



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

FREDERIC E. TURKINGTON JR.
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

BOARD OF SELECTMEN
JOHN BLADON
STEVEN J. CORREIA
THOMAS J. FAY
JOSEPH F. NOLAN
SUSAN W. POPE

CONFIDENTIAL

Board of Selectmen Executive Session Minutes January 31, 2011

Attendance: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope

Also Present: Town Administrator F. Turkington, Town Counsel Mark J. Lanza

Purpose: The session was called at 6:32 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 30A, Section 23(a)(3) and (a)(6) to discuss strategy with respect to litigation and to consider the purchase, exchange or value of real property.

Discussion: Town Counsel Mark Lanza reviewed the matter of Collins et.al. v. Wayland Board of Selectmen. He discussed the context of the lawsuit and identified several potential avenues of defense:

- Noted defective process and timing issues with request for declaratory judgment
- Belief that five taxpayers are front for George Harris pursuing litigation after losing Attorney General review option (court review not available if Attorney General review is pursued)
- Seeking declaratory judgment is attempt to by-pass statute of limitations since original decision issued September 29, 2010
- On the merits, counsel will argue that Attorney General decision is consistent with prior Middlesex DA decisions on the same point involving Wayland and G. Harris (Board of Health case in 2002 and Historic District Commission case in 2010).

Town Counsel will file an answer in court and keep the Board apprised.

M. Lanza then reviewed the land swap for the wastewater treatment facility. He reviewed easements within the Town Center property, as well as easements for Wayland Commons. F. Turkington discussed the side agreement sought by Twenty Wayland to secure a commitment to fund design changes and Raytheon costs associated with the design of the collection system and changes required by the construction of the new plant, as well as pre-approval of the process for handling construction work in the field that could be performed more economically as part of the Town Center project than by change order with the facility contractor. Because a notice to proceed to the contractor must be issued by February 14 to secure the favorable bid, and the continued insistence of Twenty Wayland for side agreements unrelated to the land swap, M. Lanza and F. Turkington recommended that the Board execute documents related to a friendly taking under the eminent domain authority contained in the town meeting vote authorizing the land swap. Mr. Lanza will prepare the necessary motions and documents for action on February 7 by the Board of Selectmen and plans to consummate the taking on February 8.

Adjourn: By motion of J. Nolan, seconded by T. Fay, the Board, by roll call vote, unanimously voted to exit executive session at 7:09 p.m. YEA: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.