

RECEIVED

MAR 28 2011

Mr. Kevin Brander
MA Department of Environmental Protection
Metropolitan Boston/Northeast Region
Bureau of Resource Protection, Water Pollution Control
205B Lowell Street
Wilmington, MA 01887

DEP

NORTHEAST REGIONAL OFFICE

March 24, 2011

Re: Transmittal No. X235884 - Wayland Town Center

Dear Mr. Brander:

As Wayland's representative to the Sudbury, Assabet, and Concord Wild and Scenic River Stewardship Council, and as a member of Wayland's Wellhead Protection Committee, I am concerned about discharges to the Sudbury River and to Wayland's groundwater. (The Wayland Town Center site is in Zone 2 of Wayland's Baldwin wells, which are now being used as the town's primary water supply wells.) To this point the public has been excluded from the permit process, both in Wayland and at the DEP. I am hereby requesting a public hearing regarding the Sewer Connection Permit application submitted by 20Wayland LLC to further understand the issues involving this use of the river and aquifer. In both my official roles and as a Wayland citizen, I believe I can only understand the issues and plans to deal with them in the format of an interactive public hearing.

I would like to understand the nature of the discharges which will be input to the new Wayland WTP. Residential uses are well understood, but apparently the bulk of the generation will be from restaurants and a supermarket. Will these establishments be allowed to use garbage grinders? Will raw food waste be a part of the mix? Bone chips or raw fat trimmings from a butcher shop? How about fibrous vegetable material? In addition, I would like to understand how the plant will deal with non-residential chemicals. Cleaning agents and disinfectants? Pesticides from a floral department in the supermarket? Water with marine microorganisms from a lobster tank? I and other members of the public have a right to understand how these materials will be dealt with.

In addition, the timing of discharges from these commercial establishments is of interest. If most of the discharge is from restaurants, will there be peak post meal hour discharge times? Will they overwhelm the WTP? I would like to understand what provisions are in place to deal with transient flows, what the limits of those provisions are, and what happens when those limits are exceeded.

As a Wayland citizen I am also concerned about costs. I do not understand the need for pumps and why they will become the financial responsibility of the treatment plant. After all, if the new development were not being built and the new treatment plant were built on the same site as the current plant, no pumps would be needed. So why aren't these entirely the developer's responsibility? I am also concerned that there be no responsibility on the part of the town as a whole if the projected financial arrangements do not materialize in some way.

I would also like to understand the background and details behind a groundwater discharge, which has never been publicly discussed. Indeed, an enormous amount of effort was expended to locate the outfall pipe to the river such that it is unobtrusive and allows some biomass contact before reaching the main stream. Was that effort wasted? Where will this groundwater discharge be? What will it cost? Why is it needed at all? Again, there may be good answers to all these questions, and the best forum for providing them is a public hearing. Again, the public has not been involved in this process, and to my knowledge the Wayland Wastewater Commissioners have not considered these questions.

In sum, I believe the sort of issues I raised above can only be adequately explored in the context of an interactive public hearing, and I urge that such a hearing be scheduled.

Very truly yours,
Thomas Sciacca
31 Rolling Lane
Wayland, MA 01778



RECEIVED

APR 11 2011

Board of Selectmen
Town of Wayland

Mr. Kevin Brander
Mass. DEP Bureau of Resource Protection
Water Pollution Control
205B Lowell Street
Wilmington, MA 01887

February 11, 2011

Dear Mr. Brander,

I request a public hearing on the application for sewer connection permit for a mixed use development filed by Twenty Wayland LLC, transmittal no. X235884.

Sincerely,

Molly Upton
Molly Upton
23B Bayfield Road
Wayland, MA 01778

RECEIVED

FEB 14 2011

DEP
NORTHEAST REGIONAL OFFICE

23B Bayfield Road
Wayland, MA 01778

March 18, 2011

Mr. Kevin Brander
MA Department of Environmental Protection
Metropolitan Boston/Northeast Region
Bureau of Resource Protection
Water Pollution Control
205B Lowell Street
Wilmington, MA 01887

RECEIVED

MAR 23 2011

DEP
NORTHEAST REGIONAL OFFICE

Re: Transmittal No. X235884 – Wayland Town Center

Dear Mr. Brander:

Thank you for your persistence in requiring a sewer connection permit for the large, mixed-use development planned by Twenty Wayland, LLC. As you know, this project is located adjacent to the Sudbury River, a federally-designated Wild and Scenic River, and part of the land is subject to flooding.

First, I urge the DEP to authorize the connection of only the initial 28,000 gpd and require a new application, at a future point in time, to increase the flow. The proposed approach, in the draft permit, of authorizing 45,000 gpd subject to phasing would leave the public totally outside of the review process when the flow was being ratcheted up. As drafted, the increase in allowable flow would be solely a matter between DEP and the applicant and the public would be excluded from the process and would remain uninformed of any future regulatory decision to allow Twenty Wayland to increase the flow.

Second, the time frame for applicant's construction of its proposed sewer connection should be much shorter than the 5 years proposed in the draft permit. In approximately 1998, Wayland residents voted to create a Wastewater Management District Commission (WWMDC) and a small district with the understanding that the existing office building (on what is now the Twenty Wayland site) would pay the lion's share of the costs and that under NO circumstances would non-users be responsible for paying any of the costs of the District. But, the draft permit would allow Twenty Wayland to take up to 5 to 10 years to construct its sewer connection to a new WWMDC treatment plant leaving the current remaining users (@ 27), in the interim, saddled with staggering operating and debt costs. My fear is that the remaining residents of the Town will be asked to absorb the costs in the interim. And, Twenty Wayland is already disputing its portion of bills going back to 2009 and is in arrears on its payments for two quarters.

Third, there is information contained in the application and draft permit that has not been revealed before such as: the need for a pumping station and two pumps that would be owned and operated by the WWMDC for the exclusive use of Twenty Wayland; and the idea that the WWMDC is being asked/required by this permit to seek a groundwater discharge permit in

addition to its surface water discharge permit. All of these new proposals, which apparently were negotiated with DEP, deserve public discussion and scrutiny because they all have cost implications to Wayland residents.

For the foregoing reasons, I request that DEP hold a public hearing in Wayland to air all of the issues raised by this proposed permit. That is the only way that the current WWMDC users and other residents of the Town can be apprised of the bases on which these costly conditions are being imposed on us. All of the negotiations, both in Town and at the DEP, have been done outside of public view.

Sincerely,

Molly Upton
Molly Upton

Brander, Kevin (DEP)

From: lmlsegal@comcast.net
Sent: Thursday, March 24, 2011 5:42 PM
To: Brander, Kevin
Cc: Segal, Linda
Subject: public comment - Town Center draft sewer connection permit (Wayland)
Attachments: emails with Fred Knight, et. al. re access to 20W plans.pdf;
TCDEPsewerpermitpubliccomment24march2011final.pdf

Dear Mr. Brander,

Thank you for this opportunity to submit public comment regarding the sewer connection permit application and draft permit for Twenty Wayland, LLC's town center project at the former Raytheon site, Route 20, Wayland.

Attached please find two pdf files. One is my comment letter dated today, March 24, 2011, and the other is a trail of emails that I reference in my letter.

I will also send you these items by US Mail.

Kindly confirm receipt of this email and that you can open and read the two attachments.
Many thanks.

Linda L. Segal

SmartZone Communications Center

lmlsegal@comcast.net

± Font size ±

emails with Fred Knight, et. al. re access to 20W plans

From : lmlsegal@comcast.net

Wed Mar 23 2011 4:23:52 AM

Subject : emails with Fred Knight, et. al. re access to 20W plans**To :** Linda Segal <lmlsegal@comcast.net>

----- Forwarded Message -----

From: lmlsegal@comcast.net

To: fred@knightway.org, "John Moynihan" <jmoynihan@wayland.ma.us>, "William Prendergast" <Wbillp80@aol.com>

Cc: "Linda Segal" <lmlsegal@comcast.net>

Sent: Friday, February 11, 2011 11:53:36 AM

Subject: Re: courtesy FYI

Thanks, Fred.

Greatly appreciate the explanation of the two phases.

My question was regarding the availability of the large roll of plans (part of the application) during the public comment period.

Linda

"Mr. Brander suggested I ask you folks about the accompanying large roll of plans that could not be scanned & sent electronically. The library really does not have room for those, and you folks may only have one set of plans anyway. I tried to stop by to see John M. on Monday mid-morning & was not surprised that he was out in the field.

Perhaps the applicant would be willing to provide the roll of plans to the WWMD in a disk format that can be successfully opened on library computers? **Save trees, save fuel, etc."**

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

From: "Fred Knight <fred@knightway.org>" <fred.knightway@gmail.com>

To: lmlsegal@comcast.net

Cc: jmoynihan@wayland.ma.us, "William Prendergast" <billp26@hotmail.com>, "David Schofield" <dschof@verizon.net>, "Shawn Fennelly" <shawn@thefennellys.com>, "Frederic Turkington" <fturkington@wayland.ma.us>

Sent: Friday, February 11, 2011 8:21:18 AM

Subject: Re: courtesy FYI

Linda,

This topic was discussed briefly, only to point out that the legal notice was expected following the negotiation with DEP to secure full acceptance of 20W's desired 45,000 gpd capacity in two phases. This legal notice is for the first phase totaling 27,000 gpd. The reasoning behind this two-phase approach is that DEP feels this is a conservative way to achieve 20W's final capacity. In spite of our designed new WWTP enabling capacity of 104,000 gpd and evidence for even the current WWTP to handle the expected total flow, DEP still wants to permit the capacity gradually in these two phases. The second phase will be permitted when successful operation of the new WWTP is achieved, not earlier than Dec 2012.

I think that I've described the situation accurately. We think that the situation is manageable.

Cheers,
Fred

On Thu, Feb 10, 2011 at 5:47 PM, <lmlsegal@comcast.net> wrote:

Thanks, Fred.

I am sorry I could not attend your meeting Wednesday night.

I'd greatly appreciate hearing if this topic was discussed and what was decided so the public does not have to schlep up to Wilmington.

Thanks.

Linda

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

From: "Fred Knight <fred@knightway.org>" <fred.knightway@gmail.com>

To: "Linda Segal" <lmsegal@comcast.net>

Cc: jmoynihan@wayland.ma.us, billp26@hotmail.com

Sent: Wednesday, February 9, 2011 7:47:20 AM

Subject: Re: courtesy FYI

Linda,

We will review this development along with others related to the TC at tonight's 7:30 meeting at the tB.

Thanks,
FRed

On Tue, Feb 8, 2011 at 2:47 PM, Linda Segal <lmsegal@comcast.net> wrote:
Greetings.

Regarding the attached Crier legal notice announcing the 30 day public comment period, DEP was able to send me some 8 x 11 inch sized documents electronically. Having a public access file at the Wayland Public Library for this short-term matter means that interested parties do not have to make a trip up to Wilmington during snowzilla winter conditions. The library is open evenings and on weekends and has housed other DEP public info files in their reference department over the years.

There is now a file folder at the library titled "Town Center Sewer Connection Permit Documents", thanks to Mr. Brander's prompt response and helpful library staff. J)))

Mr. Brander suggested I ask you folks about the accompanying large roll of plans that could not be scanned & sent electronically. The library really does not have room for those, and you folks may only have one set of plans anyway. I tried to stop by to see John M. on Monday mid-morning & was not surprised that he was out in the field.

Perhaps the applicant would be willing to provide the roll of plans to the WWMDC in a disk format that can be successfully opened on library computers? **Save trees, save fuel, etc.**

Hope this courtesy "green" FYI is helpful.

Many thanks for all your efforts.
Linda

--
Fred Knight, fred@knightway.org, 508 358 0834

--
Fred Knight, fred@knightway.org, 508 358 0834

Linda L. Segal
9 Aqueduct Road
Wayland, MA 01778-4605
508 655 0724 lmlsegal@comcast.net

March 24, 2011
Via Email

Kevin Brander
Department of Environmental Protection
Northeast Regional Office
Bureau of Resource Protection - Water Pollution Control
205B Lowell Street
Wilmington, MA 01887

Re: Public Comment for Sewer Connection Permit, Wayland Town Center Project,
400 Boston Post Road, Wayland, MA 01778
Transmittal No. X235884

Dear Mr. Brander,

Thank you for the email exchanges we had in February when the legal notice on this matter appeared in our local newspaper. I greatly appreciate your prompt responses, which included sending me electronic versions of the letter-sized application materials.

I followed your suggestion and attempted to access the roll of plans that are part of the application by contacting the Wastewater Management District Commission (WWMDC). The attached email trail included WWMDC chairman Fred Knight, Facilities Director John Moynihan, and at one point Town Administrator Fred Turkington. If any of them have a complete set of plans, they did not disclose that nor did they offer access or purposeful help with my request.

Instead, the WWMDC chairman responded by saying that the draft permit for the sewer connection was for 27,000 gallons per day (when in fact it is for the full 45,000 gpd), and that it was manageable, leaving one to wonder which application and which set of plans and specifications he and his fellow Commission members may have reviewed.

Other departments and town boards/committees are stakeholders in this matter, e.g. Board of Health, Board of Public Works, Conservation Commission, Surface Water Quality Committee, etc. Their meeting agendas posted on the town website are silent on this topic. This proposed sewer connection permit has not been discussed at their meetings. They were not courtesy-copied on the notice or application. If they don't submit public comment on this matter, one reason may be that the legal notice was misleading.

This is not a Town of Wayland project as incorrectly published in the February 24, 2011 *Wayland Town Crier* legal notice. The applicant also published that the deadline for this public comment period is March 26, 2010 (wrong year, wrong date).

Twenty Wayland's November 18, 2010 cover letter with its permit application forms refers to an attached November 9, 2010 letter. That letter, apparently from the DEP to Wayland Town Administrator Fred Turkington, was not attached as stated nor included in the pdf file you sent me on February 7, 2011.

Unfortunately, the Town of Wayland, meaning its townspeople, as well as stakeholder boards and committees, are not aware of the content of DEP's November 9, 2010 letter. It seems negotiations with DEP have been occurring for a long time but without the participation of the Wastewater Commissioners. The Town Administrator and/or other parties have been negotiating the use of Wayland's decommissioned septage facility in order to accommodate Twenty Wayland's project wastewater needs. And that appears to be an important factor in DEP's draft sewer connection permit. But, the Wastewater Commissioners had no part in that and are frustrated because, as stated at their public meetings, they find themselves being excluded and feeling superfluous to the "process."

The Board of Health (BOH), in contrast, received an application early on from Twenty Wayland, LLC for a 9990 gpd septic system to be located on the project site plan, in addition to using the town's wastewater plant. The BOH has yet to act on that application pending receipt of additional materials. The BOH was not courtesy copied on the November 9, 2010 letter; it is my understanding the BOH would have permitting authority if the septage facility leaching fields were to be used again.

All Wayland taxpayers and plant customers are stakeholders in the success of the Wastewater Management District. A small number of residences and numerous Route 20 area businesses depend on the wastewater treatment plant for their wastewater needs. The rest of us bear the burden of assuring the Wastewater Management District's financial viability. This draft permit, whose conditions are supposed to bind only the applicant/permittee, includes conditions that transfer costs from the permittee to the WWMDC.

Given all of the above, I respectfully request that the DEP and applicant hold a public hearing on this draft sewer connection permit. Such a hearing would go a long way toward helping the taxpayers and plant users understand what their obligations will be if this draft permit is issued. This matter begs to be addressed in a manner that is transparent and complete so all parties can be informed of what is at stake.

If you have any questions, please contact me directly.

Thank you very much for your consideration.

Sincerely,

Linda L. Segal

(signed hard copy to follow in the US mail)

106 Lake Shore Drive
Wayland, MA 01778
March 28, 2011

Bureau of Resource Protection
Massachusetts Department of Environmental Protection, Northeast Region
205 B Lowell St.
Wilmington, MA 01887
Attn: Kevin Brander, PE

RE: Transmittal X235884 BRP-WP 74 Application for Sewer System Connection

Dear Mr. Brander:

The Applicant, Twenty Wayland, LLC, has applied for the referenced connection in conjunction with the proposed Town Center Development at 400 Boston Post Road. The draft permit prepared by DEP authorizes Twenty Wayland to construct a pump station to collect and convey flows from the development to the treatment plant operated by the Wayland Wastewater Management District Commission. However, this is a "dry" permit precluding discharge of flows from the Town Center development until completion of work to upgrade the treatment plant, unless DEP "says otherwise in writing." The authorized discharge in the draft permit is limited to 28,000 gpd in Phase I, with an additional 17,000 gpd for Phase II. The latter authorization would be contingent on the provision of additional information including real data on Phase I flows to show peak and average flows, data on the WWMDC plant to demonstrate remaining capacity post Phase I flows, as well as a summary of the expected Phase II flows.

Concerns about the Treatment Plant Upgrade

The Site Required

In my review of the DEP files on March 25, 2011, I noted that DEP had questioned the adequacy of the WWMDC's treatment plant to accommodate the Town Center Development flows. DEP has asked about the timing of the plant upgrade, and among other questions, asked about feasibility of the proposed use of the leaching field at the Sudbury/Wayland septage facility, as part of this plant upgrade, since that property is currently in joint ownership. A town official had indicated to DEP imminent change from "joint ownership" such that the Town of Wayland would have sole control of the septage facility site. Further, according to DEP's November 2010 letter addressed to Frederic Turkington, Town Administrator, the Town has represented that the upgraded treatment plant should be operating "by Spring 2012".

It is not clear to me when WWMDC upgrade will be undertaken. True, Sudbury has voted to convey its ownership. However, Wayland voters have previously raised concerns about liability if Wayland assumes full ownership, should contamination requiring remediation be discovered subsequently. Delay in securing title will affect the timing of the treatment plant upgrade. Increasingly, I am concerned about premature taking of that title, because of insufficient disclosure of reasons for that taking.

The Cost and To Whom

Interestingly, in recent re-election campaign statements, two members of the Board of Selectmen told residents that Twenty Wayland, LLC will break ground shortly and as one said, "...next year we will finally be able to enjoy the new Town Center as envisioned". However, there can be no opening without a sewer connection and no sewer connection without a treatment plant upgrade. The other 28 property owners currently using and paying for treatment plant operations deserve to know more about the treatment plant upgrade, its components, its cost, and level of Twenty Wayland, LLC's participation in that initiative. Those owners also need to know more about the implications of the pump station which Twenty Wayland, LLC will build to convey flows to the upgraded plant, since it appears that operation of that pump station will become the responsibility of the WWMDC. In addition to these property owners, all Wayland property owners need to know about the plant upgrade since some Town officials appear to have committed Town participation in this endeavor and possibly, in the plant's ongoing operation.

System Overview

As a resident I tried to review the sewer connection permit application upon seeing the legal notice in the paper in February. I had hoped to glean answers by studying the application material which you assisted another resident to make available in the Wayland Town Library, when the applicant did not do so. I found the various application forms to be of little use since there were references to plans, but no plan set available. When the permit application was re-noticed in March, I asked WWMDC and Town officials about seeing the set of plans accompanying the application. They did not have plans to share with me, one of them stating there were no plans submitted to WWMDC with the application. This prompted my visit to your office on March 25th. I so appreciate your sharing with me the materials in your office, but I believe the plans in the application file only included the sheets which had been corrected from an earlier submission, and so I still have trouble understanding the overall system. Also, correspondence in DEP files suggests that Town officials may have committed Town resources prematurely in this overall endeavor. This should be aired before the issuance of any sewer connection, be it for Phase I alone or for the entire Town Center development.

Need for Public Hearing

It would be useful not only to me, but WWMDC plant users and all Wayland property owners to have a full explanation of the proposed Town Center sewer connection, as well as the WWMDC treatment plant upgrade which must be undertaken before that connection can be activated. I therefore request that DEP hold a public hearing on the application of Twenty Wayland, LLC. Thank you for your thoughtful consideration of this request, as well as for the access to files you provided last week.

Sincerely,

Alice Boelter

Anette Seltzer Lewis
33 Claypit Hill Road
Wayland, MA 01778

PH: 508/358-4973

aslewis33@verizon.net

March 23, 2011

Mr. Kevin Brander
MA Department of Environmental Protection
Metropolitan Boston/Northeast Region
Bureau of Resource Protection
Water Pollution Control
205B Lowell Street
Wilmington, MA 01887

RECEIVED

MAR 24 2011

DEP
NORTHEAST REGIONAL OFFICE

Re: Transmittal No. X235884 – Wayland Town Center, 400 Boston Post Road

Dear Mr. Brander:

On February 22, 2011, I had the opportunity of reviewing pertinent DEP files in Wilmington to gain a somewhat clearer understanding of some of the background that may have lead to the structure of the February 15, 2011 draft Sewer Connection Permit for Twenty Wayland, LLC. Although others in the community may have thought that the draft permit was essentially all that was available, I found the information in the files astounding.

What first piqued my interest was that I have never before seen a sewer connection permit for an individual private user so intertwined with, and apparently imposing new requirements on, a public Wastewater Management District. This is supposed to be simply a permit for Twenty Wayland to hook up to the Wayland Wastewater Management District Commission's (WWMDC) system. But, in actuality, it contains conditions which explicitly and implicitly impose substantial financial obligations on the Wastewater Management District, its other users, and all of the residents of the Town of Wayland. Some of the most concerning provisions in the draft permit require a forthright discussion in an open, public forum:

1. Ongoing Operation & Maintenance of Two Pumps and A Pumping Station –

This facility will be used to move Applicant's sewage into the WWMDC system. The application, at Attached Narrative B., states that "The **on-site** (*emphasis supplied*) sewer pump station will be constructed by the Applicant but ultimately owned and operated by the Wayland Wastewater Management District Commission." It is totally unclear: a) why the Applicant will not continue to own and operate those pumps and that pumping station located on its own property; b) what financial arrangements have been made to compensate the WWMDC for taking over ownership and operation of the pumping station, its alarm system and emergency stand-by power; c) why this user should not be subject to the same requirement as other users for maintaining its own pumps; d) what agreements are in place between the WWMDC and the Applicant that relate to this; e) why the other users of the WWMDC system have not been advised that this arrangement is being undertaken and that it will increase the costs of the other

users (if, in fact, it is even something of which the WWMDC Commissioners have even taken notice).

2. **Five, Plus Years To Complete Construction of the Sewer Connection** – If, as the residents of Wayland have been told time and time again over the past five years, the Wayland Town Center Development Project is ready for construction, the deadline for construction of the Applicant's sewer project should have a much shorter time frame than the five (5) years proposed in the draft Permit (see Special Condition 12.). Capital costs of construction for the WWMDC's new treatment plant and outfall, as well as the operating costs, are staggering for the other approximately 28 users. The Applicant (who is signed up for the vast majority of system capacity) needs to be on-board early to defray those costs. Currently, such payments are a matter of contention between the Applicant and the WWMDC. And, there are huge cost implications to the other users who would be forced to carry all of the costs in the absence of Twenty Wayland's payments.

3. **Groundwater Discharge Permit & Construction of Facilities To Support It** – Special Condition 1.c) references a "final WWMDC groundwater discharge permit". Such a concept has not been discussed in Wayland. That is why it was so surprising to see mention of it in the draft Permit and to realize that the condition seems to place the onus on the WWMDC to find an acceptable location for a groundwater discharge, construct the facilities to carry wastewater from the WWMDC's treatment plant to this additional location, and obtain all necessary permits to accomplish all of that. The idea of the WWMDC, with its minimal number of users and essentially volunteer staff, undertaking to pursue, obtain required permits, build, and pay for a groundwater discharge system, in addition to maintaining its surface water discharge, is ludicrous.

During the file review, I came across correspondence and DEP meeting notes dating back to May 7, 2010 which make it clear that multi-party negotiations were conducted outside of public view and promises were made (apparently by the Town Administrator) without any prior involvement of the WWMDC or knowledge by the other affected parties. See, especially, meeting notes of October 28, 2010 and the November 9, 2010 letter from Eric Worrall, Deputy Regional Director of the Bureau of Resource Protection, to Frederic Turkington, Wayland Town Administrator. (Please note that although the November 9, 2010 letter was referred to as being enclosed in Twenty Wayland's November 18, 2010 application submission, that letter was not a part of the submission and, therefore, was not readily available for public review as part of the application.)

What is truly astounding in the November 9, 2010 DEP letter are: a) confirmations of the commitments purported to be undertaken by the Town of Wayland to evaluate the leaching field at the now closed Wayland-Sudbury Septage Facility as a location for a groundwater discharge; and b) the anticipated transfer of sole legal ownership of the Septage Facility to the Town of Wayland by early January 2011. The matter of the transfer of the Septage Facility to Wayland has now come up for consideration at two Town Meetings and has been rejected by the voters on both occasions. The specific reason for the requested transfer of ownership was never disclosed despite repeated and pointed questioning of the motives for same.

Moreover, in the 2001-2004 timeframe, a consultant hired by the Town of Wayland was involved in reviewing hydrological data compiled by CDM on behalf of the Wayland/Sudbury Septage Treatment Facility. At that time (and I am not aware that any additional hydrological studies have been undertaken), the available data was insufficient to determine the direction of groundwater flow in the area of the septage facility. There were unexplained, conflicting

groundwater flow directions in the CDM report and no one had considered the surface water elevations in the area and their impact on groundwater flow. This was important then and it is still important now because the indication was that the septage facility's groundwater discharge was likely contributing to elevated levels of regulated constituents on neighboring properties adjacent to the Sudbury River.

4. Authorization of the full 45,000 gpd Discharge Which Cannot Be Accommodated –

The draft permit authorizes 45,000 gpd of discharge subject to phasing and restrictions (i.e., 28,000 gpd for Phase I construction and 17,000 gpd for Phase II construction so long as certain conditions can be met). That is a most unusual structure for a DEP authorization to discharge wastewater. If DEP feels that the receiving facility is only technically capable of accepting 28,000 gpd at the outset, then the initial permit should only be issued for 28,000 gpd. There is nothing to preclude the Applicant from filing a future application to increase its flow (*See* Special Condition 14). Because of the way the draft Permit is currently structured, the public would continue to be excluded from a regulatory process that actually requires public notice and allows for public participation. And, without an opportunity for public participation, I fear that DEP will not have the full panoply of information before it on which to make a decision and, too, the other users and the public will continue to remain in the dark.

5. A Full Set of Construction Plans Was Not Available For Review At DEP – During my review of the DEP files on February 22, 2011, there was not a full set of plans available for review. All that was in the files were two copies of the revised 1/5/11 plan sheet submittal which were comprised of only several of the requisite sheets. The remainder of the operative sheets that may have been submitted on November 12, 2010, were not included in that package nor were they anywhere to be found. I, therefore, am unable to determine exactly where the sewer connection(s) are to be made.

Special Conditions

Technical conforming changes need to be made in the terminology used in Special Conditions 2 through 7 to assure that DEP obtains its desired and enforceable results:

- a) The word "should" must be changed to "shall" to assure that the conditions are enforceable.
- b) Special Condition 2 refers only to "the plans received by the Department dated January 5, 2011." As noted earlier in these comments, the revised, bound January 5, 2011 plan sheet submittal is comprised of only a few of the requisite sheets. The remainder of the operative sheets, which may have been submitted earlier on November 12, 2010, were not included in the bound package bearing the date January 5, 2011. So in this condition, and everywhere else in the final permit, the one set containing each of the final plans must be clearly and carefully identified and incorporated into any approval granted by the DEP.

Special Condition 16 requires the permittee to comply with "the mitigation measures described in the attached Section 61 Findings." There were no "Section 61 Findings" attached to the draft permit that you sent me by e-mail on February 16, 2011 and I did not come across any such findings during my file review at DEP on February 22, 2011. Therefore, I am unable to assess and comment on what (if any) mitigation is being required of the Applicant.

Defective Public Notice

The Department should be aware that the Legal Notice, printed at p. 20 of the February 24, 2011 *Wayland/Weston Town Crier*, states that comments must be received "on or before March 26, 2010". It is incorrect on two counts – March 26 in the current calendar year falls on a Saturday. Per DEP's regulations (314 CMR 2.13), if the 30 day period expires on a holiday or week-end, then the public has until the close of the next business day which would be March 28, 2011 to submit comments; and the year should have read "2011" and not "2010".

There is a significant error in the layout of the Notice as printed. It says "City/Town of Wayland Project Name: Wayland Town Center" which would lead a reader to believe that this is a Town of Wayland project rather than a private enterprise. Such an error in syntax could have the effect of arousing less public interest and deflecting public scrutiny away from the proposal.


The Notice as printed states "Purpose: Sewnnection".

Need for Public Hearing

Statements made in the application and the draft special conditions raise significant questions and concerns for other users of the WWMDC facilities and for all residents of the Town of Wayland who have a financial obligation to pay for what is being proposed. The process in Wayland for considering this sewer connection was not done in public view so the other users of the system and the public have no notion of what additional obligations are being foisted upon them. For all of the foregoing reasons stated in these comments, I request that DEP hold a public hearing in Wayland so as to fully hear and consider all of the issues raised by this proposed Permit.

Thank you for your careful consideration of these comments.

Very truly yours,


Anette Seltzer Lewis

Anette Seltzer Lewis
33 Claypit Hill Road
Wayland, MA 01778

PH: 508/358-4973

aslewis33@verizon.net

via e-mail

March 26, 2011

Mr. Kevin Brander
MA Department of Environmental Protection
Metropolitan Boston/Northeast Region
Bureau of Resource Protection
Water Pollution Control
205B Lowell Street
Wilmington, MA 01887

Re: Addendum to March 23, 2011 Comment Letter on
Transmittal No. X235884 – Wayland Town Center, 400 Boston Post Road

Dear Mr. Brander:

This is an addendum to my March 23, 2011 comment letter on the draft Twenty Wayland, LLC Sewer Connection Permit, noticed in the February 24, 2011 edition of *The Wayland/Weston Town Crier*. Subsequent to sending in my initial comments on this draft permit, I went back and reviewed the "wastewater" section of the February 15, 2008 Final Environmental Impact Report (FEIR) that was accepted by the MEPA Office (see Section 5.0 at pp. 5-1 and 5-2).

Please note that what was reviewed by MEPA, other state regulatory agencies, local government officials, and the public, was the information provided by the Applicant in the MEPA filings. And the only discharges to the WWMDC wastewater treatment plant that were called out and documented in the FEIR are from a Fitness Center, Restaurants, Municipal Allocation, Cafes, and Residential. As stated and certified in the FEIR, wastewater from the Supermarket, Office, and Retail uses was to go to an onsite septic system to be constructed by the Applicant.

This change in the nature of the discharges that will be going to the WWMDC facilities is especially concerning given the Applicant's statement that the WWMDC will be responsible for operation and maintenance of Applicant's pumps and pumping station. Discharges from Supermarket uses, if not well controlled, could easily cause pump clogging and failure. In its application, the Applicant is attempting to off load the cost of pump repairs, maintenance, and replacement costs onto the WWMDC and the other users. It is disappointing and concerning that the DEP has simply accepted this statement and included it in the draft permit. From observation over at least the last two years, the WWMDC Commissioners have had virtually no part in making any decisions with regard to this applicant. And, assuredly, the public has no knowledge of any of this.

I appreciate your efforts in attempting to facilitate a permit for this applicant but please do not foreclose closer public scrutiny of all of its ramifications. I reiterate my request for a public hearing on the draft permit to be held in Wayland.

Very truly yours,

Anette Seltzer Lewis
Anette Seltzer Lewis

From: Sagegardendsgn@aol.com
To: Kevin.Brande@state.ma.us
Sent: 3/21/2011 9:25:20 P.M. Eastern Daylight Time
Subj: Re: Request for Hearing - Wayland Town Center Project

Mr. Brande -

Thank you for your reply.

The Legal Notice only states that the "application and draft permit, along with applicable laws, regulations, and procedures are available for inspection." I have reviewed what was provided i.e. the draft permit and application. However, based on what is contained in the draft permit, there are apparently some additional factors or negotiations that led to the application which have not been shared with the public.

Therefore, in the interest of transparency and full disclosure, the public is entitled to learn the facts via a public process and hearing. And, in the process, MassDEP would hear from those who are expected to pick up the cost for what is being proposed.

I again request a public hearing on this matter.

Thank you.

Sherre Greenbaum

In a message dated 3/21/2011 4:12:01 P.M. Eastern Daylight Time,
Kevin.Brande@state.ma.us writes:

Ms. Greenbaum:

My understanding is that the public notice for the sewer connection permit application appeared on February 26, which, if true, would result in a 30 day comment period extending to March 28. As included in the public notice, any interested parties can arrange to review the entire file associated with the project at this office. If you wish to do so, you should contact Holly Migliacci at (978) 694-3326, and I will make sure she has the files for your review.

KB

Kevin Brande, P.E.

Section Chief

Wastewater Management Section

DEP/NERO

205B Lowell Street

Wilmington, MA 01887

(978) 694-3236

From: Sagegardendsgn@aol.com [mailto:Sagegardendsgn@aol.com]

Sent: Monday, March 21, 2011 1:19 PM

To: Brander, Kevin (DEP)

Subject: Request for Hearing - Wayland Town Center Project

Mr. Brander,

I hereby request a hearing on the draft MassDEP Sewer Connection Permit for the proposed Wayland Town Center Project.

With respect to the legal notice in the Wayland Town Crier on February 14, 2011, I believe that this notice was defective and that notice of the hearing should be published again. Incorrectly describing this private development as a town project – “City/Town of Wayland Project Name: Wayland Town Center” – is seriously deceptive. Residents could be led to believe that the town is sponsoring the development and therefore be less likely to express an interest in getting more information at a hearing. In addition, the term “Sewnection” used to describe the purpose of the permit is incomprehensible.

With respect to the public hearing, it is my understanding that as a Wayland resident I will be responsible for paying for what is proposed in the permit. However, I did not have the opportunity to obtain information through a public process. There appear to be significant issues regarding construction, ownership, and operation of the proposed project, as well as agreements on those matters, which should be discussed in a public forum. In addition, there are numerous questions regarding the timetable for construction and MassDEP authorizations related to phasing of which the public should be made aware prior to the granting of any permit.

Thank you for your consideration.

Sherre Greenbaum

161 Plain Road, Wayland