

**TOWN OF WELLESLEY
NATURAL RESOURCES COMMISSION
MEETING MINUTES
June 9, 2014, 7:30 PM
NRC Office, Lower Level, Town Hall**

Attending: Heidi Gross, Chair, Stephen Murphy, Vice Chair, Joan Gaughan, Lise Olney, Raina McManus, Janet Hartke Bowser, NRC Director.

Guests: Erin Reilly, Linee Salamer, Tatiana Chinitz, Scarlet Randall, Marlin Roakq, Peter Blair, Tom Harrington, incoming Town Counsel / Miyares and Harrington, LLP, Lucy Kapples, Advisory Committee Liaison to NRC

Public Voice

No one attending the meeting spoke at Public Voice.

Introduction of Tom Harrington from Miyares and Harrington, LLP, Wellesley's New Town Counsel and Discussion Regarding the Massachusetts Open Meeting Law

Documents reviewed for this discussion:

- "Open Meeting Law Guide, MGL, Ch. 30A, prepared by the Office of Attorney General Martha Coakley, dated August 1, 2013."
- "Procedure for Convening an Executive Session prepared by the law firm of Miyares and Harrington, LLP."

Mr. Tom Harrington of Miyares and Harrington introduced himself as Wellesley's new Town Counsel and attended the meeting to review issues related to the Open Meeting Law. Mr. Harrington reviewed with the board the basic requirements and regulations under the Open Meeting Law with regard to deliberations among public officials and the restrictions as to what can be discussed outside of a public meeting. Mr. Harrington stressed that the goal of the Open Meeting Law is transparency not convenience.

The NRC had questions as to how they can communicate under the law. Mr. Harrington stated that the Open Meeting Law requires that all meetings of a public body be conducted in open session, unless an executive session is properly convened. He noted that the Open Meeting Law defines "meeting" to mean a "deliberation by a public body with respect to any matter within the body's jurisdiction," and that "deliberation" is defined as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body." A quorum is a simple majority of the members of the public body. Thus, any deliberation between members constituting a quorum of the NRC must be conducted during a noticed meeting. The NRC Board is comprised of five members; therefore, two members may discuss a matter outside a public meeting without violating the Open Meeting Law.

Mr. Harrington further advised that Board members engaging in serial communications whereby a quorum communicates in a non-contemporaneous manner outside a meeting violates the Open Meeting Law. Accordingly, members should not use a series of independent conversations to avoid the public meeting requirements.

NRC members had questions as to what types of information are allowed to be emailed and distributed to all members. Mr. Harrington stated that only minor administrative matters such as sending out an agenda, sending out a draft set of minutes, or sending out a report, all of which would be reviewed at a publicly noticed meeting is allowed. However, he stated that all emails between board members are considered public emails and subject to the Open Meeting Law and even the act of forwarding a message that may contain an opinion, a comment, or

anything that could be construed as a “discussion” leading to a decision is not allowed as an email message or through verbal exchanges in person or by phone.

The specific question came up as to whether a site visit by an NRC subcommittee would be allowed under the Open Meeting Law and whether two members of the subcommittee could deliberate during the visit. Mr. Harrington responded that under the Open Meeting Law, an on-site inspection of a project or program is not considered a “meeting,” so long as the members do not deliberate. Thus, the subcommittee would not be required to notice the meeting as long as the members do not discuss matters within the committee’s jurisdiction during the visit. He further clarified that the same rules apply to NRC subcommittees as apply to the NRC Board. Thus, if two members of a subcommittee would constitute a quorum, the Open Meeting Law would proscribe them from deliberating outside a noticed meeting on matters pertinent to the subcommittee.

Mr. Harrington stressed that the goal of the Open Meeting Law is full transparency of all discussions and decisions of an elected board, which should only occur at a public meeting. Mr. Harrington also stated there should be no votes on any item under the Board’s jurisdiction unless it has been listed as an agenda item and the agenda has been posted with the Town Clerk 48 hours in advance of the meeting, excluding Saturdays, Sundays, and legal holidays. Mr. Harrington reviewed with the NRC the procedures for convening an executive session and model motions for convening an executive session under the Open Meeting Law. Mr. Harrington stated that the agenda for an executive session, like an open session, must be posted 48 hours in advance.

Mr. Harrington stated that he would like to come back at a later time to discuss the Conflict of Interest and Ethics Laws with the Board. He stated that the NRC members should feel free to contact him for any advice or feedback.

New Business/Continuing Business/Liaison Reports

Update Re: Outdoor Lighting and Noise Study Committee

Ms. McManus stated that as the NRC’s representative to this committee, she has attended the first two meetings and that the group is in the process of identifying what the problem is and drafting the Committee’s mission statement and goals. She stated that Planning Department Director, Michael Zehner, is currently interviewing stake holders. She noted that there are over forty cities or towns that have noise ordinances and that in Acton, the local green group has established a “good neighbor lighting agreement.”

Update Re: Wellesley College’s Sale of North 40 Open Space

Ms. Gross updated the Board on the status of the North 40 Steering Committee and stated that the committee has decided to hire a consultant to prepare a visioning study to help the Town explore potential municipal uses for the property. Ms. Gross indicated that she has informed the committee that the NRC’s primary interest in the land is preserving it as open space.

Director’s Report

Hunnewell Athletic Field Basketball Courts Restoration Project Schedule

Ms. Bowser stated that the project is currently in the final design phase and that the DPW will be doing the majority of the work, which is scheduled to begin in late July. Ms. Bowser will keep the NRC updated on the status of the project.

Update on Seaver Street Land Gift/Open Space Acquisition and Donor Recognition

Ms. Bowser stated the memorial plaque acknowledging this open space gift has been received and she will work with Mike Quinn from the DPW to choose an appropriate boulder and location for acknowledging this gift.

Update on Morses Pond Comprehensive Management Program

Ms. Bowser updated the NRC on the status of the management program including the phosphorus inactivation system operation, weed harvesting, the plant inventory and the assessment of the pond's phosphorus level.

Update on Wellesley Green Collaborative

Ms. Bowser stated that the Wellesley Green collaborative meeting on June 4th a number of issues were discussed and that Ms. Olney and Ms. McManus attended the meeting as well.

Update on NRC June 9th Program and Film on Reduction of Plastics and Related Legislation

Ms. Bowser stated that there was a good turnout for the NRC's continuing environmental film series and that this afternoon's film entitled "Bag It" was well attended and that State Representative Alice Peisch attended the meeting to discuss related State legislation on reducing plastic bags. Ms. Bowser stated that after the meeting a number of members from the Wellesley Green Collaborative and residents discussed an interest in initiating an effort in Wellesley to eliminate the use of plastic bags in town and there was an agreement that a meeting would be scheduled over the summer to further discuss this issue.

Update on State's Conditional Approval of NRC's Open Space and Recreation Plan

Ms. Bowser stated the NRC has received conditional approval from the Executive Office of Energy and Environmental Affairs for its Open Space and Recreation Plan. Ms. Bowser stated that Melissa Cryan, who is the State Open Space and Conservation grant's manager, indicated in a recent letter distributed to all NRC members, that the plan has been conditionally approved through April 2019. Ms. Cryan indicated that conditional approval will allow the Town to participate in the Division of Conservation Services Grant Rounds through April 2019 and a grant award may be offered to the Town. Ms. Cryan indicated that no final grant payments would be received until the draft plan is completed and that a number of items need to be addressed before the Town receives final approval.

Next Scheduled NRC Meeting

The next NRC meeting is scheduled for July 15 at 7:30 p.m. in the NRC Office at Town Hall.

Review and Approval of NRC Meeting Minutes

After a motion was made and seconded, the NRC voted 5-0 to approve the NRC meeting minutes from March 18, 2014, April 17, 2014, May 10, 2014, and May 20, 2014.

Adjournment

After a motion was made and seconded, the NRC voted 5-0 to adjourn the meeting.

The meeting adjourned at 10:30 PM.

Respectfully submitted,

Janet Hartke Bowser

Janet Hartke Bowser
NRC Director