



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

AFR
10/5/09

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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 September 8, 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 7:04 p.m. in the Selectmen's Meeting Room and reviewed the agenda for the viewing audience.

A2. Public Comment There was no public comment.

A5. Discussion on Special Town Meeting Schedule The Board discussed the most recent draft schedule for the Special Town Meeting and a potential debt exclusion election on the high school project. Town Clerk Lois Toombs was present and explained the details of holding the ballot on December 8, 2009, when the state will hold a primary for U.S. Senate. She cited concerns such as the requirement for separate voter lists, causing potential confusion for absentee ballots due to the requirement for separate envelopes, and the high likelihood of lines due to checking in those who failed to return census forms at the first poll since April town election. She said that while there are some cost savings compared to a separate election, this advantage is outweighed by the potential for voter confusion, the need for additional election workers and advanced training sessions, and the delay in reporting the vote following the counting of the Senate vote. L. Toombs said she prefers holding a separate November ballot on the high school project. M. Tichnor moved, seconded by S. Pope, to open the Warrant for the Special Town Meeting effective Thursday, September 10, 2009, at 8:30 a.m. and close it on Tuesday, September 22, 2009, at 4:30 p.m. and to schedule a Special Town Meeting on Wednesday, November 18, 2009 at the High School Field House. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0. M. Tichnor asked the Town Administrator to confirm the process for submitting the debt question to the Board of Selectmen.

A4. Review and Approve Agenda Notice for State of the Town Meeting The Board reviewed the draft memorandum and preliminary agenda. M. Tichnor asked for a note on the agenda stating this forum is not meant to take the place of forums on the school project or budget guidelines. The Town Administrator asked the Board to review its goals and objectives and be prepared to speak for 60-90 seconds each on achievements within their portfolio assignment. The Board agreed to discuss specific points during the September 21 meeting in advance of State of the Town meeting.

A3. Update on the Status of Town Center Development Project J. Nolan and M. Tichnor reviewed the status of Town Center project as explained in periodic meetings with the development team since spring 2009. Twenty Wayland LLC submitted a letter to the Board explaining that delays in the permitting process have resulted in substantial cost overruns for engineering, legal and financing costs. They noted that Bank of America and Stop 'n' Shop have made financial concessions to keep the project viable to this

point, but they need relief from the town in order for the project to have any hope of being built, and asked for the deferral of the \$2.8M gift and modification of the requirement to have 25% of the residential units as affordable housing. M. Tichnor reviewed the development agreement provisions and rules governing amending zoning articles required to modify the affordable housing restriction. T. Fay expressed his interest in the proposal as a starting point and is supportive of some relief given the town's long-standing commitment to and desire to have Town Center built. S. Pope agreed with T. Fay. The Town Administrator suggested that M. Tichnor and J. Nolan meet with the developer to review the proposal and to modify it as necessary to achieve the town's goals and potential for voter approval. M. Tichnor suggested input from the Finance Committee. It was the consensus of the Board to seek to clarify and refine the proposal so a placeholder article could be submitted on September 21, 2009. If a special meeting of the Board was necessary, it would likely occur on either Wednesday or Thursday, September 17 or 18. M. Tichnor and J. Nolan reminded all of the benefits of the Town Center project, including tax revenue, a municipal pad, other amenities, shopping and housing. The Board reiterated that the goal would be to preserve the gift and a reasonable financial commitment for affordable housing.

A7. Consent Calendar S. Pope moved, seconded by S. Correia, to approve the consent calendar (Warrants C1006, S1006M, CA090809, and TA090809). YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.

A8. Correspondence S. Correia noted the schedule for hydrant flushing and asked whether the six weeks of anticipated flushing could be broken down by the area of the town. M. Tichnor and S. Correia commented on the high failure rate of local businesses selling cigarettes to minors.

A6. Review and Discuss Potential Articles for Insertion in Special Town Meeting The Board discussed potential articles for the Special Town Meeting.

A9. Report of the Town Administrator F. Turkington reviewed the proposed letter prepared by Community Preservation Committee member Betsy Connolly regarding the Board of Selectmen support for provisions of SB90, providing for improvements to the Community Preservation Act. The Board agreed on the letter and signed it. He reviewed the draft charge for a temporary advisory committee to work with the feasibility consultants and any resulting Town Meeting action on use of the Doran Road parcels. Discussion ensued on the appropriate number of members to maintain a manageable size while representing areas of expertise and neighborhood interest. M. Tichnor suggested that the charge list the three potential uses (affordable housing, septic system, and open space/passive recreation) without priority. M. Tichnor moved, seconded by T. Fay, to approve the charge. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0. It was noted that the number of members could be increased from the seven seats proposed dependent on interest in service. The Town Administrator also reviewed key dates through the Special Town Meeting process and discussed agenda items for subsequent meetings. J. Nolan noted that September/October was the annual performance evaluation time for the Town Administrator and discussed the format with members. F. Turkington agreed that the Special Town Meeting Warrant activity may delay completion to late October.

A10. Selectmen's Reports and Concerns S. Pope moved, seconded by S. Correia, that Beverly Feinberg be appointed to the Cultural Council for a term to expire June 30, 2011. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.

S. Correia reported on concerns raised by residents about fees charged for field use for fall baseball. The matter was referred to the Recreation Director and the Recreation Commission. He noted that the initial negotiation session with Comcast on cable franchise renewal went well. S. Pope reported on concerns raised by residents about the number of vacant properties in Cochituate Village and frustration that space has not been re-leased. T. Fay asked about information for residents on the H1N1 flu; the Board of Health and Public Health Nurse Ruth Mori will brief the Board of Selectmen on September 21, 2009.

A11. Executive Session At 9:04 p.m., the Board of Selectmen, by roll call vote, unanimously (5-0) approved a motion brought by S. Pope 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 between the Town and Twenty Wayland, LLC relative to the Historic District Commission certificate of hardship for traffic infrastructure improvements because a public discussion of these matters will have a detrimental effect on the litigating position of the Town. The Board will return to open session in approximately twenty minutes for the sole purpose of adjourning.

The Board returned to open session at 9:42 p.m.

T. Fay moved, seconded by S. Correia, to adjourn the meeting of the Board of Selectmen at 9:43 p.m.
YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.



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CONFIDENTIAL

Board of Selectmen Executive Session Minutes September 8, 2009

Attendance: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor
Also Present: Town Administrator F. Turkington

Purpose: The session was called at 9:04 p.m. in the Selectmen's Meeting Room, Wayland Town Building, by unanimous roll call vote (5-0) in open session as permitted by M.G.L. Chapter 39, Section 23B, paragraph three, to discuss strategies with respect to pending litigation between the Town and Twenty Wayland, LLC, relative to the Historic District Commission certificate of hardship for traffic infrastructure improvements because a public discussion of this matter will have a detrimental effect on the litigating position of the Town.

Discussion: Town Counsel Mark Lanza participated in the meeting via teleconference. The Board, Town Counsel, and the Town Administrator discussed the failure of Twenty Wayland LLC to advise them of their decision to consent to a default judgment limited to issues of jurisdiction rather than comments on structures. M. Lanza advised of a potential ethical issue if he files an appearance representing the party sued (the Historic District Commission) and there were conflicting opinions on legal strategy with Town Administrator and the Board of Selectmen. T. Fay recommended an extension to file so the matter can be resolved with Twenty Wayland LLC. F. Turkington said the Historic District Commission plans to file pro se appearance after learning that Town Counsel will not be appointed to defend the case.

Adjourn: By motion of M. Tichnor, seconded by S. Correia, the Board, by roll call vote, unanimously voted to exit executive session at 9:42 p.m.