



# TOWN OF WAYLAND

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JOSEPH F. NOLAN

## Board of Selectmen Meeting Minutes Executive Session July 8, 2013

**Attendance:** Anthony V. Boschetto, Edward J. Collins, Douglas J. Leard, Joseph F. Nolan

**Also Present:** Town Administrator Fred Turkington, Town Counsel Mark J. Lanza, Executive Assistant MaryAnn DiNapoli, Wastewater Management District Commission Chair Fred Knight (joined the meeting at 9:25 p.m. via telephone), and Wastewater Management District Commission member Sam Potter (joined the meeting at 9:14 p.m.)

**Purpose:** The session was called at 8:45 p.m. in the Selectmen's Meeting Room, Wayland Town Building, by unanimous roll call vote (YEA: J. Bladon, E. Collins, D. Leard, J. Nolan. NAY: none. ABSENT: S. Correia. ABSTAIN: none. Adopted 4-0) of the Board of Selectmen of the Board of Selectmen in open session as permitted by Massachusetts General Laws Chapter 30A, Section 21(a)(3) for the purpose of discussing strategy with respect to *Twenty Wayland, LLC v. Town of Wayland and Wayland Wastewater Management District Commission* as a discussion of these matters in an open meeting may have a detrimental effect on the bargaining or litigating position of the Town.

**Discussion:** M. Lanza reviewed the background of the dispute regarding wastewater capacity, beginning with the 1999 Memorandum of Agreement. He noted that the deadline for filing any material on why the judgment should be amended, as well as the deadline for serving a motion for a new trial, is August 2, 2013. F. Turkington said the Board needs to discuss mitigation options and defense strategies. T. Boschetto said he wanted the Board to come to a united decision regarding the impact of the \$990,000 judgment on the ratepayers versus the taxpayers, before being joined by the members of the Wastewater Management District Commission.

The Board was joined by Sam Potter at 9:14 p.m. and Fred Knight (via telephone) at 9:25 p.m. T. Boschetto said the biggest issue facing the town is the elimination of specific performance, through negotiations or judgment. He distributed a proposal to obligate Twenty Wayland LLC to mitigate their damages; for example, by building their own septic system for the development that had been permitted by the Board of Health. The Board discussed with M. Lanza strategies for mitigation and the importance of negotiating relief with the Department of Environmental Protection. T. Boschetto suggested getting special counsel to review the case and provide advice to M. Lanza on the motions and on a potential appeal of the final court judgment. S. Potter said there are narrow issues for which the Wastewater Management District Commission

may need separate counsel. The Board discussed having E. Collins, F. Turkington, M. Lanza and S. Potter interview three law firms over the next week, and provide a recommendation for a special counsel to assist with post-trial litigation. Due to time constraints, the Board proposed scheduling a meeting as soon as July 15 to appoint the recommended special counsel.

By motion of E. Collins, seconded by J. Nolan, by roll call vote, it was unanimously voted to exit executive session at 10:45 p.m. YEA: J. Bladon, E. Collins, D. Leard, J. Nolan. NAY: none. ABSENT: S. Correia. ABSTAIN: none. Adopted 4-0.

**Items Distributed for Information and Use by the Board of Selectmen at the July 8, 2013, Meeting**

1. Proposal prepared by T. Boschetto to obligate Twenty Wayland LLC to mitigate their damages