

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

_____)	Docket # 2007-085
IN THE MATTER OF)	DEP File #322-0661
WAYLAND BOOSTERS)	Wayland High School Turf
ASSOCIATION)	Replacement, 264 Old
_____)	Connecticut Path, Wayland

MOTION OF TOWN OF WAYLAND TO INTERVENE

The Town of Wayland ("Wayland" or the "Town"), whose Town Office is located at 41 Cochituate Road, Wayland, Massachusetts 01778, hereby moves to intervene in *The Matter of Wayland Boosters Association*, Docket # 2007-085, DEP File # 322-0661, pursuant to 310 C.M.R. 1.01(7). This matter involves an appeal of a Superseding Order of Conditions issued by the Massachusetts Department of Environmental Protection (the "Department") on May 17, 2007 (the "SOC"), with respect to a proposed turf replacement project (the "Project") at the athletic field located at Wayland High School, on property owned by the Town. Wayland has financial and proprietary interests at stake in this matter, and it seeks to represent the public interest as expressed in numerous votes in favor of this Project by Wayland boards and commissions. Further, Wayland's schools and athletic programs will be affected by the outcome and timing of this adjudicatory proceeding. Wayland has a unique, all-encompassing role with respect to completion of the Project: balancing the Town'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. The outcome and timing of

this appeal will affect this balance, and thus the Town's substantial and specific interests in this case are clear. Wayland should be permitted to intervene in this adjudicatory proceeding in order to advocate its position that the SOC be upheld and to move to expedite the appeal.

BACKGROUND FACTS

The Project's aim is to provide a synthetic turf surface that would increase dramatically the period during which athletic teams of the Wayland public schools and others could engage in recreational activities there. Seventy percent of the planned \$1 million cost of the Project has come from private donations. It is 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. Each of the petitioners in this appeal challenged the issuance of that Order of Conditions, and the SOC was issued after the Department considered that appeal and after the Project was modified to accommodate the key concern identified by the appellants of the Order of Conditions. This appeal threatens to delay completion of the Project until after the athletic season begins on September 1, 2007, and creates a significant risk that much of the private funding for the Project will be rescinded as a result.

ARGUMENT

A non-party is permitted to intervene in an adjudicatory hearing under the authority of the Department when it is "substantially and specifically affected by the adjudicatory proceeding." 10 CMR 1.01(7)(d). In order for a non-party to intervene in such an adjudicatory proceeding, that party must file a motion explaining: 1) why intervention or participation should be allowed; 2) the relief sought; 3) the law in support of intervention and of the relief sought; and 4) the effect of the adjudicatory proceeding on whomever is making the motion. 310 CMR 1.01(7)(b).

Here, the intervention of Wayland into this proceeding should be permitted under the applicable law because Wayland will be "substantially and specifically affected by the proceeding" 10 CMR 1.01(7)(d), as it has financial, public and proprietary interests in the efficient and environmentally sound completion of the Project. Wayland owns the property at issue in this case, and bears the burden of coordinating the financial and logistical aspects of completing the Project, including dealing with any complications that may arise if the Project is not completed in a timely manner.

The benefits of the Project are clear, but they are at risk if this appeal is not handled expeditiously. Constructing a turf field to replace the current natural grass field will dramatically increase access to viable outdoor space. The new turf field is expected to be playable for 272 days during the calendar year, as opposed to the current 62. It will be available to the high school's football, field hockey, soccer, and lacrosse teams, as well as to youth and adult sports leagues. The turf field will also relieve the burden currently placed on the surrounding athletic fields. The adjudicatory hearing, to the extent it will impact the timing and cost of the Project, will impact Wayland's available community outdoor space during the upcoming school year, and may ultimately require Wayland to make alternative and costly arrangements in order to keep the Town's high school athletic program running as planned. Significantly, Wayland may lose a substantial amount of the \$1,000,000.00 in private donations that have been promised for the construction of the turf field if the field is not built by September 1, 2007.

Given the importance for expeditious review of this appeal, the Town seeks to intervene in order to Move to Expedite under 310 C.M.R 1.01(6)(i) and DEP Policy No. COM-00.002. Moreover, the Town seeks to advocate that the SOC should be upheld, as the appeal on its face is

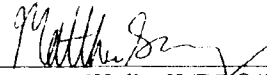
based solely on impermissible speculation, and the Project and SOC protect the Town's drinking water supply and wetland resource areas.

CONCLUSION

For the foregoing reasons, Wayland should be permitted to intervene in this adjudicatory proceeding, pursuant to 310 C.M.R. 1.01(7), to be heard on its Motion to Expedite and to advocate that the SOC should be upheld.

Respectfully submitted,
TOWN OF WAYLAND

By its attorneys,



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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 19, 2007.



Matthew P. Garvey