



ROBERT MERCIER
INTERIM TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

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

Board of Selectmen Meeting Minutes December 9, 2013

Attendance: Tony V. Boschetto, Edward J. Collins, Steven J. Correia, Joseph F. Nolan (arrived 6:43 p.m.)
Also Present: Interim Town Administrator Robert Mercier, Acting Town Administrator John Senchyshyn, Executive Assistant MaryAnn DiNapoli

A1. Convene in Open Session and Then Enter into Executive Session to Discuss Pending Litigation in the Matter of *Twenty Wayland, LLC v. Town of Wayland and Wayland Wastewater Management District Commission* At 6:32 p.m., E. Collins moved, seconded by S. Correia, to enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section (a)(3) to discuss the strategies with respect to pending litigation between the Twenty Wayland, LLC and the Town and its Wastewater Management District Commission. The Board invited Wastewater Management District Commission member Sam Potter, Interim Town Administrator Robert Mercier, Acting Town Administrator John Senchyshyn, Town Counsel Mark Lanza, and Executive Assistant MaryAnn DiNapoli to join the Board in its executive session.

The Board will reconvene in open session in approximately thirty minutes.

The Board returned to open session at 7:15 p.m.

A2. Call to Order by Chair Announcements; Review Agenda for the Public Vice Chair T. Boschetto called the meeting of the Board of Selectmen to order at 7:16 p.m. in the Selectmen's Meeting Room. He reviewed the agenda for the public and announced that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM. T. Boschetto noted that agenda item 6, "Meeting with Recreation Chair Brud Wright and Alan Palevsky," was postponed to a later meeting as it was unclear whether the attendees were speaking for themselves or on behalf of their committees. S. Correia announced that the Walden Forum Messiah will be performed at 7:30 p.m. on Thursday, December 12, at the Wayland High School Auditorium.

A3. Public Comment Alan Palevsky, 23 Doran Road, said he will speak for ten minutes at the Board meeting next week for the Dudley Area Advisory Committee. Shirley Jacobson, 242A Old Connecticut Path, and member of the Wayland Cares Review Committee, said she wanted to address the issues to be raised at the next Board meeting, as she would not be able to attend. She described the difficulties she felt working with the committee, and said the draft report submitted did not have a majority vote. She said the committee will work to revise the report and thanked the Board for the extension of time. Cynthia Lavenson, 40 Mitchell Street, said she was disappointed in the Vice Chair's response to the findings of the Attorney General regarding the Open Meeting Law complaint filed by Kim Reichelt. She said the public has been treated rudely and public trust has been undermined, and the residents deserve an apology. Patricia Berenson, 8 Rowan Field Road, said that while she is pleased that the Board will discuss the Open Meeting Law complaint, it does not exonerate the behavior of the Board regarding the termination of the Town

Administrator. She noted that the comments of Attorney General in its decision were harsh and disturbing, and validated the concerns of the public.

A4. Tax Classification Hearing – Presentation by the Board of Assessors of Tax Classification Options; Vote of the Board of Selectmen on Tax Classification; Review of Tax Recapitulation Sheets and Supporting Documents

T. Boschetto opened the tax classification hearing at 7:28 p.m. The Board was joined by Finance Director Brian Keveny, Director of Assessing Ellen Brideau, Board of Assessors members Jayson Brodie, David Hill, Susan Rufo, and Molly Upton, and Finance Committee members Nancy Funkhouser and David Gutschenritter. S. Rufo reviewed the current property values, the classification percentages, and the new growth. T. Boschetto asked if the new growth value included the town center; S. Rufo said it is not yet entirely built out and is still under tax agreement. She noted the bulk of the increase is in personal property. The Board reviewed the classification alternatives and the impact of shifting the residential factor. S. Rufo provided a Fiscal Year 2013 tax rate comparison. She reviewed the Open Space Discount, and noted that the Board of Assessors has not identified any property which meets the definition of open space, according to the statute. N. Funkhouser recommended that there be no split in the tax rate. D. Gutschenritter said a split rate would adversely impact business development and ultimately increase the residential rate. J. Nolan agreed he did not want to discourage a commercial base, and S. Correia noted that commercial properties were already going to face a substantial increase in wastewater charges. J. Nolan moved, seconded by E. Collins, that, in accordance with Massachusetts General Laws Chapter 40, Section 56, as amended, the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2014 tax rate, will be set at a Residential Factor at 1.0 with a CIP shift of zero, pending certification by the Massachusetts Department of Revenue. YEA: T. Boschetto, E. Collins, S. Correia, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 4-0. E. Collins moved, seconded by J. Nolan, to close the classification hearing at 7:55 p.m. YEA: T. Boschetto, E. Collins, S. Correia, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 4-0.

The Board reviewed the tax recapitulation sheets and supporting documents. Finance Director Brian Keveny explained the discrepancies under review by the Department of Revenue. He said the certified vote of the 2013 Annual Town Meeting contained a transfer of funds that was unsupported, and he reviewed the options for making the correction. T. Boschetto asked about the net effect on the tax rate; B. Keveny said there would be none. E. Collins asked if the funding can be recovered in the next fiscal year. B. Keveny said the School Committee needs to make that determination. The Board opened the meeting to public comment. George Harris, 8 Holiday Road, said he called for this hearing in 2012 because there have been irregularities in the Tax Rate Recapitulation for many years. He said that the document is certified by the Town Clerk, but she does not prepare it, and she has been asked to certify incorrect numbers. He said the only solution was to transfer funds from the school budget, or call a Special Town Meeting and let the town vote again. Anette Lewis, 33 Claypit Hill Road, said she researched the accounting independently and noted the inaccuracies. She said the school food services should be self-supporting, and if it did not generate the funds necessary as anticipated in the tax recapitulation sheet, then the program should be eliminated. Donna Bouchard, 72 Concord Road, said the Tax Recapitulation Sheet must appear as it was actually voted at Annual Town Meeting, and the Town Clerk had been asked to falsify documents. She advised that the deficit be taken from the school budget, and then recouped from the food services account before the end of the year. She said she spoke to the Department of Revenue and got its approval for her suggestion. She questioned the figures under local receipts and fees, and asked that the recreation department become an enterprise fund. T. Boschetto noted that was a different subject, and asked B. Keveny for assurance that the revolving funds will be reconciled by the next town meeting. David Hill, 54 Orchard Lane, asked about the consequences of the Town Clerk refusing to certify the vote. B. Keveny said the town could get a letter from the Department of

Revenue confirming that they are aware the tax recapitulation sheet doesn't reflect the town meeting vote. Ellen Brideau, Director of Assessing, advised the Board that the sheet has to be filed immediately. A. Lewis requested that the vote at future town meetings include each specific account from which funds are drawn. Jayson Brodie, Board of Assessors, said he needs to be certain that the actions taken are legal and in compliance before he will sign his acceptance of the sheet. E. Collins reviewed the allocation of local receipts, the water surplus, and the remaining revolving funds. Linda Segal, 9 Aqueduct Road, said the revised sheet still shows a balance of zero for the Community Preservation account. B. Keveny said the town is waiting for the state distribution. The Board thanked B. Keveny for his efforts.

A5. Discussion on Response and Resolution to Attorney General Findings Regarding Open Meeting Law Complaints filed by Kimberly Reichelt and the Status of the Board's Compliance with Training and Creation of Appropriate Policies The Board discussed its response to the Attorney General findings regarding the Open Meeting Law complaint of Kim Reichelt. T. Boschetto asked if Board members had viewed the training video as required in the response. S. Correia said he asked the Attorney General for further clarification, as he felt that he and J. Nolan had not violated the law. T. Boschetto asked that Special Counsel Robert Ritchie draft a termination policy for the future, and E. Collins noted that the Personnel Board does not have a policy currently. The Board discussed the clarity of the agenda item in question. E. Collins said the agenda item was not misleading, and expressed concern that the decision of the Attorney General did not include any explanation for such a determination. J. Nolan asked that E. Collins and T. Boschetto apologize to the public. S. Correia said he would not view the training video, as he did not violate the Open Meeting Law.

A6. Meeting with Recreation Chair Brud Wright and Alan Palevsky Regarding the Dudley Woods Study This agenda item was postponed until the next meeting.

A7. Presentation of FY15 Operating Budget Requests for Public Safety and Departments under the Jurisdiction of the Board of Selectmen Police Chief Robert Irving and Police Lieutenant Patrick Swanick appeared before the Board to discuss the public safety budget. R. Irving noted the request for an additional school traffic supervisor at West Plain and Main Street, and J. Senchyshyn said the Personnel Board will recommend the position to the Finance Committee. S. Correia suggested doing a town-side study of traffic patterns, and R. Irving said he would support that. The Board discussed educational stipends, increases in contractual services, and the potential of increased service to the new town center. Fire Chief Vincent Smith presented the FY15 Fire Department budget. He noted that the Personnel Board has approved the addition of one full-time employee (administrative rather than operating) and the Finance Committee has requested a new budget including the position. The Board discussed the performance of the ALS (Advanced Life Support) program. S. Correia noted the need to prepare for an aging population. R. Mercier and J. Senchyshyn reviewed the FY15 budgets for the Board of Selectmen, the Personnel Board, the Finance Department, the Assessors, the Treasurers, Conservation, Planning, Surveyor, the Council on Aging, Recreation and Youth Services. The Board was advised that the budgets were largely level funded. J. Senchyshyn said that the Financial Analyst position will be hired in January and there are two finalists being interviewed. He said the budget for Youth and Family services does not include any recommendation from the Wayland Cares Review Committee.

A8. Town Administrator Search – Review of Draft Consultant Contract with MRI; Discussion on Beginning Search Process; Discussion on Composition of Search Committee; Review of Draft Town Administrator Job Description The Board reviewed the draft contract with Municipal Resources Inc. J. Senchyshyn said the Town Counsel had reviewed and approved the contract. The Board discussed whether

there was a need for the new Town Administrator to have experience in New England, and the possible use of the warranty should the first hire prove to be unsuccessful. B. Mercier emphasized the importance of moving quickly on the agreement, and suggested reviewing the job description over the next two weeks. The Board discussed the ability to engage the public if there is a perception that the job description has already been finalized, and asked that the contract reflect that it will be an extended process. J. Nolan moved, seconded by E. Collins, to approve the contract with Municipal Resources Inc. and to authorize the Interim Town Administrator to execute the contract with the revisions as discussed. YEA: T. Boschetto, E. Collins, S. Correia, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 4-0. J. Nolan moved, seconded by S. Correia, to accept the Town Administrator job description as presented. YEA: T. Boschetto, E. Collins, S. Correia, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 4-0. The discussion regarding the composition of the search committee was tabled for a later meeting.

A9. Review and Discussion of Lincoln Road Conservation Restriction T. Boschetto asked for the status of the Lincoln Road conservation restriction. S. Correia said it has been sent to the Department of Environmental Protection, and they returned a list of non-substantive questions to answer. T. Boschetto asked for a further update at the next meeting.

A10. Review and Approve Consent Calendar (See Separate Sheet) S. Correia moved, seconded by E. Collins, to approve the consent calendar. YEA: T. Boschetto, E. Collins, S. Correia, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 4-0. The Board noted that Pam's Run, the annual road race to benefit the Neighborhood Brigade, must also be approved the schools and public safety.

A11. Review Correspondence (See Separate Index Sheet) The Board discussed the week's correspondence. J. Nolan moved, seconded by S. Correia, to write a letter on behalf of the Board of Selectmen to MEPA in support of the Department of Conservation and Recreation request for a waiver in regard to the development of the Rail Trail. YEA: T. Boschetto, E. Collins, S. Correia, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 4-0. S. Correia asked for a town-wide traffic study; J. Nolan suggested that the Board reach out to regional planners for their input.

A12. Report of the Interim Town Administrator J. Senchyshyn suggested that the Board consider its immediate goals in order to maximize the efforts of a limited staff. T. Boschetto said the immediate issue was the 2014 Annual Town Meeting, and the Board discussed potential articles. T. Boschetto suggested inviting interested parties in the disposition of the Dudley area land to meet with the Board next week, and J. Nolan said that public comment be added as an agenda item. J. Senchyshyn reviewed other upcoming agenda items, and S. Correia asked for a discussion of proposals regarding the facilities plan.

A13. Selectmen's Reports and Concerns S. Correia said Board members need to be more involved in their liaison roles and should improve communication. J. Nolan said the Board needs to follow up on the thresholds in the Twenty Wayland agreement. He asked that the charge for the Wayland Cares Review Committee be included in the packet next week. S. Correia corrected the record regarding the charge that there were intentional violations of the Open Meeting Law.

A14. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any T. Boschetto said, "I know of none."

A15. Adjourn There being no further business before the Board, S. Correia moved, seconded by E. Collins, to adjourn the meeting of the Board of Selectmen at 11:09 p.m. YEA: T. Boschetto, E. Collins, S. Correia,

NAY: none. ABSENT: J. Nolan. ABSTAIN: none. Adopted 4-0.

Items Included as Part of Agenda Packet for Discussion During the December 9, 2013 Board of Selectmen's Meeting

1. Tax Rate Classification Hearing Informational Documents
2. Letter of 11/25/13 from Office of the Attorney General to Robert Ritchie, Esq., Special Counsel, re: Decision on Open Meeting Law Complaint 2013-174
3. Recommendations to the Board of Selectmen from the Dudley Area Advisory Committee, July 2013
4. FY15 Operating Budget Requests for Public Safety and Departments under the Jurisdiction of the Board of Selectmen
5. Personnel Board – Open Items for Town Administrator Search
6. Draft Consultant Contract with MRI Consulting and Draft Town Administrator Job Description
7. Purchase and Sale Agreement, 11/15/13, and Conservation Restriction, Lincoln Road Trust

Items Distributed for Information and Use by the Board of Selectmen at the December 9, 2013, Meeting

1. Memorandum of 11/25/13 from Alan S. Gould, Municipal Resources Inc., re: Advertising Town Administrator Recruitment, and Draft Advertisement
2. Draft Job Description, Town Administrator