Rowe Planning Board
Public Hearing
June 18, 2008

Present: Chairman David Roberson, Ann Foshay, Joann Brown, Ellynn Packard
Jim Taylor, Tree Warden; Jesse Dobbs, National Grid Contract Arborist
Absent: Robert Dykeman

Chairman Roberson called the meeting to order at 7:09 p.m. for the purpose of holding a consolidated Tree Hearing held pursuant to MGL c.87 p3 and MGL c.40 p15C. He presented a fact sheet prepared by the Commonwealth of Massachusetts, Department of Environmental Management, Urban and Community Forestry Program on the topic of "Protecting Our Community Trees". The information states that "No public shade tree may be cut, trimmed or removed from along a designated scenic road, for the purposes of road repair, maintenance, reconstruction or paving work, without the prior written consent of the Planning Board after a public hearing."

Objection was made by Mr. Dobbs on behalf of National Grid that Ch. 87 applies only to paving and construction but Mr. Roberson countered that in a number of towns including Sudbury applicability has been held to apply to trimming trees along utility lines as well.

Mr. Dobbs presented a map of Rowe showing which roads have utility rights-of-way in need of trimming and stated that this is an every five years' event, and does not include any trees larger than 9 inches in diameter. Ms. Foshay stated that in her opinion his indication of "9" inches was actually larger. He said he believed he had a pretty good idea of the diameter of trees. In any event, he said all trees larger and deemed a danger to the power lines were removed in a process done last year.

Mr. Roberson commented that if the Planning Board does not approve the trimming, which was already begun and then halted at the request of the Planning Board by the Tree Warden, National Grid can appeal to the Board of Selectmen.

Mr. Dobbs said that the proposed cutting was 6 feet in all directions from the base of the utility pole, 10 feet above the primary power line in forested areas and 15 feet above the primary power line in residential areas. Also, he said cutting would be done in accordance with a nationally recognized standard for pruning set by an arborist society.

In a discussion of the organization of the National Grids' contractors for tree pruning, Mr. Dobbs said that he is based in Worcester and has 5 teams including Asplundh tree workers who refer to him in case of a dispute or uncertainty regarding cutting certain trees. Mr. Roberson said that trees should be either trimmed or removed, not topped and left standing. Ms. Foshay mentioned that a tree on Mr. Dykeman's property was left standing topped until he complained and insisted that the tree be removed. There was a consensus that the trees be trimmed or removed and not topped and left standing. Asplundh charges National Grid more for tree removal when the trunk is more than 9 inches in diameter, because that is the largest size that will fit into their chipper.

In a discussion of pruning Mr. Dobbs mentioned that small trees are pruned away from the power poles and lines and that in the case of the larger trees a "V" prune is made through the center of the tree.

Ms. Packard suggested that the purpose of the hearing was not to prevent the National Grid from pruning but rather to insist that tree work in town be done in accordance with state law; that is, that a hearing must be held by the Planning Board in which the work to be done is outlined. In the past that had not been done in Rowe, as no one seemed to know that it was required. She suggested that a letter be sent by the Planning Board to the Tree Warden, the National Grid and the Board of Selectmen explaining the Board's request that all parties concerned comply in the future.

Ms. Packard also reiterated to Mr. Dobbs that her concern was that eyesores be removed, but not healthy trees.

Mr. Dobbs said that several dead trees will be removed, but that no major removals are anticipated.

Mr. Roberson said that the work so far done on Pond Road looks okay, and asked how long the work is estimated to go on in Rowe. Mr. Dobbs replied that it's hard to tell, but guessed six to eight weeks.

Mr. Roberson moved that the Tree Warden be requested to be the liaison with the tree crews, and that the pruning work be approved. The motion was seconded and carried unanimously.

The meeting adjourned at 8:11 p.m.

Respectfully submitted,

Ellynn B. Packard

Ellynn B. Packard, Secretary

David Roberson _____

Joann Brown Joann Brown

Ann Foshay Angela Foshay

Urban and Community Forestry Program

FACT SHEET

PROTECTING OUR COMMUNITY TREES
Massachusetts' General Laws Governing Public Shade Trees

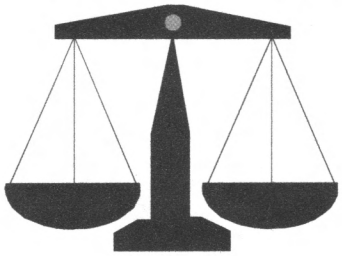
In Massachusetts, we are lucky to have state laws that govern and protect our public roadside trees. The best way to learn about these laws is too read them in full. You can do this by visiting your local library, or the Massachusetts State web site at http://www.state.ma.us/legis.laws.htm. This Fact Sheet attempts to summarize these laws.

Which Laws Govern Public Trees in Massachusetts?

- Massachusetts General Law, Chapter 87 is the most important law governing public shade trees. It outlines the powers of the Tree Warden, procedures for removing shade trees, procedures for planting public trees, and penalties for violating provisions of the law.
- Massachusetts General Law, Chapter 40, Section 15C augments Chapter 87 with additional requirements concerning the removal of trees on Scenic Roads.
- Some communities also have additional local ordinances governing the protection of both public and private community trees. For example, Lexington recently passed an ordinance, which provides protection to trees during construction, and Springfield has a law, which provides protection for all trees over 36 inches in diameter.

What are the Key Elements of Chapter 87?

- All trees within the public way are defined as public shade trees.
- The Tree Warden is responsible for the care, control, protection and maintenance of all public shade trees, except those within a state highway, and shall enforce all the provisions of law for the preservation of such trees.



- No other person may plant, trim, cut or remove a public shade tree without permission of the Tree Warden.
- No person, including the Tree Warden, may cut, trim or remove any tree, greater than one and one half inches in diameter, without a public hearing.

Commonwealth of Massachusetts
Department of Environmental Management
Urban and Community Forestry Program
251 Causeway Street, 6th Floor
Boston, MA 02114-1250
Tel: 617 626-1250
www.mass.gov/dem/programs

- Public notice of such a hearing must be posted, at least seven days prior to the hearing, on the trees in question, in two or more public places in town, and in a newspaper of general circulation for the town in each of two successive weeks.
- The Tree Warden shall not cut or remove a public shade tree if, at or before the public hearing, objection is made in writing by one or more persons, unless such cutting or removal is approved by the selectmen or by the mayor.
- Any person injured in his property by the trimming, cutting, removal or retention of any such tree may recover the damages, if any, from the town under Chapter 79.
- **Finally,** nothing contained in chapter 87 shall prevent the trimming, cutting or removal of any tree which endangers persons traveling on a highway, or the removal of any tree, if so ordered by the proper officers, for the purpose of widening the highway.

What if a Tree is Located on a Designated Scenic Road?

- No public shade tree may be cut, trimmed or removed from along a designated scenic road, for the purposes of road repair, maintenance, reconstruction or paving work, without the prior written consent of the Planning Board after a public hearing.
- The public hearing regarding the cutting or removal of trees along scenic roads shall be consolidated into a single public hearing before the Tree Warden and the Planning Board, and notice of such consolidated public hearing shall be given by the Tree Warden as provided for in Chapter 87.

What if a Tree is Located on a Numbered State Highway?

- The Massachusetts Department of Highways shall have the care and control of all trees within state highways, and may trim, cut or remove such trees.
- No public hearing is required.

What Should a Citizen do if He or She Feels these Laws are Not being Enforced?

- First contact your Tree Warden to discuss the issue with him or her and make sure that he or she is aware of the issues involved and these regulations.
- You may also want to share this Fact Sheet with the Tree Warden, Select Board, Planning Board or other town officials.
- Please also contact us if we can be of assistance in any way regarding community trees or forests.
- Finally, consider advocating for the creation of a Tree and Forest Committee in your community. Many communities have found that such committees can work effectively with their Tree Wardens to improve the management, maintenance and public support for community trees and forests.

For More Information and Assistance Regarding Community Trees and Forests, Please Contact:

- Eric Seaborn, Acting Program Coordinator, 617-626-1468, eric.seaborn@state.ma.us
- Jane Calvin, Community Action Forester, Eastern Mass, 617-626-1456
- Paul Jahnige, Community Action Forester, Western and Central Mass, 413-577-2966
- www.state.ma.us/dem/programs/forestry/urban/index.htm

AGENDA

Consolidated Tree Hearing
Rowe Planning Board
Rowe Tree Warden
18 June 2008
10:00 a.m.

Call to order at: 7:09

Members present:

Audience: J. Brown, E. Packard, A. Foshay, D. Roberson
Jim Taylor, Jesse Dotts from Nat'l Grid

- Consolidated Tree Hearing held pursuant to MGL c.87 §3 and MGL c.40 §15C and Rowe By-law Article VII § 10 concerning a request by National Grid to conduct tree trimming on Scenic Roads in the Town of Rowe.
- Supporting documents:
  - By-laws of the Massachusetts towns of Sudbury, Barnstable, Sutton, *et al.*
  - Commonwealth of Massachusetts Department of Environmental Management fact sheet: "Protecting Our Community Trees"
- Action by Planning Board not required, however the Board may choose to act
- Board may approve, conditionally approve, or deny request.
- If there is a written objection, the Selectmen must also approve the request
- Description of proposed work by National Grid representatives
- Discussion
- Action:

- Public Hearing adjourned at: 8:11 p.m.

nationalgrid

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