

Harvard Board of Health Meeting Minutes Tuesday, June 13, 2017 Town Hall

Board Members present: Libby Levison; Sharon McCarthy, Chair; Tom Philippou.

Attending: Lih Shim Young, owner of 8 Willow Dr.; Irene Congdon, Department of Environmental Protection (“DEP”) and Tessa Davis, Mass Toss; Bruce Ringwall, GPR, Inc.; Tim Kilhart, Department of Public Works (“DPW”) Director; Mark Lanza, Town Counsel; Laura Villain, The Harvard Press.

Ms. McCarthy called meeting to order at 2:02 p.m.

PUBLIC COMMENT- None.

NEW BUSINESS-

a. Meetings with citizens/companies/town staff

- *Irene Congdon from DEP and Tessa Davis from Mass Toss*

Ms. Congdon is the Regional Coordinator of DEP for 75 towns. Tessa Davis, of MassToss, is available to advise Harvard on the DEP grants. Ms. Congdon explained that they have been working with the DPW to implement the SMART program which consists of equipment given out & the allocation of Recycling Dividend Points (“RDP”). DPW has had success already earning RDP through the program. Mr. Kilhart reported he used 2016 RDP to cover the Take-It or Leave-It Table at the Transfer Station, with tarps purchased with funds from RDP which will allow for items to remain from week to week, until there is no longer room. Because the Take it or Leave it is now permanent, DPW will earn additional RDP points.

Ms. Congdon also explained that Harvard can earn 2 RDP, the equivalent of approximately \$700.00, for updating the Board of Health (“BoH”) waste hauler regulations. Ms. Congdon explained that the Municipal Waste Ban Compliance Regulations, which addresses commercial and residential waste, cannot be enforced by DEP in Harvard because Harvard has not adopted the regulations. She also explained that Harvard could earn additional RDP if the adopted waste hauler regulation was then enforced.

Ms. Davis and Mr. Kilhart explained that they are currently working on getting the hauling and tipping contracts for the transfer station in-sync.

The group also discussed researching the feasibility of Harvard’s Transfer Station changing to a Pay-As-You-Throw (“PAYT”) system. Ms. Congdon indicated 160 communities in the Commonwealth have such programs, and examples of different programs and fee schedules were given. Ms. Congdon indicated it

takes about one year to get the program going and that DEP can provide an implementation protocol. Ms. Congdon suggested that a committee be formed if we would like to pursue PAYT. She suggested the committee be made up of a Finance Committee member, a BoH member, a DPW member, a community champion for the program, and an early naysayer. Mr. Philippou suggested that someone from the Council on Aging might also be a good choice.

The group discussed that PAYT must cover two sets of costs: the Transfer Station operating costs, as well as the tipping costs for the trash and recycling. Because of this, in many towns with a PAYT program the residents pay for a permit allowing entry to the Transfer Station, which covers the operational costs, and then pay for each bag. Ms. Davis suggested that most small towns are charging \$50-\$80 for the entry permit in addition to the fees for bags.

It was discussed that a change to PAYT will allow for an increase in recycling and a decrease in trash, which decreases overall cost.

- *(3:00) Attorney Mark Lanza, Town Counsel: Responses to Open Meeting Law (“OML”) Complaint and Public Records Request*

Attorney Lanza explained that Mr. Dolan’s OML Complaint wrongly assumes that the probation plan was formulated during the Executive Session. He confirmed that it was developed between Ms. McCarthy and Attorney Lanza in subsequent communication and that there were no communications among the quorum. Attorney Lanza advised that the BoH reject the Complaint because there was no violation and therefore no remedial action. Attorney Lanza stated that he suspects the Complainant will then ask for further action. The Attorney General would likely then contact Attorney Lanza to ask what happened, and with the Attorney General’s assurance that he will not divulge the information contained within the Executive Session Minutes, Attorney Lanza will provide him with a copy of the same.

The draft Response to the OML Complaint prepared by Attorney Lanza was reviewed and revised by the BoH members. A motion was made to accept the revisions and approve the letter for finalization. A roll call vote was taken: Sharon McCarthy, aye; Libby Levison, aye; and Tom Philippou, aye.

The draft Response to the Public Records Request prepared by Attorney Lanza was reviewed by the BoH members and no revisions were necessary. A motion was made to accept the revisions and approve the letter for finalization. A roll call vote was taken: Sharon McCarthy, aye; Libby Levison, aye; and Tom Philippou, aye.

b. Invoice from Guardian- Ms. McCarthy indicated that she would look in to the invoice and find out what action is needed.

c. Update from Health Agent and BoH clerk

Mr. Grossman reported that he inspected the conditions related to a resident complaint of a cat and subsequent air freshener odor at Foxglove Apartments. He was advised by management that there are

two cats that have caused issues. Mr. Grossman inspected the apartment where the first cat resides and it was immaculate. The resident indicated that the cat was elderly and might need to be euthanized in the near future. Mr. Grossman reported that management indicated the other cat in question becomes a problem only when it slips out the door of the apartment and urinates in the hallway. Management then addresses the issue by cleaning the hallway and placing air fresheners in the hallway. Mr. Grossman indicated that management agreed to remove the air fresheners from the hallway.

Clerk, Alison Flynn, reported that DPH has asked for an Arbovirus Coordinator. It was decided that Mr. Philippou would be designated Arbovirus Coordinator, with Ms. Flynn as a back-up contact.

Ms. Flynn reported that the BoH received a FY2016 4th quarter invoice from the Nashoba Associated Boards of Health (“NABH”). Ms. McCarthy moved to pay the invoice. Roll call vote: McCarthy – aye; Levison – aye; and Philippou – aye.

Ms. Flynn reported receipt of a FY2018 1st quarter invoice from NABH, a 2018 membership fee invoice from MA Associated Boards of Health, and a FY2018 invoice from Minuteman Senior Services. Ms. Levison moved to pay the invoices. Roll call vote: McCarthy – aye; Levison – aye; and Philippou – aye.

Mr. Grossman drafted a letter to the owners of 42 Blanchard Rd. regarding their Building Application and Plans for their proposed addition. Revisions were made and Mr. Philippou moved to accept the letter as revised. A roll call vote was taken: Sharon McCarthy, aye; Libby Levison, aye; and Tom Philippou, aye.

OLD BUSINESS-

a. 8 Willow Rd., homeowner, Lih Shim Young

Mr. Young presented photos on his iPad, and explained that he forgot to mention before that he had left his sprinkler on prior to the inspection.

Mr. Grossman explained that on inspection there was water weeping out higher than the septic field, and when he dug down at the leaching field clean ground water on clean stone was observed. Mr. Grossman indicated that the system placed in the high groundwater table is a fail.

Mr. Grossman indicated that the test results must demonstrate how they correlate with the house, d-box, and leaching field, and that the test hole needs to be dug on the upper elevation. Mr. Grossman marked the upper elevation area on the drawing contained on the soil report of 5/17/17 and gave the same to Mr. Young to illustrate the area he is referencing.

It was further asked of Mr. Young to obtain a drawing from the engineers which would correlate the soil test with the elevations. Mr. Grossman and Ms. Levison indicated Mr. Young’s engineers can contact Mr. Grossman if they have any questions regarding what is needed.

Mr. Young indicated that he will be traveling, and Ms. Levison offered that if the engineers provide the plan while he is traveling, the BoH will discuss the issue at the subsequent meeting regardless of whether he will be able to attend.

b. BoH activities/goals 2017- Tabled.

c. Tobacco 21: discuss next steps- Tabled.

d. 34 Peninsula: Discuss comments to ZBA – Mr. Ringwall appeared to hear the BoH’s discussion. Mr. Grossman’s draft comments were discussed and revisions were made.

Mr. Grossman indicated that a Certificate of Compliance cannot be issued at this point because it was not acted upon 2 years ago and is now expired. Mr. Philippou moved that the BoH rule in accordance with Mr. Grossman’s advisement that no Certificate of Compliance within 2 years requires a new permit. Ms. Levison seconded. A roll call vote was taken: Sharon McCarthy, aye; Libby Levison, abstained; and Tom Philippou, aye.

Mr. Grossman pointed out that the permit was for an upgrade of a seasonal home and where this is virtually new construction, he felt it should be brought up to Title 5. He indicated where a local upgrade approval can be considered for a hardship, there is no hardship in this situation. Ms. McCarthy moved to require a new Title 5; Mr. Philippou seconded. A roll call vote was taken: Sharon McCarthy, aye; Libby Levison, aye; and Tom Philippou, aye.

Mr. Philippou made a motion to accept and draft a letter with all revisions included. Roll call vote: McCarthy--aye; Philippou—aye, Levison—aye.

e. 37 Pine Ridge Rd./Still River Realty Trust: Discuss documenting deed restriction- Attorney Lanza indicated that the needs to receive authority from Town Administrator, Tim Bragan, to advise the BoH regarding recording a deed restriction for 37 Pine Ridge, and would seek to obtain the same that night.

f. 58 Blanchard Rd.: Update- Tabled.

g. Article IV: Update- The amended Article IV has been posted to the Town Hall bulletin board. Ms. Flynn will contact Janet Vallente to request that it be posted on eCode360.

h. Environmental forum report- Ms. Levison and Mr. Philippou reported that the forum was a success, and provided Ms. McCarthy of the hand-out that the BoH provided.

i. BOH Website- Tabled.

j. Discussion of Tick Issues- Tabled.

k. Review Action Points- Tabled.

I. Desk coverage- Ms. Flynn confirmed that she is comfortable handling desk coverage without the presence of the BoH members. It was agreed that she will not hesitate to contact the BoH members or Mr. Grossman will questions.

PERMITS- Septic system permits were signed for:

- 140 Bolton Rd.
- 22 Ann Lees
- 18 Cove Rd.
- 126 West Bare Hill Rd.
- 8 Willow Rd.
- 27 Shaker Rd., Lot 5.

APPROVAL OF MINUTES- Revisions were made to the draft Open Meeting Minutes of 4/25/17 and the Executive Session of 4/25/17. Mr. Philippou moved to accept both sets as revised, and Ms. Levison seconded. Roll call vote: McCarthy—aye; Levison—aye; Philippou—aye. The members decided to postpone the review of the Minutes of 5/2/17, 5/9/17, and 5/23/17 for another meeting.

ADJOURNMENT- Ms. McCarthy moved to adjourn at 5:13; Ms. Levison seconded. Roll call vote: McCarthy—aye; Levison—aye; Philippou—aye.

Documents Referenced: Draft comments to the ZBA re 34 Peninsula Rd.; Devens Regional Household Hazardous Products Collection Center brochure, North Central Regional Solid Waste Cooperative Membership information sheet, MA DEP Best Practices for Municipalities Developing Private Hauler Regulations, draft letter responsive to Attorney Parra’s Public Record Request, draft letter responsive to ABC’s OML complaint, draft Open Session and Executive Session minutes of 4/25/17.

**Respectfully submitted,
Alison Flynn, Clerk**