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TOWN OF WAYLAND

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

Board of Selectmen Meeting Minutes March 31, 2014

Attendance: Tony V. Boschetto, Edward J. Collins, Steven J. Correia (arrived 6:51 p.m.), Joseph F. Nolan
Also Present: Interim Town Administrator Robert Mercier, Acting Town Administrator John Senchyshyn, Executive Assistant MaryAnn DiNapoli

A1. Call to Order by Chair Vice Chair T. Boschetto called the open session of the meeting of the Board of Selectmen to order at 6:45 p.m. in the Large Hearing Room. He reviewed the agenda for the public and announced that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM.

A2. Public Comment Anette Lewis, 33 Claypit Hill Road, asked the Board to confirm that the errors in the motions pointed out at the warrant hearing have been corrected. She said the Finance Committee increased the capital budget by \$700,000 at its last meeting, and asked that the public be informed before Town Meeting begins. Frank Dougherty, speaking on behalf of Twenty Wayland LLC, expressed frustration with the town for its lack of action regarding the conveyance of land. He said Twenty Wayland LLC is pressed to resolve this issue due to the financial impact, and will file a complaint if the matter is not addressed by April 15. He said a letter to this effect will be sent to Town Counsel. Attorney Kurt Fliegau, representing Twenty Wayland Users LLC, said his clients are concerned that the judgment for Twenty Wayland LLC will impact the cost to other users in the system. He said that if that happens, his clients are willing to go through the abatement process and ultimately to court.

A3. Review and Approve Consent Calendar (See Separate Sheet) J. Nolan moved, seconded by S. Correia, to approve the consent calendar. YEA: T. Boschetto, E. Collins, S. Correia, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 4-0.

A4. Report of the Interim Town Administrator R. Mercier said J. Senchyshyn and the staff have been preparing the motions and the errata sheet for the Annual Town Meeting, and expects to post both on the website tomorrow. He updated the Board on negotiations with William Jones, the candidate for Town Administrator. J. Nolan and E. Collins discussed coming to a consensus on Article 9, "Transfer and Restrict Use of Certain Town-owned Land in 'Dudley Woods' for Recreational Purposes," before Town Meeting.

A5. Joint Meeting with Wastewater Management District Commission and Discussion with Users of the Wayland Wastewater System The Board was joined by Wastewater Management District Commission (WMDC) members Fred Knight and Sam Potter. T. Boschetto outlined the parameters of the meeting. He said the goal is to make sure all concerns and issues are brought out in the open, and that all parties work towards a solution. F. Knight reviewed the issues facing the Wastewater Commissioners. He said there was a delay in billing due to the uncertainty of litigation, a large public records request to fulfill, a decision to be made regarding betterments or surcharges, the need for a third commissioner, and a number of businesses coming online in the town center. He said they are looking into hiring a consultant, Powers & Sullivan, to provide assistance. T. Boschetto asked about the status of two issues: the accuracy of the billing and the allocation of betterments. S. Potter said the WMDC has engaged Special Counsel Damon Seligson, who specializes in municipal environmental and wastewater litigation. He discussed the different approaches to allocation and capacity, and the use of flow versus capacity in determining betterments. He said the

aggregated total capacity of the connected users is 76,000 gallons per day; he said the Public Safety Building, the Town Building, and the municipal pad is 9.3% of the total. He noted the Library is not being charged, as they have their own system. Board members discussed the most effective way for the town to pay its share, as the town is not permitted to pay betterments according to the Massachusetts Department of Revenue guidelines, the impact of betterments versus surcharges on cash flow, and the ability to lien property for nonpayment. E. Collins asked why the WMDC had chosen Powers & Sullivan; F. Knight said they are familiar with public financing and interfacing with town systems. S. Potter said Powers & Sullivan will address the need to get their books in order, and Special Counsel will consult on the allocation issues. J. Nolan said the town should consider bringing the WMDC into the Board of Public Works at some point, noting that such an attempt failed at the 2011 Annual Town Meeting. S. Potter suggested establishing a committee to review the issues involved before bringing the matter to town meeting again. T. Boschetto said nothing precludes the WMDC from hiring management staff now; S. Potter noted that extensive interaction with town staff is also necessary. The Board opened the meeting to public comment. Sherre Coval-Goldsmith, 38 Hasting Ways, said she preferred a surcharge, as more users will share the cost. K. Fliegauf said he was heartened to hear that the litigation with Twenty Wayland LLC will not restrict the billing and betterments. He disputed the daily capacity figures. George Grey, 9 Hastings Way, said that Twenty Wayland LLC was not being charged its true pro rata share based on capacity. He also expressed concern that the facility was allowed to go over capacity. S. Potter said there are different interpretations of capacity. T. Boschetto advised that the matter be discussed with Special Counsel. Jonathan Buchman, owner of 231-241 Boston Post Road, and representing the Wayland Wastewater Users LLC, said the users should not be charged for the legal expenses incurred due to the lawsuit with Twenty Wayland LLC. He also said there is a leak of 10,000 gallons per day that caused the need for a leaching field, which was billed to the users. S. Potter disputed the allegation, and said that the leaching field was built for a separate issue, and the Wayland Public Buildings Director had fixed the leak. J. Buchman said he felt that surcharges would be a better way to proceed. Jill Korff, 34 Hasting Way, said the cost of betterments is compromising the services of local businesses. T. Boschetto asked if there is any way to offer relief to the users, such as waiving interest payments; he suggested Town Counsel research the matter. S. Potter said there is no abatement process, but the commission will consider hardship cases. A. Lewis, 33 Claypit Hill Road, reviewed the development agreement, the supplements, and the NPDES permit. Priti Barot, 40 Hastings Way, said the users are looking for equitable relief. Marie Carrara, 130 Hastings Way, asked the Board members who were running for re-election to state their position on the issue; T. Boschetto said it was not appropriate in this forum. She requested that the gift money from the town center project be used to defray the cost to the users. T. Boschetto asked Frank Dougherty, Twenty Wayland LLC, to work with the users and Special Counsel to come to an amicable resolution. He asked about the status of the users' request for documents. F. Knight said all the documents were produced with the exception of emails, which were being reviewed for executive session material before release. K. Fliegauf said the office of the Board of Selectmen had not responded to the public records request. R. Mercier said all the files were sent, with the exception of emails, which were also being reviewed for executive session material before release. Donna Carleton, 32 Hastings Way, asked for a prompt resolution to the issues. T. Boschetto addressed the issue of procuring financial expertise for the WMDC in order to ensure long-term viability. S. Potter said the commission is using a financial analyst. T. Boschetto said the Board will consider avenues for the town to pay its proportionate share. Leslie Stern, 5 River Rock Way, asked the town to pursue grant funding. T. Boschetto asked Frank Dougherty if Twenty Wayland LLC would make its counsel available to meet with the users. F. Dougherty said he would ask, but that Twenty Wayland LLC will stand behind the judgment of the court. A. Lewis asked F. Dougherty for Twenty Wayland's position on its willingness to pay for excess capacity; F. Dougherty said he would not take a position, as the judgment is under appeal. The Board thanked the attendees for their participation.

A6. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any

J. Nolan moved, seconded by S. Correia, to appoint Kent Greenawalt to the Wastewater Management District Commission. A. Lewis said the appointment could have been reasonably anticipated, and therefore should be placed on the next agenda. The Board agreed and the motion was withdrawn.

As to whether there were any further topics not reasonably anticipated, T. Boschetto said, "I know of none."

A7. Adjourn There being no further business before the Board, E. Collins moved, seconded by J. Nolan, to adjourn the meeting of the Board of Selectmen at 8:32 p.m. YEA: T. Boschetto, E. Collins, S. Correia, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 4-0.

Items Distributed for Information and Use by the Board of Selectmen at the March 31, 2014, Meeting

1. Revised Agenda, Correspondence, Consent Calendar and Documents List
2. Email of 3/24/14 from Kent Greenawalt to Robert Mercier, Interim Town Administrator, and John Senchyshyn, Assistant Town Administrator/Human Resources Director, re: Volunteering to Serve on Wastewater Management District Commission

Items Included as Part of Agenda Packet for Discussion During the March 31, 2014 Board of Selectmen's Meetings

1. None