

WAYLAND WASTEWATER MANAGEMENT DISTRICT COMMISSION

MEETING OF MAY 19, 2011

MINUTES

In attendance: Fred Knight, David Schofield, Shawn Fennelly, Bill Prendergast,
John Moynihan, Ian Catlow (Tighe & Bond)

Guest: Frank Dougherty, Twenty Wayland
Daniel Dain, Twenty Wayland Attorney
Prescott Baston, Wayland Resident
Anette Lewis, Wayland Resident
Linda Segal, Wayland Resident
Ralph Wegener, Wayland Resident
Twenty additional Wayland residents

Chairman Fred Knight called the meeting to order at 7:40 PM.

During the public comment period, Fred Knight read a letter from Ralph Wegener. In the letter, Mr. Wegener stated that he and other users of the sewer system needed a clear understanding of the various options being considered for allocating costs of the new treatment plant and any other matters that would add cost to the operation of the plant and to the users. Fred Knight advised Mr. Wegener to attend the hearing on June 8, 2011 which will discuss fees, rates, and charges.

Anette Lewis commented on the Twenty Wayland sewer connection permit and on the 1999 agreement that the Town would provide to Twenty Wayland sewer capacity of 45,000 gallons per day.

Linda Segal commented on the proposed Construction and Reimbursement Agreement between Twenty Wayland and the Wastewater Commission.

Under new plant construction, Ian Catlow provided large photographs showing the construction site and the progress. He stated that quality control testing of concrete and steel was under way and that the project was on schedule for completion within 14 months from the start of construction.

Daniel Dain made a presentation on behalf of Twenty Wayland. The presentation dealt with user fees and the 1999 agreement to provide Twenty Wayland with 45,000 gallons per day of sewer capacity. Mr. Dain pointed out that, in 2009, the Wastewater Commission changed the formula for calculating user fees. The change resulted in an increase in Twenty Wayland's assessment of more than \$50,000 per year according to Mr. Dain. He stated that, additionally, the Town and the Commission agreed in 1999 not to charge Twenty Wayland for any costs associated with providing wastewater services for others. Mr. Dain stated that considering both the governing statute and the parties' contract, the formula will not stand if challenged in court and that Twenty Wayland is prepared to do so.

Mr. Dain quoted from several letters from Twenty Wayland and letters from Town Counsel, Town Administrator, Board of Selectmen, and the Wastewater Commission. He refers to the 1999 agreement to provide capacity of 45,000 gallons per day to Twenty Wayland and asks the question "How much has been provided to date?" His answer is zero. Mr. Dain states that the formula for calculating Twenty Wayland user fees should be based on capacity of not more than 28,000 gallons per day.

Mr. Dain states "We could go straight to litigation." He states "Through litigation, Twenty Wayland will press its argument that the Commission has committed an unfair practice in its charges to Twenty Wayland and that the Commission is liable for attorney's fees and multiple damages."

Mr. Dain distributed copies of the exhibits that he used during his presentation. Included were letters from which he quoted, agreements, and portions of Massachusetts law.

Frank Dougherty stated that with the issuance of the DEP connection permit construction of Town Center would begin during the summer of 2011. In response to a question about the necessity of pumping, Mr. Dougherty described the Town Center pumping system.

John Moynihan presented an invoice in the amount of \$111,731.45 from the contractor for the new plant. David Schofield made a motion to approve payment of the invoice. The motion was seconded by Shawn Fennelly. The vote on the motion was 3 – 0 in favor of the motion.

Bill Prendergast distributed a financial report for FY2011 through April 2011. The report showed income of \$179,111.90 and expenses of \$198,718.38.

Bill Prendergast distributed a bank statement showing, as of May 9, 2011, a balance of \$807,201.05.

During the public comment period, Anette Lewis asked about the amount of the loan for construction of the new treatment plant. She was advised that \$5.6 million had been approved and that the amount of the loan was \$5.0 million.

The meeting adjourned at 9:30 PM.

Respectfully submitted,

William R. Prendergast

Distribution:
Fred Knight
David Schofield
Shawn Fennelly
File