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APPROVED
FOR RELEASE
3/5/2015

BOARD OF SELECTMEN
ANTHONY V. BOSCHETTO
EDWARD J. COLLINS
STEVEN J. CORREIA
DOUGLAS J. LEARD
JOSEPH F. NOLAN

Board of Selectmen Meeting Minutes Executive Session July 23, 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, Wastewater Management District Commission Chair Fred Knight, Wastewater Management District Commission member Sam Potter, and Special Legal Counsel John Mirick

Purpose: The session was called at 7:25 p.m. in the Selectmen's Meeting Room, Wayland Town Building, by unanimous roll call vote (YEA: T. Boschetto, E. Collins, D. Leard, J. Nolan. NAY: none. ABSENT: S. Correia. ABSTAIN: none. Adopted 4-0) 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 was joined by Special Counsel J. Mirick, who explained that he has met with M. Lanza for a couple of hours and has only been able to devote a few hours to reviewing the file. [REDACTED]

The Board reviewed several issues for possible inclusion in the post-judgment motion and discussed viability with both attorneys. T. Boschetto asked about the viability of a claim that the 1999 MOA should be considered void because (a) it hadn't been approved by town meeting and (b) that the agreement didn't contain an expiration. It was understood that such a defense hadn't been offered at trial, so it would have to be artfully raised in the motion papers. [REDACTED]

T. Boschetto asked about arguments to eliminate specific performance from the judgment. [REDACTED]

[REDACTED] F. Turkington reviewed the meeting with DEP. Discussion ensued with the Wastewater Management District Commission as to the timing that water data would be available to submit to DEP so that flow might be released based on favorable water use. F. Knight asked for help to get additional water readings from DPW - Water Division. S. Potter indicated a reluctance to expend up to \$25K for re-submission of a groundwater discharge permit without a commitment from the Selectmen to share in the cost. [REDACTED]

[REDACTED] F. Turkington noted that use of gift funds is a political calculation to be made by the Selectmen, but that use of these monies effectively was worth double the settlement because Twenty Wayland would be paying 50% or more of the judgment through user fees. T. Boschetto said whether required by law or not, he considered gift funds to be taxpayer money, and would seek to have any use of gift funds voted by town meeting. S. Potter asked that counsel recommend a fair distribution of expenses. [REDACTED]

[REDACTED] It was the consensus of both boards and counsel that the mutual interests of the boards is to mitigate the monetary damages and narrow or eliminate specific performance. The Boards agreed to have both counsels work on the motion and supporting arguments and submit it by August 2, 2013, with copies provided to the members as submitted. Both Boards asked that all efforts be made to seek DEP approval of increased flow.

By motion of T. Boschetto, seconded by E. Collins, by roll call vote, it was unanimously voted to exit executive session at 9:14 p.m. YEA: T. Boschetto, 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 23, 2013, Meeting

1. None