

TOWN OF WAYLAND - TOWN CLERK'S OFFICE
NOTICE OF MEETINGS OF TOWN BOARDS/COMMITTEES/COMMISSIONS

Posted in accordance with the provisions of the Open Meeting Law

NAME OF BOARD/COMM: Wayland Wastewater Management District Commission

FILED By: Jane Capasso

DATE OF MEETING: Monday, 24 Apr 2017

TIME OF MEETING: 7:30 PM

PLACE OF MEETING: Wayland Town Building

PROPOSED AGENDA

Note: Items may not be discussed in the order listed or at the specific time. Times are approximate.

- 7:30 1. Call to order
- 7:31 2. Public comment
- 7:35 3. Update on transfer of land and design flow from Wayland Meadows to Conservation Commission (land only) and to BoS (design flow only) to be allocated to 5 Concord Road. The transfer of the design flow was officially approved at FY2016 ATM in April 2016. The associated transfer of land has been a topic for the last 10 months. The status right now is that the transfers are ready to proceed with a few more actions. We will discuss those actions.
- 8:00 4. Joint meeting with BoS to sign agreement to satisfy Article 19 of 2016 ATM
- 8:30 5. Follow-up from item 4.
- 8:45 6. Topics not reasonably anticipated by chair 48 hours in advance of the meeting, if any.
- 8:46 7. Calendar: upcoming meetings and events, including hearings.
- 8:47 8. Public Comment
- 8:57 9. Adjourn

AGREEMENT

This Agreement is dated as of _____, _____, 2017 and is entered into by and between the Town of Wayland, a Massachusetts municipal corporation, acting by and through the Wayland Wastewater Management District Commission (the "WWMDC") and the Board of Selectmen (the "Town"), both having an address of 41 Cochituate Road, Wayland, Massachusetts 01778 with respect to reserved sewer capacity for 5 Concord Road, Wayland, Massachusetts.

Whereas, in a separate agreement, Wayland Meadows, LLC agrees to transfer the parcel 023-052T (also referred to as Lot 8 as shown on the plan entitled "Plan of Land in Wayland, MA" dated April 15, 2010, prepared by Hancock Associates, Civil Engineers, Land Surveyors and Environmental Consultants and recorded with the Middlesex South Registry of Deeds as Plan No. 252 of 2010) to the Wayland Conservation Commission and the 380-gpd design flow (per Title V, hereafter, "design flow") to the Wayland Wastewater Management District Commission (WWMDC), and

Whereas, the Wayland Meadows, LLC, has paid 1) all taxes for parcel 023-052T, 2) all WWMDC operations fees for the associated 380-gallons-per-day (gpd) design flow including all principal and interest for late payments, 3) FY2017 interest from 1 Oct 2016 to 1 April 2017, and 4) \$3,709 in partial payment of betterments for FY2015-FY2017, and

Whereas, 2016 annual Town Meeting passed Article 19 to allocate to the building at 5 Concord Road, Wayland, MA (currently the Wayland Free Public Library) a total of 820-gpd design flow, consisting of the 380 gpd from above and 440 gpd previously relinquished by another WWMD user and returned to the WWMDC, and

Whereas, Article 19 included a payment to the WWMDC from town funds of a total of \$56,000, which consisted of a payment in lieu of betterment (PILOB) of \$53,356, an initial operations payment of \$2,207 for FY2017, and an administrative fee of \$438. Wayland Meadows has already paid \$3,709 of the betterment reducing the PILOB to \$49,647 for a new total of \$52,291.

Whereas, it is anticipated that the building at 5 Concord Road will eventually be connected to the WWMD system using separate funds, and

Whereas, the Town agrees to pay operation fees to the WWMDC starting in FY2017, Therefore, the Wayland Board of Selectmen agrees to pay \$52,291 to the Wayland Wastewater Management District Commission, and the Wayland Wastewater Management District Commission agrees to transfer 820-gpd design flow to the property at 5 Concord Road.

Assignment. Neither the WWMDC nor the Town may assign their rights and obligations hereunder, in whole or in part, without the prior written consent of the other party. Any assignment without such prior written consent shall be deemed null and void. Subject to and without limiting the preceding two sentences, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns.

Governing Law. This Agreement, executed as of the date first above written, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, and may be cancelled, modified or amended only by a written instrument executed by the parties.

Additional Documents. The parties agree to execute any and all additional instruments and documents as may be reasonably required in order fully to effectuate the terms of this Agreement, provided none of the same shall increase any party's liability hereunder.

Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the Surplus Capacity and payment and no verbal statements made by anyone with regard to the transaction which is the subject of this Agreement shall be construed as a part hereof unless the same is incorporated herein by writing.

Partial Invalidity. In the event that any one or more provisions of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, the remainder of this Agreement shall not be affected.

In Witness Whereof, the parties have executed this Agreement as of the date first set above.

| Town of Wayland Board of Selectmen | Wayland Wastewater Management District Commission |
|---|--|
| | |
| Cherry Karlson, chair | Fred Knight, chair |
| | |
| Lea Anderson | Sam Potter |
| | |
| Mary Antes | Rick Greene |
| | |
| Louis Jurist | |
| | |
| Douglas A. Levine | |

AGREEMENT
between
WAYLAND MEADOWS, LLC
and
TOWN OF WAYLAND

This Agreement is dated as of _____, _____, 2017 and is entered into by and between Wayland Meadows, LLC, a Delaware limited liability company, having an address of 145 Rosemary Street, Suite E, Needham, Massachusetts 02494 (the "Owner") and the Town of Wayland, a Massachusetts municipal corporation, acting by and through the Wayland Wastewater Management District Commission (the "WWMDC") and the Town's Conservation Commission (the "Commission") (collectively, the "Town"), both having an address of 41 Cochituate Road, Wayland, Massachusetts 01778 with respect to (1) surplus unused sewer capacity relative to the connection of the buildings constructed on the Wayland Commons Affordable Housing Project site to the WWMDC's wastewater treatment plant; and (2) Lot 8 as shown on the plan entitled "Plan of Land in Wayland, MA" dated April 15, 2010, prepared by Hancock Associates, Civil Engineers, Land Surveyors and Environmental Consultants and recorded with the Middlesex South Registry of Deeds as Plan No. 252 of 2010 ("Lot 8") (also referred to as Town of Wayland Assessor's Parcel 023-052T).

WHEREAS, on August 10, 2006, the WWMDC entered into an agreement with Wayland Meadows Development, Inc., a Massachusetts corporation, having an address of 2 Washington Street, Foxborough, Massachusetts 01778 (the "Prior Owner") relative to the connection of the residential units in the Wayland Commons Affordable Housing

Development, together with associated improvements and infrastructure (the "Project") on the land then shown on Assessors Map 23, as Parcels 52D, 52E, 52G, 52H, 52J, 52K, 52L and 52M on and off Old Sudbury Road (Route 27), Wayland, Massachusetts ("Locus") to the WWMDC-owned wastewater treatment plan located off Boston Post Road and Old Sudbury Road in Wayland, Massachusetts (the "Plant"); and

WHEREAS, the Owner acquired the Locus from the Prior Owner by deed dated December 4, 2009, recorded with said Registry of Deeds in Book 54521, Page 444 and filed with the South Middlesex Land Court Registry District as Document 1529383 with Certificate of Title 246145 and also received from the Prior Owner, as transferee, all permits and approvals relative to the Project; and

WHEREAS, the Owner has completed the Project and has surplus unused design flow sewer capacity it wishes to donate to the WWMDC and owns vacant land (Lot 8) it wishes to donate to the Town.

NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Transfer of Sewer Capacity.** The Owner hereby agrees to relinquish and transfer to WWMDC and the WWMDC hereby agrees to accept from Owner 380 gallons per day of unused surplus design flow sewer capacity (the "Surplus Capacity"), which transferred to the Owner, effective as of August 31, 2016.

Comment [A1]: To be confirmed by WWMDC

2. **Donation of Lot 8.** The Owner hereby agrees to convey, for no consideration, Lot 8 to the Town, provided that:

a) Lot 8 is to be conveyed by a good and sufficient quitclaim deed or deeds (the "Deed"), and said Deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except:

- i. provisions of existing building and zoning laws;
- ii. such taxes for the then current year as are not due and payable on the date of the delivery of the Deeds;
- iii. any liens for municipal betterments assessed after the date of this Agreement; and
- iv. easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the use of Lot 8 for conservation purposes.

It is understood and agreed by the parties that Lot 8 shall not be in conformity with the title provisions of this Agreement unless (i) no building, structure or improvement of any kind belonging to any other person or entity shall encroach upon or under Lot 8; and (ii) title Lot 8 and access thereto is insurable for the benefit of the Town by a title insurance company licensed to do business in the Commonwealth of Massachusetts at normal premium rates on a standard American Land Title Association Form B (Rev. 10-17-70 and 10-17-84), subject only to those printed exceptions to title normally included in the "jacket" to such form and the encumbrances listed above. Any title or practice matter which is subject of a title or practice standard of the Real Estate Bar Association of Massachusetts shall be governed by said title or practice standard to the extent applicable, unless otherwise specifically stated in this Agreement.

a.) the Town receives a satisfactory report, as determined in the sole discretion of the Town, from a consultant selected by the Town regarding the environmental conditions directly and/or indirectly affecting Lot 8;

b.) the Town is permitted, upon 24 hours prior written notice the Owner, to have access to Lot 8 in order to inspect, take measurements, conduct surveys, perform tests including soil and water tests, and to make other reviews or investigations thereof;

c.) **The Owner consents to and will not contest the taking of Lot 8 by eminent domain for the purpose of confirming and making clear the Town's title to Lot 8, provided such taking occurs after the transfer and conveyance pursuant to this Agreement.**

3. Remedies. The parties agree that, there being no adequate remedy at law for breach of this Agreement, it may be specifically enforced.

4. Assignment. Neither the Owner nor the Town may assign their rights and obligations hereunder, in whole or in part, without the prior written consent of the other party. Any assignment without such prior written consent shall be deemed null and void. Subject to and without limiting the preceding two sentences, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. Governing Law. This Agreement, executed as of the date first above written, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, and may be cancelled, modified or amended only by a written instrument executed by the Owner and the Town.

6. Additional Documents. The parties agree to execute any and all additional instruments and documents as may be reasonably required in order fully to effectuate the terms of this Agreement, provided none of the same shall increase any party's liability hereunder.

7. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the Surplus Capacity and Lot 8 and no verbal statements made by anyone with regard to the transaction which is the subject of this

Agreement shall be construed as a part hereof unless the same is incorporated herein by writing.

8. Partial Invalidity. In the event that any one or more provisions of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, the remainder of this Agreement shall not be affected.

In Witness Whereof, the parties have executed this Agreement as of the date first set above.

Wayland Meadows, LLC
a Delaware Limited Liability Company,

By: Wayland Meadows Corporation,
Its Manager

Donald A. Levine, President

Wayland Wastewater Management District
Commission, by

Wayland Conservation Commission

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