacent wooden building. As the wooden elements continue to deteriorate, this load transfer will also increase.

Additionally, water that is entering the building through the holes in the roof is being diverted within the building to flow outside. This diverted water is falling along the foundation of the building causing even further structural weakness.

The Building Inspector and I also accompanied a structural engineer on a site visit to get a second opinion on the structural integrity of the building. I believe the Building Inspector has forwarded the structural engineer's report to your board.

This building must be demolished as soon as possible. As requested by the Building Inspector, DPW employees have installed protective fencing along the sidewalk in front of the building to divert pedestrians; however, the zone for falling debris from a building collapse is 1.5 times the building height. Should this situation continue unabated, it is possible Main Street might have to be closed to traffic.

There are a number of issues here:

First. There is the obvious safety hazard. If the building does suddenly collapse, then pedestrians and motor vehicles passing through Main Street could be seriously injured, or even killed.

Second. There is the cost of demolition. Because of its deteriorated condition and location, a demolition plan must be developed by a structural engineer to prevent an unplanned collapse of the building during the demolition process. This would become part of any bid package to remove the building. Additionally, there is no way to get heavy equipment and trucks to the rear of the building, so all – or most of – the work must be done from Main Street, thereby obstructing the street. The demolition contractor may actually want the street closed until the building has been knocked down and no longer poses any hazard to the public. Additionally, since it will be impossible to enter the building and abate the asbestos, all the material must be treated as special waste and transported to a special disposal site. The debris from 73 West Main Street was brought to a disposal site in Ohio.

Third. This issue is threatening to delay the Main Street Reconstruction project. The contractor for the project is concerned that vibrations from heavy compaction equipment may cause the building to collapse, thereby transferring liability to them. The equipment the contractor is currently using is relatively small, however, portions of the street will have to be excavated to 20" below the existing grade. The excavated material must then be replaced by several layers of other material, each layer of which must be compacted according to standard specifications for this type of project. This will require very large excavation and compaction equipment. Additionally, the entire street must be milled and paved with several courses of bituminous concrete that will also require large vibratory rollers.

The contractor has brought its concerns to MassDOT, the awarding authority for the project. MassDOT wants to know the Town's plan moving forward. Obviously, if the contractor cannot complete the project because of this building, and must demobilize and then remobilize, then there are going to be additional costs that may include the renegotiation of previously bid items within the contract. This project has a contingency fund of approximately \$214,000.00. Once this contingency is expended, any additional costs will have to be paid by the Town. Therefore, the Town could be faced, not only with the costs of demolishing the building, but also paying additional contract costs over and above the contingency. Please keep in mind, this is a \$2.1 million dollar project. (See attached letter from MassDOT)

Fourth. How is the Town going to pay for all this? There is simply no time to apply for grants and wait months for answers. Something has to be done now. Since this demolition project will exceed \$50,000.00, bid documents must be prepared and the procurement laws must be followed. Just that piece is going to be costly and time-consuming. It could cost several hundred thousand dollars to remove this building.

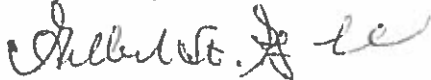
Fifth. There are certain laws with specific timeframes that must be followed. This is private property and the Town just can't tell the owner it's going to demolish the owner's building tomorrow morning. The Building Inspector has already notified the owner that the building is unsafe and must be torn down and has asked the DPW to install the fence on the sidewalk. It's pretty obvious the owner isn't going to spend all this money to demolish this building and end up with a useless piece of property, so it's unlikely the owner will be doing anything. Maybe!!! But I seriously doubt it.

The problem now moves to your Board. The Building Inspector notifies the Board of Selectmen of this problem. The Board of Selectmen now notifies the owner that in the opinion of the Building Inspector the building must be demolished and if the owner doesn't do it, then the Selectmen, acting on behalf of the Town will have to see that it's done. First, the Town may have to take the owner to Superior Court and ask the Court to direct the owner to remove the building. Obviously, this all takes time, affects the Main Street Reconstruction Project and will require Town Counsel's involvement. Experience with previous projects of this type has taught me that judges don't just issue these kinds of orders either, unless they're convinced there is a need for it and without hearing from the owner of the property.

I realize this is a terrible time for this issue to arise, especially with the revenue picture uncertain because of COVID-19; however, it's here and it must be dealt with as expeditiously as possible. I'm not sure if the Selectmen have the emergency power to expend funds to demolish the building without an appropriation; however, if they do, the costs will eventually show up somewhere, most likely on the Town's Fiscal 2021 closing financial statement where it will depress available free cash, by the amount of the expenditure.

I recommend that a special meeting be scheduled with all parties as soon as possible to develop a strategy to resolve this problem.

Yours truly,



Gilbert St. George-Sorel, INTERIM DPW DIRECTOR

cc: AM/Building Inspector
CG/Acting Fire Chief
SC/Police Chief
RD/Town Planner

cor2020114mainstreet



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, Secretary & CEO
Jonathan L. Gulliver, Highway Administrator



June 17, 2020

SUBJECT: WARE – Intersection Improvements and Related Work (Including Signals)
At Main, West (Routes 9 & 32) and Adjacent Streets
Contract #109297
Project #:607987

Town of Ware
Building Department
126 Main Street
Ware, Ma. 01082

Attn: Anna S. Marques

Dear Ms. Marques:

This letter is in response to your correspondence dated June 10, 2020, regarding 114 Main Street Ware MA. MassDOT has agreed to participate with the installation of the sidewalk closed signs. Please coordinate the installation of the fence and the signs with the Resident Engineer Richard Leso and Ludlow Construction. The "Niko's Open" sign is not standard and is the responsibility of the Town.

The condition of 114 Main Street and the Town's proposed fencing could impede the Schedule of the project. The Town should be aware that as per Agreement # 110071 between the Commonwealth of Massachusetts and the Town of Ware that the Town could be responsible for costs greater than 110% of the bid price. The costs associated with delays to the project could result in additional costs such as office rental, mobilizations, escalating costs of labor and materials

If you have any questions regarding this matter, please call District Two Area Engineer Michael McCabe at (413) 582-052.

Sincerely,

Peter J. Cavicchi Digitally signed by Peter J. Cavicchi
Date: 2020.06.17 09:10:11 -04'00'

Peter J. Cavicchi, P.E.
District Two Highway Director

MCM/
C –JJD
RJL
Stuart B. Beckley, Town Manager

811 North King Street, Northampton, MA 01060
Tel: 413-582-0599, Fax: 413-582-0596
www.mass.gov/massdot

W-2133-0-P024
May 19, 2020

Anna Szmyd Marques, Building Department
Town of Ware
126 Main Street
Ware, MA 01082

Re: **Building Evaluation at 114 Main Street
Ware, MA**

Dear Ms. Marques:

At the request of the Town of Ware, Building Department, Tighe & Bond visually reviewed the existing building located at 114 Main Street, Ware MA on May 12, 2020. Tighe & Bond was asked to visit the building, due to an observed condition that the building appeared to be leaning towards the adjacent building.

The existing building at 114 Main Street is a three-story brick masonry structure with wood framed floor and roof members (**Photo 01**). Based on a notice from the Building Department on the front of the building, portions of the building have been deemed structurally unsound since 2011.


The 114 Main Street structure did not appear safe to enter; therefore, the owner of the adjacent building was contacted for access to their roof to observe the roof of 114 Main. Upon arrival, it was confirmed that a portion of the roof structure of 114 Main St was in fact displaced (**Photo 02**).

The roof structure of 114 Main St exhibited apparent areas of failure, and significant moisture damage. Observations into 114 Main St from through the windows showed several tarps that appeared to be directing water towards the area of displacement. It is our opinion that water leakage from the failing roof is deteriorating the wood roof members and the third-floor framing. As the roof framing fails, it is applying outward pressure on the brick masonry walls. With the advancing deterioration of the third-floor members, the top of the brick masonry appears to be beginning to separate from the floor diaphragm.

Due to the building having had structural concerns for nearly 10 years, and the displacement of the roof members, it is our opinion that a partial structural failure is likely imminent. The building should be stabilized or removed as soon as feasible.

Please feel free to contact us if you have any questions regarding our observations or recommendations.

Very truly yours,
TIGHE & BOND, INC.



Craig S. French, P.E.
Principal Structural Engineer
MA Lic#45032

J:\W\W2133 Ware NPDES Permit\024 - 114 Main St Demolition\ 114 Main Street Conditions Report.doc

**AGREEMENT BETWEEN
TOWN OF WARE AND TOWN OF HARDWICK
FOR MUTUAL AID ADVANCED LIFE SUPPORT (ALS)**

An Agreement entered this 29th day of June, 2017 by and between the Town of Ware with a principal place of business at 126 Main Street, Ware, MA 01082 (“Ware”), and Town of Hardwick with a principal place of business at 307 Main Street, Gilbertville, MA 01031 (“Hardwick”).

WHEREAS, Ware is licensed as an Advanced Life Support (ALS) ambulance service provider in Massachusetts;

WHEREAS, Hardwick seeks to make available and utilize for its residents all potentially life saving resources, including ALS assistance;

WHEREAS, MGL c. 48 §59A enables a town, by vote of its board of selectmen, to authorize its fire department to go to aid another city or town or to render any other emergency aid or perform any detail, as may be ordered by the head of the town’s fire department

NOW THEREFORE, in accordance with the provisions of MGL c. 48 §59A and consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Ware agrees to respond to requests from Hardwick for EMS calls within the border of Hardwick to provide EMS services when Ware has available EMS services to include ALS resources, such availability to be determined at the sole and absolute discretion of Ware’s Fire Chief (or his designee).
2. When providing such EMS services, employees of Ware shall provide assessment, treatment and transportation consistent with all pertinent state regulations, regional guidelines and clinical protocols. Ware employee(s) shall accompany the patient and provide appropriate care until the patient is delivered to the hospital and patient care responsibilities are transferred to hospital personnel.
3. Ware shall issue an invoice to appropriate payers for services rendered to recipients transported in Ware’s ambulance under the care of Ware employees. Such claims shall include all charges normally billed to payers for ambulance service.
4. Payment. Hardwick agrees to compensate Ware in the amount of \$60,000.00 for fiscal year 2018 for EMS services provided by Ware. Payment shall be due to the Town of Ware by October 1st each year. This annual payment shall be reviewed each year by the coordinating committee and may be adjusted by the Towns. For EMS services provided by the Town of Ware in fiscal year 2017, the Town of Hardwick shall pay a pro-rated amount of \$15,000 to the Town of Ware. This amount shall be paid in fiscal year 2018.

5. Each party's relationship to the other shall be that of an independent contractor and nothing herein shall be construed as making either party an employee, partner or joint venture of the other. It is expressly understood that Ware shall be responsible for their own employees and shall make no claims for work and vacation pay, sick leave or employee benefits of any kind. While in the performance of their duties in extending aid or services under this Agreement, Ware shall have the same immunities and privileges as if performing the same within Ware.

6. Each party hereto shall indemnify, defend, and hold the other harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of its breach of this Agreement or its negligence or misconduct, including the negligence or misconduct of its agents or employees.

7. The initial term of this Agreement shall be three (3) years beginning as of the July 1, 2017. At the end of this initial term, this Agreement shall automatically renew for successive one (1) year terms. Either party may terminate this Agreement at any time for any reason by giving written notice of ninety (90) days to the other party. The provisions of paragraphs 3, 4 and 5 shall survive the termination of the Agreement with respect to EMS services performed during the contract period. The agreement shall be reviewed annually.

8. Neither party will assign or transfer this Agreement, or any interest in this Agreement, without the prior written consent of the other party.

9. Each party will provide to the other evidence of insurance coverage of the kind and amounts the parties deem appropriate. Ware will provide documentation of its legal authority to provide basic and advanced life support ambulance service.

10. Hardwick and Ware, through their respective Boards of Selectmen, shall establish a "Ware/Hardwick Ambulance Oversight Committee" comprised of representatives of both towns that shall develop protocol and oversee an annual review of costs and evaluation of quality of service. The Committee would also address residents' concerns and questions. The Committee will be created within 2 months of signing an agreement. In the first year, the Committee will meet monthly and will alternate meeting locations between the two towns. A member of the Board of Selectmen from each community and the Town Manager/Administrator for each shall be included on the Committee

11. The provider(s) will not discriminate against any client/patient for services because of race, color, religion, sex, sexual orientation, disability family status or national origin.

12. The parties hereto agree to comply with all applicable local, state and federal laws, regulations and orders relating to the completion of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and the United States of America.

Pursuant to this Agreement, Hardwick and Ware shall comply with the Health Insurance Portability and Accountability Act ("HIPAA") Privacy and Security Rules and hereby agree to

abide by all applicable requirements under Massachusetts General Laws and the Health Insurance Portability and Accountability Act ("HIPAA"), its Regulations, and the HIPAA Business Associate Agreement, attached hereto and incorporated herein as an Addendum.

All notices hereunder shall be in writing and shall be deemed to be given when mailed by and addressed to the party at the address stated below, or such other address as such party may specify by written notice to the other party.

Town of Ware Fire Department 200 West Street Ware, MA 01082 Attn: Thomas Coulombe Chief, Ware Fire Department	Town of Hardwick 307 Main Street Gilbertville, MA 01031 Attn: Theresa Cofske Town Administrator
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13. This Agreement constitutes the sole and entire understanding between the parties relating to the subject matter hereof, and supersedes all prior understanding, agreements and documentation relating to the subject hereof. This Agreement may be amended only by written instrument executed by the authorized representatives of both parties.

TOWN OF WARE

TOWN OF HARDWICK

By its Town Manager and Selectmen

By Town Administrator and Selectmen

By: _____

By: _____

Dated: _____

Dated: _____

HIPAA – BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is dated as of the 2nd day of May, 2011. The parties acknowledge that the Town of Hardwick (hereinafter “Town”), is a “Covered Entity” as defined in the Health Insurance Portability and Accountability Act of 1996 (hereinafter “HIPAA”) and corresponding regulations, and the Town of Ware (“Contractor”), acknowledges it is a “Business Associate” as defined in HIPAA and corresponding regulations. To maintain compliance with applicable law, the parties enter into this Business Associate Agreement for the parties’ participation in the Mutual Aid Advanced Life Support (ALS) Agreement between the Town of Ware and the Town of Hardwick, dated 02-May-11.

1. **Definitions.**

Unless otherwise provided in this Agreement, capitalized terms shall have the same meaning as set forth in the HIPAA Regulations, 45 C.F.R. Parts 142 and 160-164.

2. **Obligations and Activities of Contractor as a Business Associate.**

Contractor agrees:

- (a) All medical and financial records directly or indirectly pertaining to patients treated by the Town or any of its agents or employees shall at all times be strictly confidential.
- (b) Not to use or disclose Protected Health Information other than as permitted or required by this Agreement or as required by law;
- (c) To use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement;
- (d) To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by the Contractor in violation of the requirements of by this Agreement;

- (e) To report to the Town any use or disclosure of the Protected Health Information not provided for in by this Agreement of which it becomes aware;
- (f) To the extent that a breach of unsecured Protected Health Information occurs, Contractor has an affirmative obligation to report to the Town and the individual affected by the security or privacy breach within five (5) days by first class mail, pursuant to HIPAA's notice requirements.

- (g) To ensure that any agent, including a subcontractor and/or Business Associate, to whom Contractor provides Protected Health Information received from, or created or received by Contractor, on behalf of the Town agrees to the same restrictions and conditions that apply through by this Agreement with respect to such information;
- (h) To provide the Town or an Individual acting at the direction of the Town, access to Protected Health Information in a Designated Record Set within five (5) business days of a request by the Town, in order to meet the requirements under 45 C.F.R. § 164.524;
- (i) To make any amendments to Protected Health Information in a Designated Record Set, as directed by the Town, in order to ensure compliance with requests made by the Town or an Individual pursuant to 45 C.F.R. § 164.526 and in the time and manner designated by the Town ;
- (j) To make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor or any business associate (as defined in HIPAA and corresponding regulations) of Contractor on the Town's behalf, available to the Town, or at the request of the Town to the U.S. Secretary of Health and Human Services (hereinafter the "Secretary"), in a time and manner designated by the Town or the Secretary, for purposes of the Secretary determining the Town's compliance with the Privacy Rule or the Security Rule;
- (k) To document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Town to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528;
- (l) To provide to the Town or an Individual, within five (5) business days of the Town's or Individual's request, information collected in accordance with Subsection (h) of by this Agreement, to permit the Town to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528;

- (m) To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Protected Health Information that Contractor creates, receives, maintains, or transmits on behalf of the Town as required by the Security Rule;
- (n) To ensure that any agent, including any subcontractor, to whom Contractor provides Protected Health Information agrees to abide by all of the same restrictions and conditions to which Contractor is bound under by this Agreement and implement reasonable and appropriate safeguards to protect it. Each such subcontractor or agent shall sign an agreement with Contractor containing substantially the same provisions as this Contract;
- (o) To immediately report to the Town any Security Incident of which Contractor becomes aware.
- (p) Contractor acknowledges that as of February 17, 2010 the requirements of HIPAA's Security and Privacy Rules shall apply directly to Contractor as a business associate, in the same manner as they apply to the Town, and Contractor shall be subject to HIPAA's enforcement and penalty provisions, including civil and criminal penalties.

3. Permitted Uses and Disclosures by Contractor as a Business Associate.

Except as otherwise limited in by this Agreement, Contractor may:

- (a) Use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Town as specified in the Contract, if such use or disclosure of Protected Health Information would not violate the Privacy Rule or the Security Rule, if done by the Town and would not violate the relevant policies and procedures of the Town concerning such use or disclosure;
- (b) Use the Protected Health Information in its possession for the proper management and administration of the Contractor's operations and to fulfill any present or future legal responsibilities of the Contractor provided that such uses are permitted under state and federal confidentiality laws;
- (c) Disclose the Protected Health Information in its possession to third parties for the purpose of the proper management and administration of the Contractor's operations or to fulfill any present or future legal responsibilities of the Contractor, provided that the Contractor represents to the Town, in writing, that:
 - (i) the disclosures are required by law, as provided for in 45 C.F.R. §164.501; or
 - (ii) the Contractor (or its Business Associate) has obtained from the third party

reasonable written assurances that said information will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party and the third party notifies the Contractor and its Business Associate of any instances of which he or she is aware in which the confidentiality of the information has been breached, as required under 45 C.F.R. §164.504(e)(4);

- (d) Aggregate the Protected Health Information in its possession with the Protected Health Information of other covered entities that the Contractor has in its possession through its capacity as a business associate to said other covered entities provided that the purpose of such aggregation is to provide the Covered Entity with data analyses relating to the health care operations of the Covered Entity, provided such data aggregation services are permitted by law pursuant to 45 C.F.R.164.504(e)(2)(i)(B). Under no circumstances may the Contractor disclose Protected Health Information of one Covered Entity to another Covered Entity absent the explicit authorization of the Covered Entity to whom the Protected Health Information belongs;
- (e) Report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. 164.502(j)(1).

4. Obligations of the Town as a Covered Entity.

The Town shall:

- (a) Notify Contractor of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Contractor's permitted or required uses and disclosures of Protected Health Information; and
- (b) Notify Contractor of any restriction to the use or disclosure of Protected Health Information that the Town has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Contractor's permitted or required uses or disclosures of Protected Health Information.

5. Permissible Requests by the Town as a Covered Entity.

Neither the Contractor nor the Town shall request the other to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule or the Security Rule if done by such other entity.

6. Term and Termination.

Term: This Agreement shall commence as of the date hereof and remain effective until terminated as set forth herein.

- (a) Termination for Breach. In the event of a material breach by Contractor of by this Agreement, the Town may either at its option:
 - (i) Immediately terminate the Mutual Aid Agreement between the parties without penalty, as provided for under 45 C.F.R. §164.504(e)(2)(iii), provided that the Town has given Contractor written notice of the alleged breach and a reasonable opportunity to cure the breach or end its violation, and Contractor has not cured said breach to the reasonable satisfaction of the Town within a reasonable period.
 - (ii) Immediately terminate the parties' relationship, if Contractor has breached a material term of by this Agreement and cure is not possible.
- (b) Termination for Improper Use. The Town may immediately terminate by this Agreement without penalty if the Town in its sole discretion, reasonably suspects that Contractor has improperly used or disclosed Protected Health Information in breach of by this Agreement.
- (c) Termination for Inadequate Safeguards. The Town may immediately terminate by this Agreement without penalty if it determines, in its sole discretion, that any change or any diminution of Contractor's security procedures or safeguards render any or all of Contractor's safeguards unsatisfactory to the Town .

In either case, the Town shall have the right to report the violation to the Secretary.

- (d) Termination of Contract for Cause by Contractor. In the event of a material breach by the Town of by this Agreement, Contractor may either at its option:
 - (i) Immediately terminate the Contract provided that Contractor has given the Town written notice of the alleged breach and a reasonable opportunity to cure the breach or end its violation, and the Town has not cured said breach to the reasonable satisfaction of Contractor within a reasonable period.
 - (ii) Immediately terminate the parties' relationship and the Contract if the Town has breached a material term of by this Agreement and cure is not possible.

In either case Contractor shall have the right to report the violation to the Secretary.

(e) Effect of Termination.

- (i) Upon termination of this Agreement for any reason, Contractor shall return to the Town all Protected Health Information, including all Electronic Protected Health Information, received from the Town, or created or received by Contractor on behalf of the Town. This provision shall apply to Protected Health Information, including all Electronic Protected Health Information that is in the possession of subcontractors or agents of Contractor. An authorized representative of Contractor shall certify in writing to the Town, within fifteen (15) days from the date of termination of by this Agreement, that all Protected Health Information has been returned and that Contractor no longer retains any Protected Health Information in any form.
- (ii) Upon the Town's confirmation that returning the Protected Health Information is infeasible, Contractor shall extend the protections of by this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return infeasible, for so long as the Contractor maintains such protected Health Information. Contractor shall remain bound by the provisions of by this Agreement, until such time as all Protected Health Information has been returned, as set forth in Section 6(f)(i) above.

7. **Miscellaneous.**

- (a) Regulatory References. A reference in by this Agreement to a section in the Privacy Rule or the Security Rule means the section as in effect or as amended, and for which compliance is required.
- (b) Amendment; Waiver. The Parties agree to take such action as is necessary to amend by this Agreement from time to time as is necessary for the Contractor and the Town and the Contractor to comply with the requirements of the Privacy Rule, the Security Rule, and the Health Insurance Portability and Accountability Act of

1996, Pub. L. No. 104-191. This Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

- (c) Interpretation. Any ambiguity in by this Agreement shall be resolved in favor of a meaning that permits compliance with the Privacy Rule and the Security Rule.

- (d) No Third Party Beneficiaries. Nothing express or implied in by this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

- (e) Notices. Any notices to be given hereunder to a Party shall be made in accordance with the notice procedures contained in the Contract.

8. Governing Law and Venue.

This Agreement shall be governed by, and interpreted in accordance with the laws of the Commonwealth of Massachusetts. Moreover, where any provision of Massachusetts state law is more stringent or otherwise constitutes a basis upon which the Privacy Rule or the Security Rule is preempted, state law controls and the Contractor and the Town agree to comply fully therewith.

(Remainder of this page is intentionally blank – signatures on the following page)

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF DAY AND YEAR FIRST WRITTEN ABOVE.

Town of Hardwick

Town of Ware

By: _____

By: _____



TOWN OF WARE, MASSACHUSETTS
OFFICE OF THE TOWN CLERK

126 MAIN STREET, STE. F, WARE, MASSACHUSETTS 01082

NANCY J. TALBOT
TOWN CLERK
June 30, 2020

Board of Selectmen
126 Main St.
Ware, MA 01082

Dear Board Members:

I am in receipt of a resignation from John Morrin a member of the Park Commissioners effective immediately.


Mr. Morrin as you know was elected last year as a three year member of the above named body and his term was to expire in 2022.

Mr. Morrin was elected to the Board of Selectmen at the Annual Town Election held on June 29th. The Charter for the Town of Ware (Article 7-1 does not allow for an individual to hold more than one elected office concurrently).

The Board of Selectmen should work with the Park Commissioners to fill this vacancy as quickly as possible. A copy of the resignation and this letter has been given to the Park Commissioners.

Under MGL Chapter 41, Section 11 the position should be advertised and a joint meeting of the two boards should be held to make an appointment of a qualified individual. The appointment would be until the date of the next Annual Town Election in 2021. Thereafter interested individuals would be able to file for Nomination Papers and the term of office would be until 2022.

Sincerely,


Nancy J. Talbot
Town Clerk

Attachment – Letter of Resignation

cc: 2020 Resignation File
Ware Park Commissioners

t/

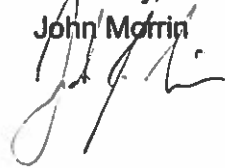
To:
The Town of Ware
126 Main St.
Ware, MA 01082

6/30/20

From:
John Morrin
170 Monson Turnpike Rd.
Ware, MA 01082

Because I have been elected to the Board of Selectman and the charter does not allow for the holding of more than one elected office, I am resigning from the Park Commission effective today, June 30th, 2020. It has been a pleasure to work with John, Nancy, Bill, and Kim. You have all treated me like family, and have made my time on the Park Commission thoroughly enjoyable. Thank you. If I can ever help you in any way, please let me know.

Sincerely,
John Morrin

A handwritten signature in black ink, appearing to read "John Morrin", written over the printed name.

Midura, Mary

From: Beckley, Stuart
Sent: Thursday, July 2, 2020 8:28 AM
To: Midura, Mary
Subject: FW: PVTA

In case you want to add it to the packet... this week or next.

-----Original Message-----

From: John Carroll <jecwareselectman@gmail.com>
Sent: Wednesday, July 1, 2020 7:42 PM
To: Beckley, Stuart <sbeckley@townofware.com>; Alan Whitney_Selectman <Alanwhitney_ware@yahoo.com>; Keith Kruckas_Selectman <keithkruckas@gmail.com>; tbarnes_pps@yahoo.com
Subject: PVTA

CAUTION: This email originated from outside of the Town of Ware organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Stuart and members of the BOS

I would like to remain as the town of Ware representative to the PVTA. This position is very helpful with my work with the Quaboag Connector since they are one of the sources of the vehicles we acquire. The PVTA was recently awarded a grant to work with the Quaboag Connector to institute a computerized dispatch system to deal with the ever expanding demand for rides to work, schools and medical appointments.

Historically it has been a member of the BOS but I believe it can be anyone the BOS appoints.

Thank you

John E Carrol

Sent from my iPad