

Harvard Board of Health Retreat Minutes
Zoom Meeting
February 7, 2022
Approved: February 14, 2022

Board of Health Members present: Libby Levison, Chair; Sharon McCarthy; Christopher Mitchell.

Others Attending: Alison Flynn, Board of Health (BOH) Administrative Assistant; Ira Grossman, Health Agent, Nashoba Associated Boards of Health; Dan Wolfe, David E. Ross Associates.

Ms. Levison called the meeting to order at 11:01 a.m. Ms. Flynn read aloud an abbreviated remote meeting preamble.

Ms. Levison thanked the group for agreeing to meet for a retreat. She stated the intent of the retreat is to consider where they would like to be as a Board, and how the BOH can move to be more proactive vs. reactive.

Ms. Flynn asked Ms. Levison if there would be time to consider Mr. Ryan's e-mailed request for a BOH point-person for questions concerning the Hazard Mitigation Plan. Ms. Levison indicated this would need to be discussed at the February 14th meeting.

PUBLIC COMMENT- Mr. Wolfe indicated that he was joining the retreat so that he can better inform his clients the direction of where the BOH is going.

NEW BUSINESS

a. Discuss meeting administration

Ms. McCarthy suggested meetings should be two hours in length; Mr. Mitchell stated they should be up to two hours in length. Ms. McCarthy suggested there is time wasted in meetings by discussing things not pertinent to a decision at hand. Ms. Levison suggested times be assigned to each discussion; the Members agreed. Mr. Grossman stated that the way the permits are reviewed is fine, and he will work with Ms. Flynn on assigning times for permitting issues that are out of the ordinary. He suggested that any issue which has opposition should be allowed up to 30 minutes. The BOH Members agreed that the last ten minutes of a meeting should be reserved for permit issuance and minutes review.

Ms. Flynn advised that she asks engineers or applicants to provide documents in support of a requested agenda item a few hours before she is due to approve the agenda with the Chair; this is usually on a Wednesday or Thursday morning depending on the meeting schedule. She confirmed that this allows all preparation materials, except for the septic permits and any documents that the BOH Members work on over the weekend, to be attached to her meeting preparation e-mail which is sent out to the Members on the Wednesday or Thursday prior to the meeting. Ms. McCarthy suggested that Ms. Flynn color or flag any thorny issues in the preparation e-mail so that the members can pay particular attention to these materials. Mr. Mitchell suggested that if documents on the more complex matters are e-mailed on the Wednesday or Thursday prior to the meeting, the BOH Members should be able to review them prior to the meeting. Mr. Grossman stated the Members are welcome to text him over the weekend with any questions. Ms. Levison asked that he copy all the members on his replies so they can all benefit from his explanations.

Ms. Levison suggested that, whenever possible, the BOH prepare drafts of any documents anticipated to be approved during the meeting, e.g. the most recent mask mandate. Ms. McCarthy noted that this can be difficult, as no one wants to spend time drafting a document that won't be considered. Ms. Levison agreed.

b. Discuss what BoH can do to better protect the environment and public health

Mr. Mitchell stated that at minimum the BOH can enforce the state and local regulations. Ms. Levison noted limited bandwidth in addressing all issues plus COVID-19, PFAS, algal blooms, and EEE. Ms. Levison asked whether the BOH should invest time to review the files to ensure the compliance of tight tanks and Innovative and Alternative (I/A) systems in Town. Mr. Mitchell stated that the BOH has rules, requirements, and expectations but is not currently doing a lot to ensure compliance. Mr. Grossman agreed that compliance has been the lowest priority during this high volume of work. He stated that the Codes establish that the homeowner is responsible for compliance, but it's up to the BOH or Health Agent to choose to be more reactive or proactive. Mr. Grossman stated he will review the files this month to identify and notify property owners with tight tanks who do not appear to be compliant with the required inspections, but it will require a lot of administrative work.

Mr. Grossman suggested, as a proactive task, the Board revisit the draft seasonal conversion guidance document again. He also suggested that the BOH can also consider adding a requirement to tight tank permits that the alarm must be visible from the street. Mr. Grossman also noted that failure to submit required I/A system inspections is likely the most common violation.

Ms. Levison asked whether the BOH is doing enough around the Pond. Mr. Grossman suggested it would be a good idea to redistribute septic maintenance brochures, including guidance on keeping septic fields clear of trees and shrub. Ms. McCarthy suggested the BOH could work with the Pond Committee to reach out to homeowners on the Pond.

Ms. McCarthy advised that the Climate Initiative Committee is formulating a Climate Action Plan which establishes goals and specific action items with designated responsibility to different groups in Town. She stated that she sees an overlap of interest that the BOH may have with both Emergency Services and Conservation Commission on Climate Resiliency. Ms. McCarthy suggested advocacy for vector control is a primary activity that she would like to see the BOH to continue and amplify. Ms. Levison stated that she fears that vectors will change enough in the coming years that Harvard might need to consider other steps like larval control. Ms. McCarthy stated the Climate Action Plan will ask what are the goals and how are you going to measure how you accomplish your goals. Ms. Levison asked for time to think about the topic. Ms. McCarthy offered to prepare examples of the scope in preparation for the next discussion on the topic. Mr. Mitchell noted that there are a lot of moving pieces, and the BOH will have to continue to go back to the BOH charter which states that the BOH priority is to mitigate impact on human health.

c. Discuss Board position on granting variances

Mr. Grossman stated that the Groton BOH does not generally issue variances for new construction if they do not meet local regulations, and noted that Groton's rules are much more restrictive. Mr. Mitchell voiced concern that more restriction could lead to an argument that the BOH caused a lot with value to become undevelopable. Mr. Grossman stated that has not yet observed this happening in Groton, but is not advocating for the Harvard BOH to take such a stance. Mr. Wolfe expressed his concern that the BOH would move in a similar direction. He

stated that the more regulations a Town has, the more difficult it makes his job to design a plan which meets each Board's requirements. Mr. Mitchell stated he believes there has to be a variance process to meet unusual circumstances and appreciates that the engineers are also looking for relief in another protective way. Further, he indicated that if the variance is a request that is pushing the lot to build a larger home than the lot can handle, he'd likely push back. Ms. Levison stated that you have to look at each separately, but generally new construction is treated differently than failing system, and the ability to be more flexible based on acreage is also considered. Mr. Grossman confirmed that a proposed I/A plan has to show there is room for installation of a conventional system.

Ms. Levison stated that it bothers her that there is no way to ensure use of a home consistent with a bedroom deed restriction. Mr. Mitchell stated that as homeowners are using their homes for more purposes, the BOH has to be flexible in allowing rooms that may look like bedrooms but aren't used for that purpose. He indicated that use of bedroom deed restrictions allows the BOH to do so. Mr. Grossman stated this conversation will help him advise engineers and applicants how the BOH might decide. He stated that from the conversation he understands that the BOH is open to consider bedroom deed restrictions, with Mr. Mitchell and Ms. McCarthy more likely to approve, and Ms. Levison more hesitant. Further, Mr. Grossman stated that he is taking away that variances requests are fair game, but the BOH will be less likely to approve if the applicant has not first explored other options.

Mr. Grossman advised that deed notices can be used to note drinking water exceedances and the need for treatment equipment, bedroom deed restrictions, tight tanks, and I/A for remedial use. He stated that some towns require notice on a deed of any local variance, but he does not recommend the BOH do so.

A five-minute break was taken.

e. Discuss strategies to deal with increasing number of complex issues

Ms. Levison expressed concern with her BOH workload, and shared that she has considered resigning. Mr. Mitchell suggested the BOH Members delegate tasks by considering each member's strengths.

Mr. Grossman stated that all but two of the NABH Boards are 3-member boards and does not see any gain by having five members. Ms. McCarthy stated the BOH needs to prioritize issues at hand and triage. Mr. Mitchell agreed that emergency issues have a priority, but we also have to acknowledge day to day tasks.

Ms. Flynn noted that the waste hauler regulation could be updated to reflect current allowances which would cut back on compliance follow-up. Ms. Levison agreed to contact Ms. Congdon for support in revising the waste hauler regulation. Mr. Mitchell advised that the haulers should be aware that they are being regulated and it is because of the BOH's good will that their application is still being considered. Mr. Grossman stated that if a waste hauler is operating without a permit, the BOH will need an enforcement action if we want them to stop. Ms. Flynn agreed to review the regulation to suggest revisions consistent with the BOH's permitting expectations. Ms. Levison suggested the BOH consider a surcharge for a late or incomplete application. Mr. Mitchell agreed that a review is needed to ensure the permitting requirements are relevant, meeting our objectives, and clear on our permitting timeline.

f. Discuss how members can support Alison & BoH operations

Ms. Levison noted that she added draft notices with the algae protocol to cut down on work that will need to be prepared by Ms. Flynn and board members in the future, and asked what other things could be done to support her. Ms. Flynn noted that there are various tasks involving the mail and filing which can only be done by her, and suggested she could step back from tasks such as outreach which do not require her direct involvement. Ms. Levison asked the group to consider applying for a MDPH summer intern. She indicated that the program places students in local boards of health for 16 hours/week for 10 weeks. Ms. Flynn expressed concern that her workload would not allow oversight of an intern. Mr. Mitchell asked that Ms. Levison brainstorm potential projects for the intern for future discussion.

g. Discuss how to increase flow of communication with Town

Ms. Levison stated that she is unaware if Town Hall has developed a policy regarding posting to NextDoor as they have discussed. She stated that when she posts to NextDoor she always references the BOH website and closes the conversation after posting.

h. Next steps

The group discussed next steps and assigned priority consistent with the following table:

Activity	Timeframe	Expected difficulty	Lead
Seasonal conversions	Short	Easy	IG
Trash hauler regulations	Short	Easy	AF, LL
Hours for Clerk	Medium	Difficult	CM, LL
Prioritize topics	Ongoing	Easy	All
Highlight, brief sticky issues	Ongoing	Easy	AF, IG
Compliance to regs: septic, wells, water quality	Medium	Medium	IG, all
Climate change	Short	Easy	SM
Other (to be discussed)			

Ms. Levison stated that she will reach out to Ms. Congdon to see if she can attend a meeting to discuss the waste hauler regulation. The group agreed that in order to address compliance they will first need to understand which items need follow-up. Mr. Grossman stated he will work with Ms. Flynn to create a list, but expected this to include I/A systems, wells, long sewer lines, tight tanks, and Title 5 Inspections. Ms. Levison stated that she and Mr. Mitchell continue to work on seeing what can be done to get Ms. Flynn more hours. Ms. McCarthy stated the BOH should continue to focus on the woods and not the trees. The BOH Members agreed that in prioritizing issues, they may not always be able to fit variance requests on an agenda.

Ms. Levison stated that as the group did not get to talk about communication with other groups in Town, the members should all think about how to best let other groups know what the BOH is working on.

ADJOURNMENT- Ms. Levison adjourned the meeting at 1:00 p.m.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Agenda