

Harvard Board of Health Meeting Minutes
Tuesday, April 25, 2017
Town Hall

Board Members present: Tom Philippou; Libby Levison; Sharon McCarthy, Chair
Attending: Ira Grossman, Nashoba Associated Boards of Health; Richard Dolan, ABC; Jason Gauthier, Curtis Septic; Steven Calichman, Consultant to Mr. Dolan; Louis Levine, Esq.; Karen Goldenberg, McCarthy Reporting Service; Mark Lanza, Harvard MA Town Counsel.

Ms. McCarthy called meeting to order at 7:03 p.m.

PUBLIC COMMENT

None.

NEW BUSINESS

- a. Alison Flynn, the new clerk, was introduced.
- b. Meetings with citizens /companies
 - 7:20. Mr. Dolan, Mr. Levine. Discussion regarding BoH cease and desist order issued to ABC Cesspool.

Mr. Levine stated he is representing ABC/Mr. Dolan, and not Mr. Gauthier (former employee and licensed Title 5 inspector at ABC Cesspool). Mr. Levine spoke for an extended time in defense of his client. His main points were related to notification of ABC regarding inaccuracies or errors in Title 5 inspection reports and claimed lack of notification of ABC Cesspool by BOH of the 1/24/17 meeting.

Mr. Grossman stated there have been several communications about the reported shortcomings with ABC. These communications were via email and/or letters to the homeowner with ABC Cesspool copied.

Mr. Dolan noted he was in Florida for the winter. He stated he flew back to Massachusetts for the March 14, 2017 meeting. [This meeting was cancelled due to a snowstorm.] Mr. Dolan stated he found no problems with Mr. Gauthier's Title 5 reports under discussion.

Mr. Philippou indicated that the intention of the Board was to get to the bottom of the errors in the report because of a lack of response by ABC.

Mr. Dolan acknowledged his fault in installing a D-box without a permit.

Mr. Dolan indicated he would like the opportunity to resume work while the BOH considers a decision.

Mr. Philippou expressed concern that Mr. Dolan did not appear to feel responsible as the business owner for the actions of the licensed inspector.

Mr. Dolan stated he understood his responsibility.

Mr. Levine offered that ABC will provide a prompt response letter if the BOH addresses a letter of concern to ABC. Mr. Levine asked that Mr. Dolan be allowed to work in Harvard in the interim while the BOH makes a final decision.

Mr. Lanza stated the Board would go into executive session. Mr. Levine challenged the Board's right to go into executive session.

Atty. Lanza advised how to go into Executive Session in anticipation of potential litigation.

Ms. Levison moved that the Board to go into executive session to discuss potential litigation. Ms. McCarthy stated that the public discussion of the matter would have a detrimental effect on the litigating position of the Board. Roll call vote: McCarthy – aye; Levison – aye; and Philippou – aye. Ms. McCarthy stated the open meeting is projected to resume at approximately 8:55pm. Ms. McCarthy invited Ira Grossman, Nashoba Associated Boards of Health, Town Counsel Mark Lanza and Board Clerk Alison Flynn to attend the executive session.

OPEN SESSION RESUMED

Ms. McCarthy stated that the Board of Health will schedule an additional meeting before the next regularly scheduled meeting to discuss the ABC Cesspool matter. The meeting will be posted 48 hours in advance. Ms. McCarthy stated this meeting will only be discuss ABC Cesspool and will not discuss Mr. Gauthier.

Scheduling constraints for this meeting were discussed.

- c. Tobacco 21, to discuss Harvard joining initiative- TABLE
- d. BoH activities/goals 2017- TABLE

- e. Respond to memo from Town Planner regarding Master Plan recommendations- It was discussed that the Conservation Commission (ConCom) is responsible for the deer population and the BOH is responsible for the diseases for which the deer are a vector. Ms. McCarthy moved to accept that position; Mr. Philippou seconded. Roll call vote: McCarthy – aye; Levison – aye; and Philippou – aye.
- f. Update from Health Agent and BoH clerk. Ms. Levison advised that she took a call from Mr. Ed Rumsey who plans to open a massage therapy business on Ayer Road. Ms. Levison responded that he needs to talk to the Zoning Enforcement Office and that the BOH does not require licensing for massage therapy practices.

Ms. Levison advised that 12 Glenview Drive is on the market. Ms. Levison received calls from both a broker and an attorney wanting to know how they remove the deed restriction on the property (requiring a water treatment system). Ms. Levison advised that they cannot, and explained the purpose of the deed restriction.

OLD BUSINESS

- g. Waste haulers – It was decided that Ms. Levison will revise the draft press release by removing the table, but will keep company names. She has also spoken to a resource regarding recycling.
- h. Computer update, Turnover form- Ms. Levison explained that if the BoH discovers that we submitted a Turnover form with an item assigned to the wrong cost category, it is possible to correct this. Fred Aponte can recategorize a fee within the same fiscal year.
- i. Updated Clerk Guide- Ms. Levison added sections for beaver permits, stable permits, and things that come in mail & e-mail. All have active links.
- j. 32 Madigan Lane, CSMP application update- Ms. McCarthy reported that the betterment form was returned from Worcester Registry of Deeds, as only the notarized form needs to be submitted.
- k. 95 Old Mill Rd – A draft letter to Mr. Bragan requesting action was revised. Ms. Levison suggested more revisions. Ms. Levison moved to accept the letter as revised; Mr. Philippou seconded. Roll call vote: McCarthy – aye; Levison – aye; and Philippou – aye. Ms. Levison volunteered to deliver the finalized letter to Mr. Bragan on Thursday.
- l. Tick talk plans – Ms. Levison volunteered to make a handout for the upcoming presentation by Dr. Katie Brown, of MA DPH. Mr. Philippou offered to write on how to get ticks tested and new testing techniques. Ms. McCarthy will include notes about how “tick tubes” and similar devices can provide a false sense of security because they are not 100% effective. Ms. McCarthy will e-mail Dr. Brown for a reference list to include in the handout.
- m. DEP response to complaint about Mr. Gauthier- There was no update.

- n. MOU with Land Use Boards update- Ms. McCarthy signed the Memorandum Of Understanding (MOU). Ms. Allard now has it and will bring it to ConCom this week. Ms. McCarthy suggested that a protocol be adopted to have the Town Clerk file such documents.
- o. Town well Gross alpha test – There was no update.
- p. Desk coverage- The three Board members volunteered to work with Alison Flynn for the next few weeks.
- q. Meet Charter Commission- It was suggested that May 23rd would be a potential date for the BOH to attend a Charter Commission Meeting. Ms. McCarthy will confirm the same with the Charter Commission.
- r. Article IV: update- Article IV has been revised, but has not yet been posted.
- s. Review Action Points- The status of the action points from the last meeting were discussed.

PERMITS- There were no permits discussed.

MINUTES- There were no minutes discussed.

ADJOURNMENT- Ms. McCarthy moved to adjourn the meeting at 9:29pm; Mr. Philippou seconded. A vote was taken; it was unanimous.

REFERENCED DOCUMENTS- ABC Cesspool documents provided by Attorney Levine; Memo from Town Planner re Master Plan; draft letter to Mr. Bragan.

***Respectfully submitted,
Alison Flynn,
Board of Health Clerk***