

Summary of WWMDC/Town of Wayland Settlement with 20 Wayland

Wayland Wastewater District Commission

March 11, 2015





Agenda

- Background to settlement negotiation
- WWMDC's goals for resolving the suit
- Risks WWMDC needed to consider
- Key features of settlement
- What the settlement means to the average user
- Major topics discussed in Executive Sessions
- Betterment Allocation Methodology: What we did and Why

The Start of Settlement Negotiations



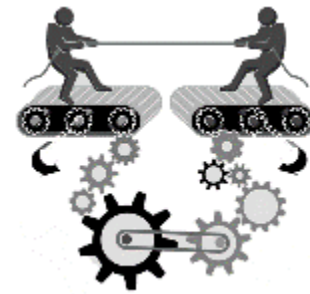
- 20 Wayland had a judgment vs the Town of Wayland & WWMDCC
 - Potential financial liability of \$1.37 million (incl. post judgment interest)
 - Passing of the judgment costs onto 20 Wayland not permitted
 - Low probability of prevailing on appeal
- High probability that citizens in Wayland would push for the WWMDCC and its users to absorb all judgment costs
- Users asking the Town for appropriate cost-sharing
 - Contribution for costs of new Wastewater Treatment Facility (WWTF)
 - Proportional sharing of legal costs

WWMDC's Goals for Resolving Suit



- Minimize the financial exposure of WWMDC users
- Ensure that all users—including the Town and 20 Wayland—paid an equitable and proportional share of the costs for WWTF
- Eliminate uncertainty and the potential for future legal conflicts over the construction costs of WWTF
- Minimize potential conflicts between WWMDC users and other taxpayers over the WWTF and judgment costs

Additional Risks



- Mounting post-judgment interest from current suit
- New legal action by 20 Wayland
- Uncertainty over whether and how Town would contribute to WWTF costs—complicating the issue of betterments vs surcharges

Key Features of Settlement with 20 Wayland



- The Town committed to make a Payment in Lieu of Betterment (PILOB) of approximately \$500k toward cost of plant
 - Allowed us to reduce the betterment amount from \$5 million to \$4.5 million
 - PILOB paid out of 20 Wayland gift money, not subject to ATM approval
- Judgment reduced to \$895k, to be paid solely out of 20W gift money
 - \$720k to be paid from gift linked to residential development
 - \$175k to be paid from gift linked to completion of WWTF
- Town reimbursed WWMDC \$24k for one-half of past legal costs
- 20 Wayland agreed not to challenge its betterment assessment

What Settlement means to “Average User”



- Reducing the judgment and paying using gift moneys avoids costs to the average user (220 GPD) up to \$3,800*
- Town's payment of PILOB and legal costs directly saves the average user approximately \$1,514
- Cut off continuing (and new) legal challenges by 20 Wayland
- Town agreeing to pay PILOB allowed WWMDC to choose betterment vs. surcharge, which ultimately benefited users

* Based on paying full judgment costs and post-judgment interest; If users pay 1/2 of the \$720k paid out of residential development gift, cost to average user would have been \$1,040.

Summary



- The settlement and how it is funded saves a 220 GPD user up to \$3,800 in operating costs
- The PILOB paid by the Town pre-emptively reduced the betterment assessment of a 220 GPD user by approximately \$1,500
- Gift money was used to provide WWMDC relief from legal costs
- The settlement eliminated risks of worse outcomes, and reduces uncertainty and mounting legal costs going forward

Major Issues Discussed during Executive Sessions



- Any and all strategies to lessen the impact of the judgment on users (and other taxpayers)
- How to bring 20 Wayland to the bargaining table
- Whether betterments or surcharges gave us the strongest legal position
- The allowable betterment apportionment methodologies under Massachusetts Statute and DOR regulations
- How the Town could contribute toward betterment costs as part of the settlement
- The structure of the actual settlement