

Harvard Board of Health Meeting Minutes
Zoom Meeting
Tuesday, August 11, 2020
Approved: August 25, 2020

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

Attending (including but not limited to): Ira Grossman, Health Agent, Nashoba Associated Boards of Health ("NABH"); Lily Robinson, The Harvard Press; Tony Svarczkopf, homeowner, 16A South Shaker Road; Andrea Juchartz, 252 Stow Road resident.

Ms. McCarthy called the meeting to order at approximately 7:00 p.m., and read aloud the Remote Meeting Preamble.

PUBLIC COMMENT

Ms. Robinson asked about the BOH's involvement in the response to the porta-potty which was thrown into the Pond at the Town Beach. Mr. Grossman said he was informed of the incident via e-mail which was sent to his office address over the weekend, and read by him on Monday, but was also contacted over the weekend by Ms. Levison who learned of the incident via social media. He stated that Bob O'Shea, Harbor Master, and the Fire Department responded to the Beach and assessed that it was not a hazardous waste situation. Mr. Grossman stated that he collected a water sample to test for coliform bacteria at the Pond on the Tuesday following the incident, and the results are expected within 24 hours; he does not expect that they will exceed allowances. Ms. Levison noted for attendees that the emergency, after-hours number for the Board of Health, c/o NABH, is posted to the BOH website in red and can be used to reach Mr. Grossman urgently in the future.

Ms. Juchartz requested that the BOH develop a protocol to notify residents when the Town receives notification that the State will conduct aerial spraying of any area of Harvard to control mosquitoes. She asked that this protocol advise all residents, not just those living in the area of spraying. Ms. McCarthy asked that the BOH members reserve discussion of this request until they reach the agenda item, as noticed, under Old Business.

NEW BUSINESS

a. 16A South Shaker Road: Noncompliance with Title 5 & Water quality analyses requirement at the time of property sale- Mr. Grossman advised that the BOH has had several communications with new homeowner, Mr. Svarczkopf, informing him that the method used to collect and analyze water samples for sale are not in compliance with the local private well regulations regarding transfer of property. In addition the Title 5 Inspection report submitted was not complete and was not submitted within 30 days as required by Title 5. Mr. Svarczkopf stated that he and his wife have been making good faith efforts to comply with the regulations, and asked the BOH members to consider the submitted reports as complete. He indicated that while the Title 5 Inspection Report which he initially submitted to the BOH after closing was not signed and did not include a sketch, he now has a complete copy in his possession. Mr. Grossman expressed concern that the original report submitted was not complete and was not submitted to the BOH within 30 days as required by Title 5. He further stated that it was concerning that when he reached out directly to the inspector, he received no response; Ms. Levison agreed. The BOH Members asked that Mr. Svarczkopf provide the complete inspection

report to Mr. Grossman for review for compliance; he agreed. Mr. Grossman will also contact the inspector to remind him that complete reports must be filed within 30 days with the approving authority.

Regarding the water quality results, Mr. Svarczkopf explained he initially used a home inspector to sample for water quality analyses which did not include gross alpha. After the BOH informed him that the home inspector was not preapproved and not all analyses were performed pursuant to the well regulations, Mr. Svarczkopf explained that he hired ERT to sample and perform the analyses.,, The new analysis initially excluded the required radon and gross alpha tests; he subsequently samples for gross alpha have been collected and he is waiting results. Mr. Grossman advised that Ms. Flynn was in contact with Mr. Svarczkopf prior to the purchase of the property and directed him to the private well regulation guidance for sale of homes. He explained that the two submissions do not meet the regulation in that neither report was provided to the BOH 30 days prior to the purchase of the property, the initial sample was not pulled by an approved sampler, gross alpha has not been provided to date, and the disclaimer on ETR's report which indicates that not all analyses are not performed in compliance with DEP standards is not accepted by the BOH. The BOH members asked Mr. Svarczkopf to consider allowing Mr. Grossman to collect a sample for radon and gross alpha analysis by Nashoba Analytical, a DEP certified lab which will perform the analysis compliant with DEP standards; Mr. Svarczkopf indicated he will discuss the request with his wife and advise the BOH. Alternatively, Mr. Mitchell suggested, Mr. Svarczkopf could request ETR to retest at the lab's expense with a disclaimer that accurately describes the methods used. Ms. Levison asked that Ms. Flynn send a letter to the selling broker reminding her of the private well regulation requiring submittal of compliant results. Mr. Svarczkopf agreed to e-mail the BOH with their decision regarding resampling.

Ms. McCarthy assured Mr. Svarczkopf that there is nothing unique about the purchased property that necessitated the day's discussions, but is really about compliance with the regulations put in place to ensure public health and provide transparency that is not always afforded to buyers in the purchase of a home.

b. SafeWell: Consideration of request for extension of SafeWell's waiver for sampling of private wells in anticipation of property sales- The BOH considered SafeWell's request for an extension of the six-month waiver approved on February 11, 2020, for an additional six months , effective today, allowing SafeWell to sample private wells for water quality testing in anticipation of home sales. Mr. Grossman reminded the BOH that the prior waiver was conditioned on SafeWell's agreement to advise Harvard clients of the submittal requirement. Mr Grossman expressed concerns that until recently the BOH was not receiving reports from SafeWell clients. Mr. Gaffney stated that Harvard clients were orally advised of the submittal requirements, but offered to obtain permission to submit the results directly to the BOH in the future. The BOH members stated that would be appreciated. Mr. Mitchell made a motion to grant another six-month waiver, and if at that point, all submittal procedures are in place and working smoothly, consider a one-year waiver; Ms. Levison seconded. All were in favor by roll call vote.

c. Consider procedure for approving non-contested bedroom deed restrictions and restrictive covenant for water treatment- The BOH considered whether non-contested bedroom deed restrictions and restrictive covenant for water treatment must be approved and signed by the BOH. Mr. Grossman advised that bedroom deed restrictions require an approval action by the BOH, and thus need the approval, but not necessarily the signature of the BOH, but that restrictive covenant are required and do not need the approval or signature of the BOH. The

BOH members agreed. Ms. Levison expressed concern that bedroom deed restrictions might be recorded without BOH approval. It was decided that the sample restrictive covenant form on the website will be revised to exclude the signature of the BOH members but the sample bedroom deed restriction will be revised to require the signature of one Board of Health Member.

d. Consider support to private schools in reopening- Ms. Levison asked whether the BOH should consider reaching out to the private schools to offer support. Mr. Mitchell and Ms. McCarthy stated that they do not think this is necessary as DESE has provided guidelines for reopening.

e. Consider messaging support from BU School of Public Health regarding PFAS- Ms. Levison reported that she received correspondence from Wendy Heiger-Bernays of the Boston University School of Public Health requesting updated PFAS testing data for her graduate students who are preparing outreach materials. Ms. Levison was unclear why the students need the data to create outreach materials, and will contact MS Heiger-Bernays to discuss. .

f. Update from School Reopening Task Force- Ms. McCarthy reported that she and Mr. Mitchell provided comments to the Schools on the reopening plan.

g. Update from recent DPH COVID-19 Conference Calls- Mr. Mitchell advised that Friday's conference call referred the group to the Governor's briefing announcing the held back advancing in Phase III. Ms. McCarthy stated that a map has been posted which Governor Baker referenced for support of back-to-school metrics.

h. Update from the Emergency Response Team (ERT)- Ms. Levison stated no update is needed as the ERT has not met since the last BOH meeting.

i. Health Agent Update- Mr. Grossman indicated he has no updates other than those covered under other agenda items.

M. Levison advised that she spoke with MaryJude Pigsley at the Worcester DEP office regarding the status of the PFAS MCL. Ms. Pigsley advised that they are hoping to have the MCL finalized by the end of the year. Ms. Levison also shared with Ms. Pigsley the advice received from Town Counsel against releasing the addresses of PFAS testing. She also shared the MA Association of Conservation Commissions' letter to the Joint Commission on Public Health which references PFAS used in some pesticide disbursal agents and asked Ms Pigsley if she had any information on this; Ms Pigsley did not.

OLD BUSINESS

a. Carlson Orchards' Public Water Supply: Continued discussion regarding current approval for use and activities- Mr. Grossman advised that Governor Baker has endorsed the document necessary for DEP's approval of Carlson Orchards' Public Water Supply.

b. COVID-19: Continued response, preparedness, messaging, and enforcement of the Governor's Orders and MA guidelines- Ms. McCarthy reported that she received confirmation from Ron O'Connor at DPH that Fruitlands' Thursday picnic concerts will be limited to 50 people including staff, and advised Fruitlands of the same. Ms. Levison confirmed that recent

DPH updates regarding public and private gatherings were sent to Tim Bragan, and the Police and Fire Chiefs.

c. Transfer Station Committee : Response from Select Board regarding request for clarification on the duties and composition, and possible appointment of new Board of Health representative(s)- Ms. McCarthy volunteered to contact Mr. Sklar regarding status of this request.

d. Update on final "Consider This" article regarding arbovirus mitigation- Ms. McCarthy stated she was contacted by a neighbor who supported the BOH's position, and asked whether the BOH has the authority to regulate spraying on private property. Mr. Grossman advised he does not believe this is possible, unless the action is deemed a nuisance, but will look into the issue further.

e. Status of recommendation for testing of the Ryan Land well for PFAS- Ms. McCarthy advised that Ms. Flynn requested sampling by the Army and Ms. Reddy quickly responded that they would do so.

f. Arbovirus mitigation: Continued discussion regarding the MA 2020 Arbovirus Surveillance and Mitigation Plan, consideration of possible town-wide EEE awareness Mailing, updates to the BOH website, and mosquito insecticide aerial spraying notification to residents, and review of updates to the BOH EEE Information Sheet- The members discussed Ms. Juchartz request to consider a protocol for reverse notification of aerial spraying. Ms. Levison stated that the BOH requested such notification last year, but it did not occur. Ms. McCarthy volunteered to look in to the process of requesting and processing a reverse-911 notification to be discussed further at the next meeting. The members advised Ms. Juchartz that a back-up community notification might be also needed, and suggested concerned residents watch the news for announcements and note whether the risk maps show an increase in incidence which would precipitate aerial spraying.

g. Discuss drought status, messaging, and use of irrigation- Mr. Mitchell reported that the risk map referenced on the BOH website has not been updated by the State since July, and asked the members whether another resource should be referenced. He will work to identify another source.

h. Review Action Items- Action items reviewed.

MINUTES- Ms. Levison made a motion to postpone approval of the minutes until a meeting when Ms. Flynn is present; Mr. Mitchell seconded. All were in favor by roll call vote.

ITEMS FOR NEXT AGENDA- Ms. Levison requested that the next agenda include an item discussing adding PFAS testing requirements to the private wells regulation.

ADJOURNMENT- Ms. Levison made the motion to adjourn at 8:43 p.m.; Mr. Mitchell seconded. All members were in favor by roll call vote.

Respectfully submitted,

Alison Flynn, Clerk

Documents Referenced:

- Agenda