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APPROVED
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BOARD OF SELECTMEN
JOHN BLADON
EDWARD J. COLLINS
STEVEN J. CORREIA
DOUGLAS J. LEARD
JOSEPH F. NOLAN

Board of Selectmen Executive Session Minutes January 7, 2013

Attendance: John Bladon, Edward J. Collins, Steven J. Correia, Douglas J. Leard, Joseph F. Nolan
Also Present: Town Administrator Fred Turkington, Secretary MaryAnn DiNapoli

Purpose: The session was called at 8:50 p.m. in the Selectmen's Meeting Room, Wayland Town Building, by unanimous roll call vote (J. Bladon, E. Collins, S. Correia, D. Leard, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0) of the Board of Selectmen in open session as permitted by Massachusetts General Laws Chapter 30A, Section 21(a)(3) to discuss strategies with respect to litigation between Twenty Wayland LLC and the Town of Wayland and the Wastewater Management District Commission as filed in court because the conduct of the hearing in an open meeting may have a detrimental effect on the litigating position of the Board.

Discussion: F. Turkington updated the Board on the status of the litigation between Twenty Wayland LLC and the Town of Wayland and the Wastewater Management District Commission. He said the trial will begin one week from today. He advised the Board that Twenty Wayland LLC had offered \$750,000 to settle the case, and is willing to take credits against the funds owed in the Development Agreement, and left it up to the town to work out the compensation to the Wastewater Management District Commission. They were also looking for a commitment that they could take to their lender regarding capacity, a proposed phasing effort, and the finalization of the leaching field. F. Turkington said that in terms of damages to the plaintiff, there are four parts: the carrying costs since June 2011, the property taxes they cannot offload, a 5% escalation in their construction costs, and \$400,000 in back invoices for which they feel they were overbilled. He said Twenty Wayland LLC believes they have a strong case, and will win the judgment for \$1.5 million and the requested capacity from the town.

F. Turkington said that Sam Potter, Wastewater Management District Commission, suggested offering \$100,000 for their legal fees, as he wanted benefit of counsel before any agreement is reached. He noted that the Wastewater Management District Commission has not signed the permit yet.

Adjourn: By motion of S. Correia, seconded by D. Leard, by roll call vote, unanimously voted to exit executive session at 10:45 p.m. YEA: J. Bladon, E. Collins, S. Correia, D. Leard, J. Nolan. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

Items Distributed for Information and Use by the Board of Selectmen at the January 7, 2013, Meeting

1. None