

**COMMITTEE ON LIAISON
SEPTEMBER 10, 2018 at 6:04 p.m.
COMMITTEE ROOM
WOBURN CITY HALL**

Voting Members present: President Richard Haggerty, Alderman Michael Anderson, Alderman Michael Concannon, Alderman Richard Gately, Alderman Joanne Campbell, Alderman Edward Tedesco, Alderman Lindsay Higgins, and Alderman Mark Gaffney; Late: Alderman Darlene Mercer-Bruen

Also present: City Solicitor Ellen Callahan Doucette; Attorneys J. Raymond Miyares and Bryan Bertram, Miyares and Harrington LLC, 40 Grove Street, Wellesley, MA.

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Notice of appeal to Energy Facilities Siting Board by NStar Electric Company dba Eversource Energy of denial of petition for grant of right in a way in Lake Avenue, Pickering Street, Border Street, Cross Street, Washington Street and Montvale Avenue: Motion made by Alderman Higgins and seconded by Alderman Tedesco to convene in executive session under MGL Ch. 30A, Section 21.3, for the purposes of discussing pending litigation. Roll call vote as follows: Alderman Anderson – aye; Alderman Campbell – aye; Alderman Concannon – aye; Alderman Gaffney – aye; Alderman Gately – aye; Alderman Higgins – aye; Alderman Mercer-Bruen – aye; Alderman Tedesco – aye; President Haggerty – aye. All in favor; 9-0. Attorney Miyares said the Energy Facilities Siting Board has issued a procedural schedule. Motion made by Alderman Concannon and seconded by Alderman Tedesco to receive a make part of the permanent record a document from the Commonwealth of Massachusetts Energy Facilities Siting Board entitled “Procedural Schedule” dated September 5, 2018; approved, 8-0. Attorney Miyares said the procedural schedule includes some dates that are before September 5, 2018, when the document was written. He said the parties are required to issue information requests by September 18, 2018. He said responses are due to the EFSB by September 26. He said questions he has received from the siting board mostly ask how a grant of location is defined and how does one go about appealing it. He said the siting board has asked for a copy of a grant of location that was ever denied by the council. He said the board wants to know if the findings the council made would also apply to a street opening permit. He said the board wants all copies of correspondence between the city and Eversource. He said the board will ask about appeals of street opening permits and recent details of street opening applications. He said it is his understanding that no street opening permit has ever been denied as long as Jay Duran has been the superintendent of public works. He said his firm will be preparing responses to that. Alderman Gately said the city has denied street opening permits. City Solicitor Callahan Doucette said Jay Duran has no memory of ever denying a street opening permit. Alderman Gately said the instances he is referring to happened before Supt. Duran was hired. Alderman Concannon asked what the outcome was. Alderman Gately said the applicant had to change contractors. Attorney Bertram said the EFSB is interested in recent denials. Alderman Gately said the most recent denial of a street opening permit was in 2000. Attorney Miyares said the ESFB is seeking evidence that Eversource was treated differently than anyone else. Alderman Mercer-Bruen arrived at 6:12 p.m. Alderman Concannon asked if there is any significant distinction between a street opening permit and a grant of location. Attorney Miyares said a grant

of location is like is like an easement and a street opening permit is a permit to dig a hole. Attorney Miyares said the process for putting together requests is moving forward. He said Attorney Bertram has an appointment to meet with Supt. Duran on Wednesday to go through all his documentation. He said there are currently 14 areas to report on the request for informational requests. He said if there are any additional areas from the council, they should be submitted to City Solicitor Callahan Doucette, and she will send them to Miyares-Harrington. He said he expects the informational requests will be turned into questions. He said his firm will gather all the requests and file them by the September 18 deadline. He said he cannot promise every question submitted by the council will be asked. He said one of the reasons for omitting some questions may be out of reticence to step on the hearing officer's judicial notice. He said the council's position will be Eversource came before the council with inadequate information. He said he will try to show Eversource's goal all along was go to the siting board to get the council's decision overridden. He said this is called a *de novo* proceeding. Alderman Concannon said one of the council's fears is the impact on existing infrastructure. He said Eversource asked who will determine what the impact will be. He said he hoped it is the city's decision. Alderman Concannon said Eversource's response was that the company it will work out. He said Eversource did not give the council confidence it would be done right. Alderman Anderson added Eversource gave the council no assurances that if something went wrong, it would be corrected. Alderman Concannon said he needed to hear from Eversource that it would do whatever Supt. Duran or City Engineer Jay Corey wanted. Attorney Miyares said Eversource's usual response is any problems will be worked out until the city is satisfied. He said he will try to find out why Woburn got short-shrifted. He said the only explanation is Eversource knew that it was going to end up before the EFSB and wanted to get past the local hearing process quickly. Alderman Campbell said Eversource felt confident after speaking to the mayor that the petition was going to get right through. Alderman Higgins said she did not share that opinion. Attorney Miyares said if Eversource felt like the petition was going to be approved based on its interaction with the mayor, then Eversource would have been more solicitous. He said in towns where Eversource has been on excellent terms with the administration, the company's usual behavior is "We'll do anything." President Haggerty asked if that mentality exists within Eversource. Attorney Miyares cited a recent instance in West Roxbury when Eversource gave the city of Boston everything it wanted. City Solicitor Callahan Doucette said City Engineer Corey and Mayor Galvin had no assurances Eversource was going to the right thing. Alderman Higgins said no one in the city has received assurances or answers to their concerns. Attorney Miyares said it is unusual for Eversource to come in so unprepared. Alderman Gately said Eversource officials were like a bunch of kids in a sandbox. He said Eversource had nothing to offer the council. He said it would have been absurd to approve the application that Eversource submitted. Alderman Concannon asked about suggesting conditions and said he assumes Attorney Miyares and his team will have something ready to go in case the EFSB approves Eversource's appeal. He said one of the conditions he will suggest is the city maintaining final approval or it doesn't get done. Alderman Gately said he expects the city of Woburn will be able to inspect the work. Attorney Miyares said he assumes the council will want inspections done by someone of its own choosing and paid for by Eversource. Alderman Mercer-Bruen asked if the EFSB will accept input from the public. Attorney Miyares said the only information that will be considered is submitted by the parties. Alderman Mercer-Bruen said she was asked by her constituents what they can do to help. She asked if the council should be talking about conditions tonight. Attorney Miyares said the responses are due on September 26, and if the council has any suggestions to send them to

City Solicitor Callahan Doucette. Alderman Mercer-Bruen said EMF testing is something that comes to mind. Attorney Miyares said his team is working on a condition to that effect. President Haggerty said two conditions the council should seek are more depth to the lines and curb-to-curb paving of any roads that are disturbed. City Solicitor Callahan Doucette asked Attorney Miyares what the last date is for submission of questions from council members. Attorney Miyares said any correspondence should be submitted by the end of this week. City Solicitor Callahan Doucette said she could collate the questions into one document and send it to Miyares-Harrington. President Haggerty suggested any council members who want to ask a question or make a suggestion should do by the end of the day on Thursday. President Haggerty asked if there are any updates on any of the other appeals involving neighboring communities. Attorney Bertram said a decision Eversource's appeal in Winchester will likely be put off until the adjudicatory proceeding in Woburn is over. Attorney Miyares said his guess is the appeals will be consolidated. Attorney Miyares said the final decision will be issued by the EFSB on January 29, 2019, and the Supreme Judicial Court briefing will be after that.

285 Locust Street LLC vs. Michael Anderson, et al: City Solicitor Callahan Doucette said there is no update on the case. She said she is waiting for a call from opposing counsel. Motion made by Alderman Tedesco and seconded by Alderman Higgins to exit executive session: Roll call vote as follows: Alderman Anderson – aye; Alderman Campbell – aye; Alderman Concannon – aye; Alderman Gaffney – aye; Alderman Gately – aye; Alderman Higgins – aye; Alderman Mercer-Bruen – aye; Alderman Tedesco – aye; President Haggerty – aye. All in favor; 9-0. President Haggerty said there was no action taken in executive session.

Motion made by Alderman Tedesco and seconded by Alderman Concannon to adjourn; approved, 9-0. President Haggerty adjourned the meeting at 6:39 p.m.

Attest: _____

Gordon Vincent
Clerk of Committees

Minutes released by the City Council on March 5, 2019