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June 25, 2007

Matthew P. Garvey
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BY HAND

Ms. Pamela D. Harvey
Commissioner's Office
Department of Environmental Protection
One Winter Street — 2nd Floor
Boston, MA 02108

Re: DEP File No. 322-661: June 1, 2007 Appeal of Superseding Order of Conditions

Dear Ms. Harvey:

Enclosed please find Town of Wayland's Motion to Expedite the above-referenced appeal and the Affidavit of Frederic E. Turkington Jr. in Support of Motion to Expedite.

Very truly yours,

Matthew P. Garvey

Enclosures

cc: Kurt Trampusch
Representative of Wayland 10-Citizen Group
2 Weir Meadow Path
Wayland, MA 01778

In any event, the Town believes the appellants' position asserted on appeal is without merit, and intends to file a Motion for Summary Disposition in this matter. The original Order of Conditions issued by the Wayland Conservation Commission was carefully crafted and contained over 60 specific conditions that must be fulfilled during construction of the Project and was specifically designed to protect environmental conditions in the immediate vicinity of the Project. The Division recognized this by issuing an SOC that affirmed the Conservation Commission's earlier action. The Town therefore requests that the Division's review of the appeal and, if necessary, scheduling of an adjudicatory hearing be expedited in accordance with 310 CMR 1.01(6)(i) and DEP Policy No. COM-00.002. The Town would further request that an expedited briefing schedule to consider its Motion for Summary Disposition be entered in the hopes that a ruling might be rendered prior to August 1, 2007. This motion is accompanied by the affidavit of Wayland Town Administrator Frederic E. Turkington ("Turkington Aff.").

BACKGROUND

This purpose of this project is to provide a synthetic turf surface on the Wayland High School football field (the "Field") that will increase the period during which athletic teams of the Wayland public schools and others could engage in recreational activities on the Field. The project was the result of a three-year planning process and was approved by Wayland's Board of Selectman, Finance Committee, School Committee, and Parks and Recreation Commission. Construction plans were approved by Wayland's Conservation Commission, subject to an Order of Conditions. Certain residents of Wayland challenged the issuance of the Order of Conditions, but the Division, in the SOC dated May 17, 2007, affirmed the Conservation Commission's original order.

SIGNIFICANT PUBLIC BENEFITS WILL BE THREATENED IF THIS PROJECT IS
DELAYED

There is widespread and substantial public interest in completing this Project without further delay. The new Field will benefit high school athletics, youth sports and adult recreational sports. At the high school, the girls field hockey team, boys football team, girls and boys soccer teams, and girls and boys lacrosse teams will all be able to use the field. Youth soccer, lacrosse and Pop Warner football, as well as adult soccer teams, will also be able to use the Field. The residents of the Town therefore have a strong interest in seeing the Project completed on a timely basis, as this would enhance access to recreational opportunities by both Wayland athletes and citizens.

More than fifty percent of the organized events that take place on the Field occur in the months of September and October. Turkington Aff. ¶ 10. The events include 15 soccer, football and field hockey games in September, and 20 soccer, football and field hockey games in October. Id. Delaying the completion of this project past September 1, 2007 may render the field unavailable for the majority of games that would otherwise be played there during the 2007-2008 school year. In addition, if the Field is not available for an event, the Town may need to bear the expense of travel for the Wayland student participants otherwise forced to travel for games that should have been played in Wayland. Turkington Aff. ¶ 12.

In addition, there is a significant risk that much of the private funding for this Project will be rescinded if this appeal is not expedited. Turkington Aff. ¶ 13. Seventy percent of the planned \$1 million cost of the Project has been pledged by private donors. Id.

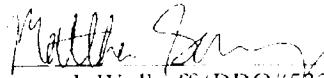
CONCLUSION

For the foregoing reasons, the Town respectfully requests that this appeal be expedited so that a final determination may be issued no later than August 1, 2007.

Respectfully submitted,

TOWN OF WAYLAND

By its attorneys,



Harvey J. Wolkoff (BBO#532880)
Matthew P. Garvey (BBO#655419)
Brian R. Blais (BBO#660601)
Ropes & Gray LLP
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Boston, MA 02110-2624
Tel: (617) 951-7000
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Certificate of Service

Certificate of Service

I hereby certify that a true and correct copy of the above document was served upon each party by mail on June 25, 2007.


Matthew P. Garvey

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

IN THE MATTER OF
WAYLAND BOOSTERS
ASSOCIATION

Docket # 2007-085
DEP File #322-0661
Wayland High School Turf
Replacement, 264 Old
Connecticut Path, Wayland

AFFIDAVIT OF FREDERIC E. TURKINGTON JR.
IN SUPPORT OF MOTION TO EXPEDITE

1. I am the Town Administrator of the Town of Wayland, a position I have held since 9/19/2005. This affidavit is submitted in support of Wayland's Motion to Expedite.
2. The project that is the subject of this appeal involves the construction and installation of a synthetic turf surface on the athletic field at Wayland High School (the "Project").
3. As Town Administrator, it is my job to shepherd the Project through to completion. In that connection, I have the responsibility to balance the Wayland High School's need for suitable athletic facilities, the Town's need to protect its drinking water supply and wetland resource areas, and the Town's need to apportion its budget so as to maximize the public benefit.
4. The Town and its residents have a pressing need and a substantial interest that this appeal be heard expeditiously so that, if at all possible, a decision can be rendered in time for the Project to be fully completed before September 1, 2007, when the first Wayland High School football game is scheduled.

BACKGROUND AND EFFORTS TO RESOLVE THE DISPUTE

5. The purpose of the Project is to provide a synthetic turf surface that will enhance players' safety, lengthen the period of time during which recreational activities can occur, and accommodate activities that would otherwise have transpired on other, less appropriate areas.
6. The Project is the result of a three-year planning process, and has been approved by Wayland's Board of Selectmen, Finance Committee, School Committee, and the Parks and Recreation Commission.
7. Construction plans also were approved by the Town's Conservation Commission subject to an Order of Conditions, which was subject to a Superseding Order of Conditions dated May 17, 2007 (the "SOC") by the Massachusetts Department of Environmental Protection. The SOC is the subject of this appeal.
8. Wayland seeks to intervene in this matter in opposition to a group of ten Wayland residents who filed a Notice of Claim for Adjudicatory Hearing (the "Appeal"). The Town believes the Appeal is completely without merit.
9. The citizens who filed the Appeal each had previously appealed the Wayland Conservation Commission's Order of Conditions. In that appeal, they focused on purported effects of the Project on the Town's drinking water. At a Department site visit, which I attended, the appellants urged that drainage from the Field be directed away from wells that are on the south side of the Field. In response to a request from the Department that plans for the Project be modified to accommodate this concern, the plan was redesigned to target drainage north of the Field and away from the wells. Despite

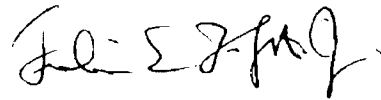
this good faith effort to resolve the issues in dispute, the eleven petitioners here filed the Appeal, which appears on its face to be a request based only on speculation.

THE PUBLIC INTEREST WILL BE HARMED IF THERE IS NO FINAL
DETERMINATION ON THE APPEAL BEFORE SEPTEMBER 2007

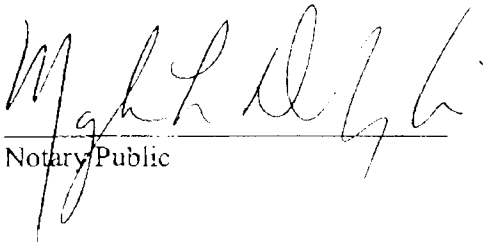
10. More than fifty percent of the organized events that take place on the field occur in the months of September and October. The events include 15 soccer, football and field hockey games in September, and 20 soccer, football and field hockey games in October. Therefore, if there is no Final Determination of the Appeal before September 2007, the Field will likely be unavailable, or available only in limited form, for a majority of the events scheduled to occur during the 2007-2008 school year.
11. Moreover, certain work on the Project cannot be completed during colder temperatures. Therefore, the spring of 2008 events scheduled on the Field are at risk if there is no Final Determination by the fall of 2007.
12. If the Field is not available for an event, the Town will need to bear the expense of travel for the Wayland student participants otherwise forced to travel for games that should have been played in Wayland.
13. If this Appeal is reviewed in chronological order, there is a significant risk that much of the funding for the Project will be rescinded. Seventy percent of the planned \$1 million cost of the Project has come from private donations. There is a strong possibility that significant private donations made toward the Project will be rescinded if the field cannot be completed by September 1, 2007.

14. There will be no prejudice to appellants arising from the expedited treatment of this appeal.

Signed under the pains and penalty of perjury in the Commonwealth of Massachusetts on this 22nd day of June 2007.



Frederic E. Turkington


Notary Public

On this 22nd day of June, 2007, before me, the undersigned notary public, personally appeared Frederic E. Turkington Jr., proved to me through satisfactory evidence of identification, which were personal recognition, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

As subscribed and sworn to before me on June 22, 2007.

MaryAnn L. DiNapoli, Notary Public
My Commission Expires October 13, 2011



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

SEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

IAN A. BOWLES
Secretary

ARLEEN O'DONNELL
Commissioner

June 29, 2007

Matthew P. Garvey
Ropes & Gray
One International Place
Boston MA 02110-2624

Re: Request for Expedited Review of Matter of Wayland Boosters Association

Dear Mr. Garvey:

I am in receipt of your request to expedite the adjudicatory hearing schedule for the Wayland High School Turf Replacement Project, Docket No. 2007-085, under the Department's Policy on the Expedited Review of Applications & Adjudicatory Hearings. The Commissioner has designated me to respond to these requests.

I conclude that the work related to the construction and installation of a synthetic turf surface at the athletic field at Wayland High School meets the standard for expedited status set forth in the Policy. The project will provide a substantial public benefit by enabling the Town to expand the use of the athletic facilities. Although recreational facilities are perhaps not the most critical services provided at a public high school, they are important to the students and to the Town as a whole. Any lack of availability of the fields during the months of heaviest use may increase costs for the athletes if the teams must travel to alternate locations. Due to the potential withdrawal of private funding, delay of the project if the adjudicatory hearing proceeds in chronological sequence is not reasonable. The Town has undergone an extensive planning process for this project, and has not been able to settle this matter with the Petitioners. The Town must provide a transcript of a hearing if requested by the Presiding Officer.

Accordingly, I grant your request that the administrative hearing procedures for this matter be expedited. Specifically, the Presiding Officer at the Department should give this matter priority in sequencing the caseload. I leave the specific scheduling to the discretion of the Presiding Officer, who will make every effort to resolve this matter expeditiously.

This information is available in alternate format. Call Donald M. Games, ADA Coordinator at 617-556-1057. TDD Service - 1-800-298-2207.

MassDEP on the World Wide Web: <http://www.mass.gov/dep>

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In closing, I emphasize that a decision to expedite the scheduling of an adjudicatory hearing does not imply any prejudgment of the substantive issues raised by the appeal. Similarly, a finding that a project provides a substantial public interest for purposes of the Expedite Policy does not suggest any lessening of the Department's mandate to protect the interests of the Wetlands Protection Act.

Sincerely,

Pamela D. Harvey

Pamela D. Harvey
Counsel to the Commissioner

Cc: Philip Weinberg
Ann Lowery
Kurt Trampusch