



# TOWN OF WAYLAND

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AFR  
8/31/09

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## BOARD OF SELECTMEN

STEVEN J. CORREIA  
THOMAS J. FAY  
JOSEPH F. NOLAN  
SUSAN W. POPE  
MICHAEL L. TICHNOR

### Board of Selectmen Meeting Minutes July 30, 2009

**Attendance:** S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor

**Also Present:** Town Administrator F. Turkington

Chair J. Nolan called the meeting of the Board of Selectmen to order at 7:02 p.m. in the Selectmen's Meeting Room and reviewed the agenda for the viewing audience. F. Turkington reviewed additional material for the meeting and asked for action to approve the order of taking for York Road so the document could be executed and notarized by Town Counsel Mark Lanza upon his arrival. M. Tichnor moved, seconded by S. Pope, to approve the order of taking for York Road. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.

**A2. Public Comment** There was no public comment.

**A3. Application for Liquor License for 131 Main Street** Bill Roberts, Jr., son of the owner of the property at 131 Main Street, and Jonathan White, counsel for the applicant, appeared before the Board. F. Turkington reviewed the process for considering the license, noting that the Board was not permitted to issue a license for the same address/location while an existing license remained valid. B. Roberts explained that Grape Ideas ended their lease arrangement in June and his father controlled the property. Therefore, Grape Ideas could not return to the same location if they wished to reopen. J. White pointed out that Grape Ideas would need Selectmen approval to change the location of their business if they wished to reopen in Wayland. He questioned whether the burden of proof was on Grape Ideas to retain the license. F. Turkington suggested that B. Roberts petition ABCC to have the license of Grape Ideas revoked for lack of use and block his business opportunities; persuade Grape Ideas to relinquish the license; or wait until January 1, 2010, to apply for a license when Grape Ideas license will have expired. M. Tichnor agreed that there should be some procedure to revoke Grape Ideas license after a period of inactivity now approaching 45 days. J. White agreed to research the issue and confer with Town Counsel Mark Lanza to determine a course of action. He acknowledged it was unlikely that the renovations to the building would allow for opening before January of 2010, but wanted to preserve a license in case others claimed the remaining allocation.

**A8. Consent Calendar** F. Turkington asked the Board to include the approval of election workers on the consent calendar. S. Correia moved, seconded by T. Fay, to approve the consent calendar. It was noted that S. Pope serves as an election worker, and the motion was amended to include only items 1 through 3. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0. S. Correia moved, seconded by T. Fay, to approve the election workers. YEA: S. Correia, T. Fay, J. Nolan, M. Tichnor. NAY: none. ABSTAIN: S. Pope. Adopted 4-0-1.

**A4. Liquor License Violation Hearing – VFW** Ward Keller, licensee for the VFW, and David Smith, manager, appeared before the Board. Police Chief Robert Irving presented evidence of the sale of

alcoholic beverages to a minor and recommended that the license be placed on probation for one year. D. Smith questioned whether the police followed ABCC guidelines that date to 1992 or perhaps earlier, suggesting pre-notification of sting operations. He also complained that the minor who purchased a drink appeared over 21 years of age. M. Tichnor questioned whether the guidelines were regulations and whether those presented were still in effect. He asked whether the VFW agreed with the recommendation; D. Smith responded that the VFW would accept the recommendation. S. Correia moved, seconded by M. Tichnor, to close the hearing. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.

During the Board discussion, M. Tichnor expressed strong concern that neither W. Keller nor D. Smith expressed regret for the violation and a plan of action to avoid future violations. The attitude stood in stark contrast to offenders in similar circumstances. S. Correia noted that the VFW rents space to outside groups and the probation applied to all activities at the post. Violation of probation would result in an automatic five day suspension of the license. F. Turkington concurred with the recommendation of the Police Chief. T. Fay moved, seconded by S. Pope to approve the recommendation of the Police Chief that the license be placed on probation for one year. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.

**A5. Discussion of Sex Offender Bylaw** Police Chief Robert Irving presented information on a proposed sex offender bylaw. The issue was considered by the previous Board, but action was deferred pending results of an on-going Attorney General review of similar bylaws approved in Dedham and Southborough. Chief Irving presented the opinion letter from the Attorney General and the amended bylaw approved by Southborough, asking whether the Board wished to have town counsel draft a bylaw for consideration at the fall Special Town Meeting. F. Turkington recommended that the Board proceed and consider the matter when the Warrant is opened. Discussion followed on the ramifications of the 1,000 foot exclusion zone, the need to update the Wayland map to reflect changes since the last consideration, constitutional concerns for “ex post facto punishment” and vagueness, reasons why only nine towns had adopted similar bylaws to date, and the elimination of loitering as an offense. It was the consensus of the Board to request Town Counsel to prepare a revised bylaw for consideration when the Warrant is opened for the fall Special Town Meeting.

**A7. Banishment of a Vicious Dog** F. Turkington reviewed for the Board the January 20, 2009, decision of the Dog Control Appeals Board relative to continuing inappropriate behavior exhibited by the dog “Laska” owned by Mark and Stella Frishman of 27 Garden Path. Pursuant to a complaint in June, the Dog Officer requested banishment of the dog in keeping with the DCAB decision for a second subsequent violation. Mr. and Mrs. Frishman disputed whether the prior offense in March 2009, which resulted in a \$100 court-ordered fine, constituted an admission of a violation of the DCAB order, although the funds were paid to the Town, not to the court as costs. They also disputed whether the dog was on a leash at the time of the incident in June 2009, during which “Laska” attacked another dog being walked by Jennifer Dieffenbach. After a lengthy discussion on the situation and process for banishment, M. Tichnor suggested that the matter be placed on the next agenda, at which time the Dog Officer could be present to explain the history of the animal.

**A6. Interview Candidates for Appointment to Boards and Committees** The Board interviewed Thomas White as a candidate for the position of the Alternate to the Zoning Board of Appeals and David Wong as the Conservation Commission designee to the Housing Partnership. The Board deferred action

on either appointment pending receipt of input from the respective committee chairs and information on the charge of the Housing Partnership.

**A9. Correspondence** The Board discussed the week's correspondence. M. Tichnor asked F. Turkington to make sure the Board of Selectmen vacancy on WayCAM is posted. S. Correia noted Mass Highway's refusal to extend the heavy truck ban on Glezen Lane. M. Tichnor asked for the input of the Finance Committee on the issue of whether to propose an article adopting the local option sales tax on meals and hotels.

**A10. Report of the Town Administrator** F. Turkington discussed the approval of the MSBA for schematic design and the impact on timing for fall town meeting action on the High School project. He announced the appointment of Ellen Brideau as Principal Assessor and Sarkis Sarkisian as Town Planner by the Board of Assessors and the Planning Board, respectively. He updated the Board on the status of liquor licenses, including the decision by Whole Foods to relinquish theirs to seek one in Dedham, and he announced an RFP to solicit firms to prepare a strategic information technology plan and utilization of citizens who recently participated in web site committee and school technology committee. He also reviewed meeting schedules through September 2009.

**A11. Selectmen's Reports and Concerns** M. Tichnor reminded the Board of the offer by the Nike Site developers to prepare a press release regarding the process and implementation of smart growth principles at the Nike Site housing development. S. Pope congratulated the School Building Committee, led by Lea Anderson, for receipt of the approval of the schematic design at the MSBA meeting on July 29, 2009. The vote sets the stage for fall action of the high school project.

**A12. Executive Session** At 10:06 p.m., the Board of Selectmen, by roll call vote, unanimously (5-0) approved a motion brought by M. Tichnor and seconded by T. Fay to go into executive session pursuant to Massachusetts General Laws Chapter 39, Section 23B (3) to discuss strategies with respect to pending litigation (i) between the Town and the Public Safety Building design firm and others; (ii) between the Town and Twenty Wayland, LLC relative to the on-site wetlands permit and the Historic District Commission certificate of hardship for traffic infrastructure improvements; and (iii) the appeal by US Department of the Interior and Thomas Arnold of the NPDES wastewater permit because a public discussion of these matters would be detrimental to the litigating position of the Town. The Board will return to open session in approximately twenty minutes.

The Board returned to open session at 10:27 p.m.

S. Pope moved, seconded by S. Correia, to adjourn the meeting of the Board of Selectmen at 10:28 p.m. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.