



TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

FREDERIC E. TURKINGTON JR.
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

BOARD OF SELECTMEN

JOHN BLADON
EDWARD J. COLLINS
STEVEN J. CORREIA
DOUGLAS J. LEARD
JOSEPH F. NOLAN

Board of Selectmen Meeting Minutes July 18, 2012

Attendance: John Bladon, Edward Collins, Douglas Leard, Joseph Nolan
Also Present: Town Administrator Fred Turkington

Chair J. Bladon called the meeting of the Board of Selectmen to order at 6:31 p.m. in the Large Hearing Room and reviewed the agenda for the public. He announced that the meeting is being broadcast and videotaped for later broadcast by WayCAM.

A2. Public Comment There was no public comment.

A3. Review and Approve Consent Calendar J. Nolan moved, seconded by D. Leard., to approve the consent calendar. YEA: J. Bladon, E. Collins, D. Leard, J. Nolan. NAY: none. ABSENT: S. Correia. ABSTAIN: none. Adopted 4-0.

A4. Review Correspondence The Board reviewed the week's correspondence. E. Collins asked about the timetable for appointing the Finance Committee members. F. Turkington responded that Carol Martin was the sole additional applicant after applications were held open through July 3. She will be interviewed on August 1, 2012, and considered with Kate Moore, who interviewed on June 18, 2012. J. Nolan and J. Bladon asked about the legal opinion relative to the access road for the proposed DPW facility. F. Turkington explained it was requested by the Permanent Municipal Building Committee after continuing questions from one resident challenging the legality based on 1978 Annual Town Meeting vote.

A5. Update on NStar's Mitigation Plan for Transmission Lines Adjacent to Oak Hill Road and Meadow View Road Annemarie Walsh (Community Relations) and William Hayes (Senior Arborist) appeared on behalf of NStar. J. Bladon reviewed the plan for the discussion of this item. He said F. Turkington would provide an overview of the issues and NStar would provide a response. Then the Board of Selectmen would pose questions, open the floor to comments from chairs of town boards, state legislators and Wayland Wells, and take questions and comments from residents.

F. Turkington reviewed issues of concern to Wayland boards and residents, including potential future erosion; potential impact on Meadowview wellhead; future application of herbicides; and commitment to reasonable and consistent mitigation for individual properties impacted by the tree removal beneath electric transmission lines in a 250' right of way. He noted that chairs of town boards with more expertise in each general area would provide more specific comments.

NStar officials declined to make an opening statement and elected to respond to questions and comments.

E. Collins asked a series of questions determining whether proper notifications were made to all town officials and whether copies of relevant plans and documents had been provided. W. Hayes responded that

the vegetation management plan which governs planned work in the right of way 8-2 which runs along Route 20 had been provided with timely notice. He said that no town boards commented and the Department of Agricultural Resources approved the plan prior to implementation. The work under the transmission lines in right of way 8-1 in the Oak Hill and Meadow View Road neighborhood was properly noticed and no plan is required for cutting. Trees do not fall under the hazardous tree statute. J. Nolan expressed disappointment that NStar had not done more from a business model to communicate and compensate residents negatively impacted by work which was legally performed. W. Hayes responded that individual meetings with residents would begin on July 26, and that stump grinding and other activities would begin in August, while compatible plantings contracted from Weston Nurseries would occur in the fall appropriate to species. D. Leard asked whether a copy of the contract with vendors hired to cut trees could be provided. W. Hayes said it was a company document and would not be disclosed, although he could provide the specifications he wrote for the work that formed the scope of work. D. Leard asked about erosion control measures, and W. Hayes responded that no preventative work was planned and that NStar would respond if concern was realized. J. Bladon asked about the use of herbicides. W. Hayes responded that Massachusetts General Laws Chapter 132B regulates the application of pesticides and herbicides, and state regulations prohibit use within 50' of private wells. As company policy, NStar does not use chemicals within 400' of a public water supply, despite regulations which allow certain applications within varying distances.

Mike Lowery, Chair of the Board of Public Works, reviewed the capture zones which delineate the conical area from the well to the intersection of the ground surface in which water drains to the well compared to the 400' zone 1 restriction. He asked NStar to pledge to not use chemicals within the capture zone. Tom Klem, Chair of the Board of Health, urged NStar to delay the application of herbicides until town officials can evaluate the designation by DEP of "environmentally sensitive areas" in which such activities would be prohibited. He asked NStar to consider appearing before a hearing with the Board of Health called to discuss future applications of pesticides and herbicides. Tom Sciacca, representing Wayland Wells.com, reviewed photographs showing concerns of the group: 1) loss of natural vegetative protection around Meadowview wellhead; 2) dripping of fluids from heavy equipment within zone 1 and capture zone; and 3) use of heavy equipment in sensitive areas. He requested that NStar voluntarily pay for soil testing to confirm no impact to the well from fluids from heavy equipment, and to test to determine the well wasn't damaged by heavy equipment used near the well. He asked for erosion controls and vegetation to stabilize sloped areas.

William Quinn, 19 Meadowview Road, questioned why NStar didn't have a budget for mitigation and asked what assurances could be provided that necessary and promised work would be completed. He urged NStar to generously determine "landscaped areas" within which mitigation would be provided. Tom Gulley, 20 Meadowview Road, urged NStar against using herbicide in future years within the easement on the property of homeowners. He also noted a contractor had felled trees in landscaped areas and lawns were damaged. He said repairs should be offered as part of mitigation.

Deborah Dyson Diaz, 22 Oak Hill Road, questioned whether an access road might be constructed in the future. W. Hayes responded that company practice has been to create narrow driveways proximate to structures to facilitate maintenance, but to date, the company has no plans to construct access in the neighborhood. He assured residents that such roads crossed the easement at the point needed, not built to follow the path of the easement. D. Diaz questioned a list of compatible trees and heights provided without a letterhead indicating the source. He responded that the list was his own and reflected general guidelines. Variances based on topography and distance between ground and wires would occur. He further commented that the merger with Northeast Utilities will result over a one-to-two year period and will include internal

assessments of best practices with regard to variances in rules governing height and location of trees beneath transmission lines.

Kim Reichelt, 11 Coolidge Road, commented on work promised but not finished on Rich Valley Circle in 2006 in right of way 8-1. She asked whether cutting was contemplated in 8-1. W. Hayes responded that 8-1 is narrower than most rights of way, so every two years, trimming occurs to maintain the corridor. Herbicides will be applied this fall by target spray from backpack applicators. J. Nolan asked whether a local ordinance requiring lengthier notification periods could be enacted. W. Hayes responded that he believed state law in this area pre-empted local ordinances that might be contemplated to restrict herbicide application, but didn't know about the notification provisions.

Andrew Munton, 12 Oak Hill Road, asked whether NStar had a variable policy with regard to chemical applications in neighborhoods versus open areas. W. Hayes responded that chemicals used did not vary, but application techniques employed would change based on the proximity to landscaped areas and in consultation with property owners.

E. Collins asked whether right of way 8-2 was an easement or some other legal form of interest, given the dual use by MBTA and predecessor railroads.

Allen Dines, 32 Oak Hill Road, asked by what authority does NStar or its contractors remove trees which could be sold for timber or wanted by residents for firewood or chips for landscaping. W. Hayes responded that easement language allows for clearing without further compensation to the grantor of the easement.

Linda Segal, 9 Aqueduct Road, complained about possible defects in the legal notice of herbicide application in right of way 8-1, noting that it was printed on July 18 and references a window for work to occur that begins on July 16.

Kurt Tramposh, 2 Weir Meadow Path, reviewed potential toxicity issues from herbicides approved for use by DEP, citing scientific studies and bans in European countries. He urged the area towns to work together to ban the use of herbicides.

Scott Machanic, 26 Meadowview Road, urged NStar to recognize a request to coordinate individual property mitigation meetings with either himself or Rob Noa, as they have been designated by the neighborhood association to represent interests. He asked NStar officials to recognize the broader ecological impacts of tree cutting and to consider the input of the residents in deciding mitigation, recognizing it is a neighborhood.

J. Bladon concluded the discussion. He thanked NStar officials for their patience and reminded them of commitments. He noted that the Board of Selectmen intends to continue the discussion in the future based on performance in improved communication and delivery of mitigation measures.

A7. Review of Appraisals for Sale of Town-owned Land and Approval of Method of Sale

F. Turkington reviewed the appraisals of town-owned land and the process and considerations used. All four properties were valued below \$25K, thereby allowing the Town Administrator to negotiate directly with abutters who had expressed interest. J. Nolan moved, seconded by E. Collins, that the Board of Selectmen authorize the Town Administrator to negotiate the sale of 4 and 8 Sycamore Road, 52 Hawthorne Road, and 26 Lakeshore Drive with interested parties using the appraised value as the minimum purchase price, subject

to a competitive process for 4 and 8 Sycamore Road if more than one party remains interested. YEA: J. Bladon, E. Collins, D. Leard, J. Nolan. NAY: none. ABSENT: S. Correia. ABSTAIN: none. Adopted 4-0.

A6. Police Chief to Discuss Proposed Rules and Regulations for Dealers of Second-hand Jewelry

Police Chief Bob Irving presented proposed regulations for second-hand jewelry dealers. He noted that Town Code 126-1 permits the Board to adopt regulations which will help curtail potential fencing of stolen gold and precious metals. F. Turkington reviewed the recommendation of Town Counsel to license the facilities and suggested an annual fee of \$100. J. Nolan suggested that the department conduct compliance checks similar to liquor licenses. J. Nolan moved, seconded by D. Leard, to adopt the proposed rules as modified by Town Counsel and the addition of a \$100 annual license fee. YEA: J. Bladon, E. Collins, D. Leard, J. Nolan. NAY: none. ABSENT: S. Correia. ABSTAIN: none. Adopted 4-0.

A8. Report of the Town Administrator F. Turkington reviewed upcoming agenda topics and meeting schedules.

A9. Selectmen's Reports and Concerns E. Collins said that he persisted in questioning the notice provisions to proper town officials because of the potential to expose NStar to liability for its actions. He thanked WaylandWells.com for helping the Board understand the more complex issues in which citizens are knowledgeable. J. Nolan asked the Board to consider challenging the legal notice validity for chemical application in right of way 8-2. D. Leard asked when the Board would receive an update from the Town Center Green Design Advisory Committee; F. Turkington replied either August 1 or 20. D. Leard asked to whom the new financial analyst will report and whether the Board should review the résumés and interview candidates for new financial analyst position. F. Turkington responded that the position will report to the Town Administrator, and that it isn't a department director-level appointment in which the Board customarily participates. J. Nolan questioned the wisdom of the suggestion, noting the defined role of the Town Administrator and the Board in hiring staff. D. Leard and E. Collins felt the public interest in the budget and the Board's role in submitting a budget for most town departments warrant participation. F. Turkington agreed to review the idea and consider having a Selectman participate on an interview panel. D. Leard asked F. Turkington to follow up with the DPW Director regarding his question from a prior meeting on the planting of trees at North Cemetery.

A10. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any

J. Bladon said there were no additional agenda items unanticipated at the time the agenda was prepared, and no other business to come before the Board.

A11. Adjourn There being no further business before the Board, D. Leard moved, seconded by J. Nolan, to adjourn the meeting of the Board of Selectmen at 10:00 p.m. YEA: J. Bladon, E. Collins, D. Leard, J. Nolan. NAY: none. ABSENT: S. Correia. ABSTAIN: none. Adopted 4-0.

Items Included as Part of Agenda Packet for Discussion During the July 18, 2012 Board of Selectmen's Meeting

1. Information related to tree removal by NStar beneath electric transmission lines in Oak Hill and Meadow View Road neighborhood (memorandum dated July 12, 2012 from Board of Health and legal opinion from Town Counsel dated July 14, 2012; letter dated June 18, 2012 from Paul Church, 38 Oak Hill Road, regarding health concerns related to application of herbicide; email dated June 29, 2012 from Wayland

Wells; legislation adopted by the Massachusetts House on June 27, 2012 relative to regulatory power of Department of Public Utility over vegetation management plans; and letter from NStar to Framingham officials dated July 3, 2012 regarding mitigation plans).

2. Memorandum dated July 13, 2012 from Police Chief Robert Irving with proposed rules and regulations governing second-hand jewelry sales.
3. Appraisals prepared by Ken McDonough on town-owned land at 4 and 8 Sycamore Road; 26 Lakeshore Drive; and 52 Hawthorne Road.

Items Distributed For Use by the Board of Selectmen at the July 18, 2012 Meeting

1. Email dated July 18, 2012 from Michael Lowery, Lakeshore Drive, clarifying that his submission of comments had not yet been discussed or approved by the Board of Public Works and were his personal remarks.
2. Email dated July 17, 2012 from Board of Health relative to pesticide regulations and enforceability.
3. Email dated July 18, 2012 from NStar to Town Administrator regarding application of pesticides in right-of-way.
4. Proposed revisions to rules and regulations for second-hand jewelry dealers as suggested by Town Counsel Mark Lanza.