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# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

Released

## BOARD OF SELECTMEN

STEVEN J. CORREIA  
DOUGLAS J. LEARD  
JOSEPH F. NOLAN  
MICHAEL L. TICHNOR  
WILLIAM D. WHITNEY

## CONFIDENTIAL

### Joint Meeting of the Board of Selectmen And the Board of Road Commissioners Executive Session Meeting Minutes July 2, 2008

**Attendance:** S. Correia, J. Nolan, M. Tichnor, W. Whitney (Board of Selectmen); Shawn Fennelly, Eric Knapp, Mark Santangelo, Alan Shubin (Board of Road Commissioners)

**Also Present:** Town Administrator F. Turkington

**Purpose:** The session was called at 7:17 p.m. in the Selectmen's Meeting Room, Wayland Town Building, by unanimous roll call vote (4-0) of the Board of Selectmen and unanimous roll call vote (4-0) of the Board of Road Commissioners in open session as permitted by M.G.L. Chapter 39, Section 23B, paragraph three, to discuss strategies with respect to pending litigation relative to the appeal of the Planning Board's decision regarding the Master Special Permit because a public discussion of these matters would have a detrimental effect on the litigating and negotiating position of the Town.

**Discussion:** F. Turkington reviewed the final agreement for judgment in the matter of Bernstein v. Wayland, noting that the previously reviewed settlement agreement had been converted into a court order. He reviewed two changes; an agreement to modify the baseline traffic count and an increase in the amount of gift funds the Town will set aside to cover the estimated cost of all mitigation measures that might be implemented. W.. Whitney stated that he considered the change from known data collected by VHB in May 2006 to date to be collected over fifteen days in September and October 2008 substantive, expressing concern that the new data may be lower than 2006. F.. Turkington explained that the plaintiffs refused to agree to a single date in May 2006 for baseline data, arguing for an averaging of the two weekdays of data collected by VHB which would significantly lower the baseline for mid-day and evening hours. Based on recent data collected by the Police Department, the fall data should be at least equal to the single day counts from 2006 and perhaps 10-20% higher. He noted that TEC consultant Kevin Dandrade believes the fall data will be similar or higher to the recent data collected by the police department.

E. Knapp moved, seconded by A. Shubin, that the Board of Road Commissioners approve, execute and enter into the Agreement for Judgment on Count II of Plaintiffs' Amended Complaint in the case of David Bernstein, et.al. v. Wayland Planning Board, et.al., Middlesex County Superior Court Civil Action No. 2008-0552, a copy of which agreement is attached hereto as Exhibit A. YEA: S. Fennelly, E. Knapp, M. Santangelo, A. Shubin. NAY: none. ABSTAIN: none. ABSENT: A. Lewis.  
Adopted 4-0.

J. Nolan moved, seconded by S. Correia, that the Board of Selectmen approve, execute and enter into the Agreement for Judgment on Count II of Plaintiffs' Amended Complaint in the case of David Bernstein, et.al. v. Wayland Planning Board, et.al., Middlesex County Superior Court Civil Action No. 2008-0552, a copy of which agreement is attached hereto as Exhibit A. YEA: S. Correia, J. Nolan, W. Whitney. NAY: none. ABSTAIN: D. Leard. ABSENT: M. Tichnor. Adopted 3-1.

**Adjourn:** By motion of D. Leard, seconded by S. Correia, the Board of Selectmen, by roll call vote, unanimously voted to exit executive session at 8:17 p.m.

By motion of A. Shubin, seconded by S. Fennelly, the Board of Road Commissioners, by roll call vote, unanimously voted to exit executive session at 8:17 p.m.