

# TOWN OF GILL

MASSACHUSETTS



[www.gillmass.org](http://www.gillmass.org)

## SELECTBOARD MEETING MINUTES

*October 9, 2012*

Call to Order: The Selectboard meeting was called to order at 6:00pm.

Present: Ann Banash, Randy Crochier, and John Ward, Selectboard members; Ray Purington, Admin. Assistant; David Detmold.

Approval of Minutes: Randy made a motion, seconded by John, to approve the minutes of 9/24 and 10/2. The vote was unanimous in the affirmative.

Project Updates: Formal startup and training on the new boilers at the Public Safety Complex is expected to happen this week or next. Ray reported that the rough draft of the RFP for the Town Hall roof is being reviewed by past and present Highway Department employees and two other residents with construction experience. Noting the oncoming colder weather, the Board recommended that the project be bid with an "earliest possible timeframe for installation without compromising the quality and performance of the products and workmanship."

Sewer Rates: The Board discussed the 10/2 information session that was held for sewer users, and reviewed the comments that were made that night. The consensus from those users was to avoid upsetting people twice, and do the needed increase all at once rather than spread out over two years. For psychological purposes, though, it is important to keep the 10% discount in place, even though all but 4 of 114 customers receive the discount.

Noting that both John and Ann are themselves sewer customers, the Board invoked the Rule of Necessity so that there would be a quorum of the Board to act on setting sewer rates. John made a motion, seconded by Randy, to increase the sewer rates to \$0.135/cu. ft. with a discounted rate of \$0.1215/cu. ft, effective for the bills going out in December 2012. The vote was unanimous in the affirmative.

The Board also discussed a program being used in Greenfield that provides a financial incentive for sewer users to disconnect and redirect sump pumps and perimeter drains that are discharging into the sewer system. The idea behind the incentive is that it is cheaper to spend money to fix those illegal connections than it is to spend money on studying Inflow problems. While the Riverside sewer system doesn't currently have funds to allow for incentive payments, an educational campaign will be attempted with the next bills that are mailed out. If residents are uncertain about their sump pump connections, Randy offered to go look at no charge.

Green Community Grant Application: The Town has received preliminary, unofficial word that its grant application has been approved without any questions. Mass. DOER will be sending grant contracts soon. The Board recognized and thanked the Energy Commission, and especially Claire Chang, for the hours of hard work in researching, preparing, and submitting the grant application.

Library Personnel & Wage Scale: Ray reported that the Personnel Committee has completed its review of the Library Director and Assistant Director positions, and has voted to recommend that both be added to the Town's wage scale. The Director position is recommended for a Grade 4, and the Assistant Director for a Grade 3. John made a motion, seconded by Ann, to accept the recommendation of the Personnel Committee and place the positions on the wage scale as noted. The motion passed by a vote of 2 in favor, none opposed, and 1 abstention (Randy).

Election Warrant: The Selectboard signed the warrant for the November 6<sup>th</sup> election.

Appointments: Acting on a request from the Town Clerk, Randy made a motion, seconded by John, to appoint Rachel Kent as an Election Worker through 6/30/13. The vote was unanimous in the affirmative.

Sewer Abatement: The Board reviewed a request from Linda Welcome for abatement of her 9/11/12 sewer bill. In her request it was stated that an abnormally high amount of water was used to backwash and refill her swimming pool, but that no water meter readings were taken before or after the usage. The Board noted that abatement is allowed for swimming pool use, but that the sewer regulations call for water meter readings to document the use. Randy made a motion, seconded by John, to deny the request for abatement. The vote was unanimous in the affirmative. The Board asked to have a reminder about the abatement process sent with the March bills.

Surplus Sweeper: The Town of Leyden has offered \$700.00 to purchase Gill's surplus MB pull behind road sweeper. Mick LaClaire, Highway Superintendent, believes this to be a fair offer, and recommends it be accepted. John made a motion, seconded by Randy, to accept the offer from the Town of Leyden. The vote was unanimous in the affirmative.

Cooperative Public Health Services Update: The Board received a newsletter with updates from the Cooperative Public Health Services program. Randy, who is Co-Chair of the program's Oversight Board, noted that they are working on building a budget for FY14 that provides services while remaining affordable for the towns, all while doing without the CIC grant funds that are in this year's budget. They are actively trying to recruit another one or two towns to join the program, which will help spread out the cost and will make the program eligible to apply for another round of CIC grant funding. It was noted that there is a December 31<sup>st</sup> deadline for towns to decide if they will remain in the program for FY14, which will be a difficult decision, given that budget information will still be very preliminary.

Bridge Project Expedite Letter: The Board read a letter from Representative Denise Andrews that thanked the Board for their letter supporting an accelerated construction process for the remaining work on the Gill-Turners Falls Bridge and the Falls River Bridge on Route 2. Representative Andrews also apologized for not inviting the Selectboard to attend a meeting she recently hosted to discuss bridge projects with Gill business owners. Ann reported that representatives from Mass DOT/Highway brought up the subject of accelerated construction at last week's meeting of the Route 2 Task Force, so there may still be some life to that possibility.

Comcast License Renewal: Ray reported that he received a letter from Comcast Cable requesting to start license renewal proceedings with the Town. Ray has discussed the letter with Attorney William Solomon, the attorney used by the Town during the last license negotiation in 2005. Attorney Solomon will draft a response at no charge, and will meet with the Town soon to explain the renewal process and propose a cost schedule for his services.

FirstLight Tours: Ann, John, and Ray reported on October 4<sup>th</sup> and 5<sup>th</sup> tours of the Northfield Mountain Project and the Turners Falls Hydroelectric Project. Both facilities are owned and operated by FirstLight Power Resources, and the tours were held as an initial step in the Federal Energy Regulatory Commission's relicensing process. Gill was well represented both days, with 8 residents attending in various official and unofficial capacities.

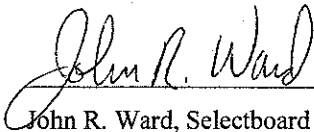
Relicensing is a multiyear process, and the Board noted the importance of remaining involved, as the relicensing process will largely establish the types of recreation, fish passage, and riverbank restoration activities that FirstLight is mandated to provide during the next license period (typically 20-40 years).

7:15pm Ray left the meeting to attend a ZBA meeting.

Warrant: The Board reviewed and signed FY 2013 warrant #8. Randy abstained from signing the payroll warrant.

Adjournment: The Selectboard meeting adjourned at 7:45pm.

*Minutes respectfully submitted by Ray Purington, Administrative Assistant.*



John R. Ward, Selectboard Clerk

**Sewer Users Information Session on Proposed Rate Increase**

Oct. 1, 2012

|                             | FY13          | FY12          | FY11          | FY10          | FY09          |
|-----------------------------|---------------|---------------|---------------|---------------|---------------|
| Category                    | Budgeted      | Actual        | Actual        | Actual        | Actual        |
| Alarm Services              | 280           | 252           | 246           | 240           | 240           |
| Bill Printing               | 555           | 553           | 551           | 543           | 543           |
| Electric                    | 1,306         | 1,239         | 1,317         | 1,407         | 1,710         |
| Inspections/Calibrations    | 585           | 569           | 569           | 70            | 1,003         |
| Maintenance                 | 3,625         | 1,224         | 130           | -             | 2,897         |
| Mileage                     | 1,600         | 1,249         | 1,046         | 1,080         | 1,349         |
| Mowing                      | 350           | 440           | 275           | 290           | 100           |
| Other/Supplies              | 240           | -             | 26            | 480           | 296           |
| Payroll                     | 10,921        | 9,998         | 9,162         | 10,774        | 9,767         |
| Postage                     | 350           | -             | -             | 110           | -             |
| Sewage Disposal             | 59,000        | 63,897        | 52,029        | 47,070        | 42,470        |
| Telephone                   | 230           | 213           | 222           | 176           | 170           |
| <b>Expenses grand total</b> | <b>79,042</b> | <b>79,633</b> | <b>65,573</b> | <b>62,240</b> | <b>60,544</b> |

|                       |        |        |        |        |        |
|-----------------------|--------|--------|--------|--------|--------|
| Omnibus Budget Voted  | 79,042 | 67,740 | 66,166 | 66,047 | 51,916 |
| Extra Voted to Budget |        | 12,000 | -      | -      | 11,000 |
| Budget minus Expenses |        | 107    | 593    | 3,806  | 2,371  |

**Revenue**

There are currently 114 sewer accounts.

|                   |  |
|-------------------|--|
| Current Rate      | 0.085 \$/cubic foot                                  |
| less 10% discount | 0.0085 (only 4 customers don't receive the discount) |
| Effective Rate    | 0.0765   |

Sewer Commitments - aka Invoices to Users

| Period | FY13 | FY12      | FY11      | FY10      | FY09      |
|--------|------|-----------|-----------|-----------|-----------|
|        |      | \$ 49,266 | \$ 51,262 | \$ 52,310 | \$ 57,168 |

Current Projected Revenue

|                                 |                    |
|---------------------------------|--------------------|
| RWD Water Use (current average) | 13,557 gal/day     |
| equals                          | 4,948,305 gal/year |
| equals                          | 661,539 cu ft/year |
| x current Effective Rate        | 0.0765 \$/cu ft    |
| Total Invoiced to Sewer Users   | \$ 50,608          |

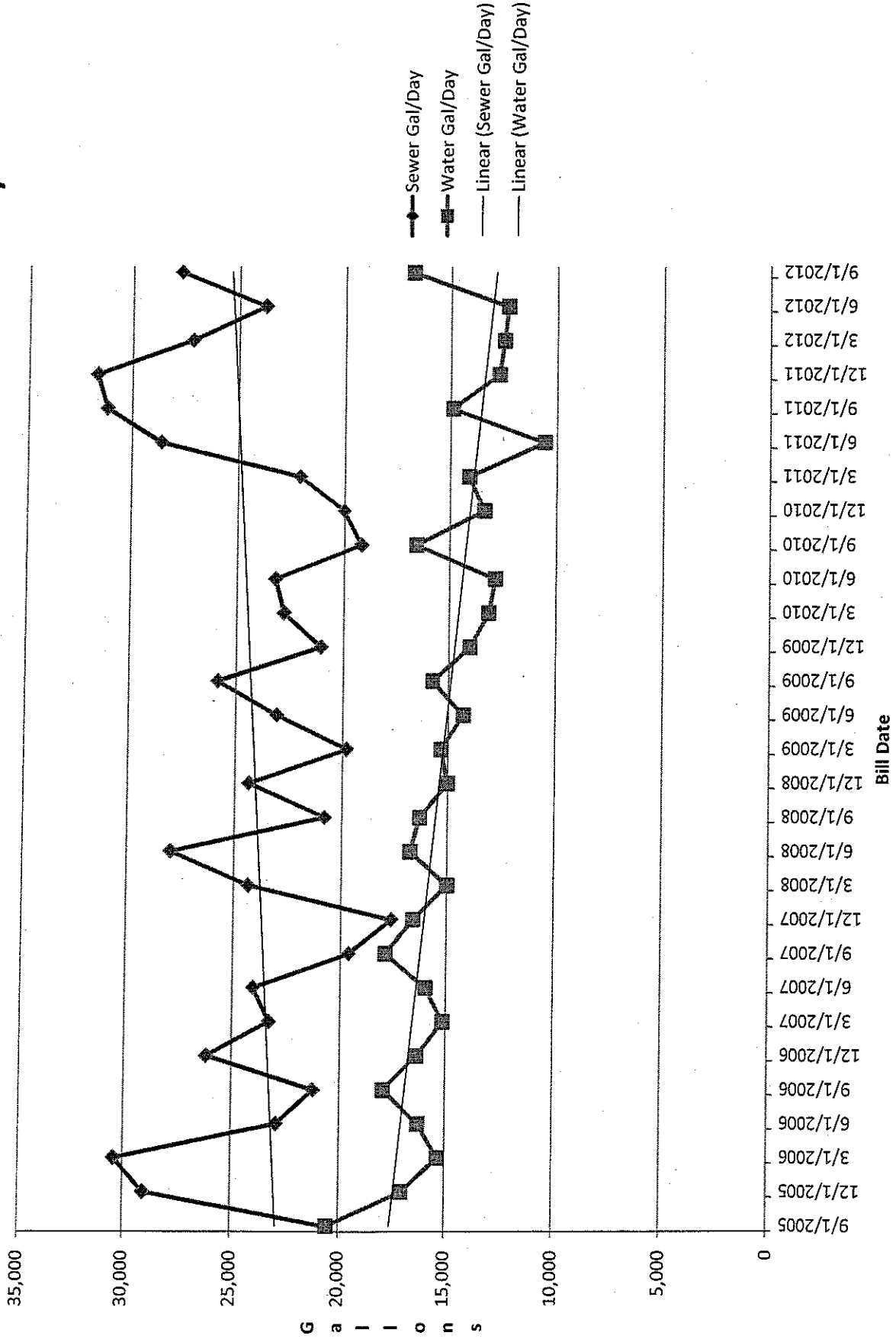
Proposed Projected Revenue

|                               |                 |                         |                 |
|-------------------------------|-----------------|-------------------------|-----------------|
| "FULL" Possible New Rate      | 0.135 \$/cu ft  | "PARTIAL" New Rate      | 0.115 \$/cu ft  |
| Possible Effective Rate       | 0.1215 \$/cu ft | Possible Effective Rate | 0.1035 \$/cu ft |
| Estim. Total from Sewer Users | \$ 80,377       | Estim. Total            | \$ 68,469       |

Impact on Average Sewer User

|                                | Cubic Feet | Discounted   |               | Amount Over Current | % Over Current |
|--------------------------------|------------|--------------|---------------|---------------------|----------------|
|                                |            | Current Rate | Billed Amount |                     |                |
| Current Avg. Quarterly Amount  | 1278       | 0.0765 \$    | 98            |                     |                |
| Current Avg. Annual Amount     | 5110       | 0.0765 \$    | 391           |                     |                |
| Possible Avg. Quarterly Amount | 1278       | 0.1035 \$    | 132           | \$ 35               | 35%            |
| Possible Avg. Annual Amount    | 5110       | 0.1035 \$    | 529           | \$ 138              |                |
| Possible Avg. Quarterly Amount | 1278       | 0.1215 \$    | 155           | \$ 58               | 59%            |
| Possible Avg. Annual Amount    | 5110       | 0.1215 \$    | 621           | \$ 230              |                |

# Historical Comparison of Water & Sewer Usage in Gallons Per Day





## Department of Public Works

Town of GREENFIELD, MASSACHUSETTS

Town Hall, 14 Court Square, Greenfield, MA 01301 Phone: 413-772-1528 Fax: 413-773-9593

## ARE YOU CONNECTED TO THE TOWN SEWER SYSTEM?

## DO YOU HAVE A SUMP PUMP OR PERIMETER DRAIN IN YOUR BASEMENT THAT DISCHARGES WATER "SOMEWHERE!!!"?

*If the answers to the above questions are yes, please read the following carefully. If no, please recycle this flyer!*

Town Sewer Use Regulations and Massachusetts Plumbing Code prohibit the discharge of groundwater from basements, whether commercial or residential, to the town's sanitary sewer system. The EPA has recently elevated its level of scrutiny regarding these regulations and ordered the town to step up enforcement of these regulations. The town's failure to do so will result in fines levied against the town.

### What is the issue with groundwater from my basement going into the sanitary sewer system?

Discharges to the sanitary sewer system flow to the town's Water Pollution Control Plant (WPCP) on Deerfield St. The sanitary sewer lines convey water from your toilets, sinks, washing machines and in the industrial sector, process water, that is polluted and must be treated at the WPCP before it can be safely discharged to the Deerfield River. When groundwater and stormwater (rain, snow melt) enter the system it increases operational costs at the plant by increasing the volume of water that needs to be pumped and treated and can, in some cases, decrease the treatment efficiency of the plant. Treating this excess flow will raise operational costs which will result in an increase in sewer use fees. These are the reasons why the Sewer Use Regulations (Art IV Section 1) and the State Plumbing Code (248 CMR 10.17(1)) prohibit such discharge.

### If I can't discharge the groundwater in my basement to the sanitary sewer system where is it supposed to go?

Groundwater from basements is not polluted and should be directed to storm drain system in the street, if one exists, or outside to an area on your property away from the building, roads and sidewalks. The storm drain system is the infrastructure that carries rain water off of the streets. The open gridded catch basins on the sides of streets are connected to the storm drain system. This water does not go to the WPC Plant but rather

to a nearby river, brook or wetland. In Greenfield, most storm water ultimately ends up in the Green River.

*I'm not sure where the water in my basement goes. How can I find out?*

The DPW can assist with this at no charge. Sometimes available plans can answer the question quickly. Often it will be necessary to come to your home or business and look at the piping in the basement. If questions still remain, a small amount of biodegradable dye can be placed in the water and crews can then determine to which system the dyed water flows. Please call the DPW @ 413-772-1528 or email us at [DPW@greenfield-ma.gov](mailto:DPW@greenfield-ma.gov) to arrange for this determination. You can also mail in the tear off contact request form at the end of this flyer.

*When I get water in my basement I just take the cap on the sewer line off to drain the basement. Is this a problem?*

**YES** and a far larger one than violating the town's Sewer Use Regulations! You are putting your property and you and your family's health at serious risk. If there were to be a blockage in the sewer main in the street while you had your cap off the sewage would back up and flood your basement. Besides the obvious health issue, everything in your basement, including the furnace, washer, dryer etc will be ruined and you will have no recourse since the cap should never be off your sewer line in the first place. Worse yet, the open cap allows toxic sewer gases (methane, hydrogen sulfide, etc.) to seep into your home. **This is extremely dangerous.**

*If it is determined that the water in my basement does go to the sanitary sewer system what do I do next?*

First you should contact the DPW so they can determine if there is a storm drain system on your street that you can redirect the discharge to. Depending on many factors the next step may be to hire a plumber to install a sump pump or simply redirect the discharge from an existing pump. The ideal solution, if available to you, is to redirect the discharge to the storm drain system in the street which would involve hiring a contractor to run a line from the cellar to the pipe in the street.

*This sounds expensive. Times are difficult. Is there any financial assistance available to accomplish this?*

Yes. The following assistance is available on a first come first serve basis as long as funding permits.

- The town will reimburse building owners up to **\$500** for the installation and/or redirection of a sump pump discharge to an area outside the building. Town bylaws prevent the discharge of this water onto sidewalks and roadways. Work must be done by a licensed plumber, pre-approved by the DPW and a final inspection done before reimbursement is made.
- The town will reimburse building owners up to **\$1500** for sump pump installation (if needed)/redirection and laying of a line from the building to the storm drain system. Interior plumbing work must be done by a licensed plumber. Work must be pre-approved by the DPW and a final inspection done before reimbursement is made.

- The town will waive all connection, excavation and plumbing permit fees associated with the work.

Where is this money coming from?

For the past few years the DPW has made capital budget requests for funding to correct inflow and infiltration (I/I) in the sanitary sewer system. Extensive work has been done in replacing and lining aged sewer mains in the streets and lines that run through wetlands. Much has been accomplished and more work is planned. However, it has become obvious, and studies have confirmed, that a substantial portion of groundwater entering the system is coming from basements. Therefore, Mayor Martin is allowing a portion of the I/I capital funding to be used to assist building owners in correcting the problem on their premises. The funding for the capital I/I projects is raised through the town's sewer use fees.

I understand the environmental issue and appreciate the financial assistance but it still sounds like a hassle. Why is it in my best interest to do this?

Discharge of storm water to the sanitary sewer system is an illegal connection. Through its Sewer Use Regulations the town can mandate correction of this problem. Failure to correct the problem can result civil penalties and fines up to \$5000 (Sewer Use Regulations Art IX Section 2). This is not the course the town wants to pursue, but if the town is facing penalties from EPA it will have no other recourse but to do so. Hence Mayor Martin is offering financial assistance to help building owners with this problem.

Additionally, over the next few months the town will be working with local real estate agents, plumbers and home inspectors to educate them about this problem. Home inspectors will have to inform potential buyers of your property of any illegal connections and lending institutions may have issues financing the purchase of a building that has illegal sewer connections. Therefore, if you are thinking of selling your home in the near future or just want to protect it as a long term investment, it is important to correct any illegal sewer connections.

It is the DPW's desire to assist in correcting these connections in a way that is as easy as possible for building owners. This is why Mayor Martin has approved the use of capital money approved for removal of storm water from the sanitary sewer system to assist building owners in redirection of their basement groundwater.

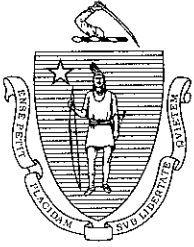
**ACT NOW! FUNDS ARE LIMITED.**

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Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Daytime phone: \_\_\_\_\_ cell: \_\_\_\_\_  
Email: \_\_\_\_\_

Mail to:  
Town Hall – DPW  
14 Court Square  
Greenfield, MA 01301

Rec'd 9/25/12



*The Commonwealth of Massachusetts*

HOUSE OF REPRESENTATIVES  
STATE HOUSE, BOSTON 02133-1054

**DENISE ANDREWS**  
**STATE REPRESENTATIVE**  
2<sup>ND</sup> FRANKLIN DISTRICT  
ATHOL, ERVING, GILL, GREENFIELD,  
ORANGE, WARWICK

Committees on:  
Revenue  
Election Laws  
Labor and Workforce Development

STATE HOUSE, ROOM 443  
TEL. (617) 722-2460  
FAX. (617) 626-0120  
Denise.Andrews@MAhouse.gov

September 19, 2012

Ann H. Banash, Chair  
Gill Selectboard  
325 Main Road  
Gill, MA 01354

Dear Selectboard Members:

I write to share my gratitude for your keeping my office informed of your communication with Mr. Albert Stegemann and the Massachusetts Department of Transportation. It is my understanding that following a meeting my office hosted with local restaurant and business owners that Mr. Stegemann brought their concerns to the attention of SPS New England. It is also my understanding that together they are considering options to accelerate the restoration of two-way traffic on the Gill-Montague Avenue A Bridge.

I apologize that in our haste to schedule a meeting with local business owners, we overlooked the important detail of inviting the Selectboard members to attend. In the future, this will not be overlooked. Please know that I have and will continue to push for the resumption of two-way traffic as soon as possible. I look forward to working with you on this and other issues of importance to the residents of Gill and will be sure to share any information that I receive on this matter.

As always, if my office can be of any assistance on this or any other matter, please do not hesitate to contact me.

Respectfully,

A handwritten signature in cursive script that reads "Denise Andrews".

**DENISE ANDREWS**  
*State Representative*  
*Second Franklin District*





Comcast Cable  
676 Island Pond Road  
Manchester, New Hampshire  
03109  
603.695.1400 Tel  
603.628.3303 Fax  
www.comcast.com

October 2, 2012

***Via Overnight Delivery***

Board of Selectmen  
Town of Gill  
325 Main Road  
Gill, MA 01354

***Re: Commencement of Renewal Process***

Dear Chair and Members of the Board:

Over the years, we at Comcast have appreciated the opportunity to serve the citizens of the Town of Gill (the "Town"). We have done our best to provide the high quality cable television service the Town and its residents demand, and we anticipate being able to provide that service to our subscribers in Town for many years to come. Therefore, we are taking this step to ensure the renewal of our agreement with you.

The Cable Communications Policy Act of 1984 encourages issuing authorities and cable companies to reach agreement on a renewal agreement at any time through an informal process of discussion. However, Section 626 of the Act also provides for a contemporaneous alternative formal renewal procedure with specific substantive and procedural requirements. If either the issuing authority or the cable company does not initiate the formal process within a certain time frame, the protections of that process may be lost. To that end, Comcast hereby notifies the Town that the renewal period for our agreement under Section 626 is now open, and we request the start of renewal proceedings pursuant to the Section 626(a)(1).

This letter is not intended to preclude informal negotiations, but instead is intended only to preserve the rights of Comcast under the formal renewal process. Comcast has every reason to believe that the Town and Comcast will reach a mutually agreeable renewal of the cable television agreement through good-faith negotiations, thus making many of the Act's formal procedures unnecessary. The relevant provision of Section 626 on the informal process is brief and reads as follows:

"(h) . . . [A] cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after formal proceedings pursuant to this section have commenced) . . ."

Re: Commencement of Renewal Process

October 2, 2012

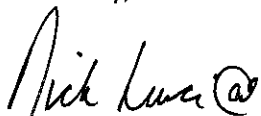
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The "formal" process generally includes the following steps:

1. Within six (6) months of the submission of this letter, the Town conducts an ascertainment proceeding which affords residents an opportunity to a) identify the future cable-related needs, and b) review Comcast's performance under the current agreement.
2. At your request or on our own, Comcast submits a renewal proposal with a draft cable television agreement.
3. Within four (4) months of the Town's receipt of Comcast's proposal, the public is afforded "adequate notice and opportunity to comment on the renewal proposal" and the Town must choose to renew the agreement or issue a preliminary denial, which triggers a further formal process.

I am attaching a copy of Section 626 of the Cable Act for your review. Aaron Saunders will be in contact with you soon to arrange a meeting with the Town to discuss informally negotiating a renewal agreement. Please feel free to contact Aaron at 413-730-4571 at any time. Comcast looks forward to meeting with the Town in the near future and continuing the long relationship that, we believe, has benefited both the community and the residents of Town of Gill.

Sincerely,



Nick Leuci  
Vice President of Franchising  
& Community Investment

NL/cam

Attachment

cc: Cable Advisory Committee  
Aaron Saunders – Comcast Manager of Government and Regulatory Affairs  
Catrice Williams – Massachusetts Cable Television Division Municipal Liaison  
Dan Glanville – Comcast Vice President of Government & Regulatory Affairs

**The Communications Act of 1934, as amended**  
**(47 USC Sec. 546-Renewal)**

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Section 626. Renewal

(a) Commencement of proceedings; public notice and participation -

- (1) A franchising authority may, on its own initiative during the 6-month period which begins with the 36th month before the franchise expiration, commence a proceeding which affords the public in the franchise area appropriate notice and participation for the purpose of (A) identifying the future cable-related community needs and interests, and (B) reviewing the performance of the cable operator under the franchise during the then current franchise term. If the cable operator submits, during such 6-month period, a written renewal notice requesting the commencement of such a proceeding, the franchising authority shall commence such a proceeding not later than 6 months after the date such notice is submitted.
- (2) The cable operator may not invoke the renewal procedures set forth in subsections (b) through (g) of this section unless -
  - (A) such a proceeding is requested by the cable operator by timely submission of such notice; or
  - (B) such a proceeding is commenced by the franchising authority on its own initiative.

(b) Submission of renewal proposals; contents; time -

- (1) Upon completion of a proceeding under subsection (a) of this section, a cable operator seeking renewal of a franchise may, on its own initiative or at the request of a franchising authority, submit a proposal for renewal.
- (2) Subject to section 544 of this title, any such proposal shall contain such material as the franchising authority may require, including proposals for an upgrade of the cable system.
- (3) The franchising authority may establish a date by which such proposal shall be submitted.

(c) Notice of proposal; renewal; preliminary assessment of nonrenewal; administrative review; issues; notice and opportunity for hearing; transcript; written decision -

- (1) Upon submittal by a cable operator of a proposal to the franchising authority for the renewal of a franchise pursuant to subsection (b) of this section, the franchising authority shall provide prompt public notice of such proposal and, during the 4-month period which begins on the date of the submission of the cable operator's proposal pursuant to subsection (b) of this section, renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, in accordance with paragraph (2) to consider whether -
  - (A) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;
  - (B) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in light of community needs;
  - (C) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and
  - (D) the operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.
- (2) In any proceeding under paragraph (1), the cable operator shall be afforded adequate notice and the cable operator and the franchise authority, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection (a) of this section), to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.
- (3) At the completion of a proceeding under this subsection, the franchising authority shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the cable operator. Such decision shall state the reasons therefor.

(d) Basis for denial -

Any denial of a proposal for renewal that has been submitted in compliance with subsection (b) of this section shall be based on one or more adverse findings made with respect to the factors described in subparagraphs (A) through (D) of subsection (c)(1) of this section, pursuant to the record of the proceeding under subsection (c) of this section. A franchising authority may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise under subsection (c)(1)(A) of this section or on events considered under subsection (c)(1)(B) of this section in any case in which a violation of the franchise or the events considered under subsection (c)(1)(B) of this section occur after the effective date of this subchapter unless the franchising authority has provided the operator with notice and the opportunity to cure, or in any case in which it is documented that the franchising authority has waived its right to object, or the cable operator gives written notice of a failure or inability to cure and the franchising authority fails to object within a reasonable time after receipt of such notice.

(e) Judicial review; grounds for relief

- (1) Any cable operator whose proposal for renewal has been denied by a final decision of a franchising authority made pursuant to this section, or has been adversely affected by a failure of the franchising authority to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of section 555 of this title.
- (2) The court shall grant appropriate relief if the court finds that -
  - (A) any action of the franchising authority, other than harmless error, is not in compliance with the procedural requirements of this section; or
  - (B) in the event of a final decision of the franchising authority denying the renewal proposal, the operator has demonstrated that the adverse finding of the franchising authority with respect to each of the factors described in subparagraphs (A) through (D) of subsection (c)(1) of this section on which the denial is based is not supported by a preponderance of the evidence, based on the record of the proceeding conducted under subsection (c) of this section.

(f) Finality of administrative decision -

Any decision of a franchising authority on a proposal for renewal shall not be considered final unless all administrative review by the State has occurred or the opportunity therefor has lapsed.

(g) "Franchise expiration" defined -

For purposes of this section, the term "franchise expiration" means the date of the expiration of the term of the franchise, as provided under the franchise, as it was in effect on October 30, 1984.

(h) Alternative renewal procedures -

Notwithstanding the provisions of subsections (a) through (g) of this section, a cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections (a) through (g) of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (g) of this section.

(i) Effect of renewal procedures upon action to revoke franchise for cause - Notwithstanding the provisions of subsections (a) through (h) of this section, any lawful action to revoke a cable operator's franchise for cause shall not be negated by the subsequent initiation of renewal proceedings by the cable operator under this section.