



# Town of Ashland

M A S S A C H U S E T T S

**Ashland Board of Health**  
**101 Main Street Ashland MA 01721**  
**Meeting Minutes**  
**February 9, 2016**

*Mary Mortensen, Chairman*  
*Charles Legassey, Vice-Chairman*  
*Judith Margulies, Clerk*

*Edward Hart, Member*  
*Koduvayur Narayana, Member*  
*Mark Oram, M.P.H., Agent/Director*

### **Members Present**

Mary Mortensen, Charles Legassey, Judith Margulies, Ed Hart and KG Narayana

### **Others Present**

Mark Oram, Health Director, Laura Clifford, Administrative Secretary  
Joel Arbeitman, 28 Woodridge Lane  
Joseph Gaied, Ashland Convenience Store  
Mark Dassoni, 49 Hawthorne Road  
Dona Walsh, Animal Control Officer  
Mark Walsh, Volunteer Animal Control helper

### **Call to Order**

Mrs. Mortensen called the meeting to order at 7:03 p.m. and announced that the only information to be discussed was what is on the agenda; discussion requests for new information must be put on the next agenda, that there should be no interruptions, speakers must go through the Chair, and that the Health Agent's Report is provided by the Health Agent, questions to the Agent must go through the Chair. Mrs. Mortensen announced that the meeting was being televised and audio recorded. Ms. Margulies stated that she would also be audio recording the meeting.

### **Citizen's Participation**

Joel Arbeitman asked the Board to take a careful look at the water conservation issue and discussed the use of rain barrels.

Mr. Arbeitman also discussed the bike trail that will be cut off with the construction of the Whittemore Drive estates; he hopes there are some regulatory considerations that could be looked at by the Board of Health to prevent this from happening. Mr. Oram said this project has gone through tech review and that he always recommends smart growth. Mr. Arbeitman said he would send the Board an email with the bike club information.

Mr. Arbeitman thinks the Town should have the resources to purchase a decibel meter for noise complaints. Mr. Oram said he is not sure of the cost, and that Chief Davis may be looking into this.

**Board of Health Minutes for Review: September 22, 2015, October 13 and 27, 2015, November 10 and 17, 2015, December 15, 2015 and January 26, 2016**

Mr. Hart made a motion to accept the minutes of September 22, 2015 as written, Mr. Legassey seconded the motion. The Board discussed whether any attachments distributed at the meeting, or a list of those documents, must be attached to the draft minutes; Mr. Oram suggested the Board approve the minutes on the substance and we will work on putting together the list of documents and attach the list as part of the permanent record. Mr. Hart called to move the vote. Ms. Margulies said she would be filing an open meeting law complaint. The Board voted 3-2 to accept the minutes (Ms. Margulies and Mr. Narayana were opposed).

Mr. Hart made a motion to accept the minutes of October 13, 2015, Mr. Legassey seconded the motion. Ms. Margulies asked for a discussion, stating that she had made edits and asked to go through each corrected item. Mr. Hart said that the edits were very lengthy and believes that the minutes as presented are fine. Ms. Margulies stated that she felt there were inaccurate items and no attached items. Mr. Hart called to move the vote, Mr. Legassey seconded the motion. Mr. Narayana said he was unfamiliar with the procedures being followed; Mr. Oram clarified the parliamentary procedures the Board should follow. The Board approved the motion to move the vote 3-2 (Ms. Margulies and Mr. Narayana were opposed). The Board voted to approve the minutes 3-2 (Ms. Margulies and Mr. Narayana were opposed).

Mr. Hart made a motion to accept the minutes of October 27, 2015 as written. Mr. Legassey seconded the motion. Ms. Margulies stated there are no attachments, and that a discussion had occurred which was not referenced in the minutes regarding whether or not it was necessary for the Board to vote to submit a warrant article. Mr. Hart stated that it was determined during Town Meeting by the Town Attorney that a vote was not required. Mr. Hart made a motion to move the vote. Mr. Legassey seconded the motion. The Board voted 3-2 to move the vote (Ms. Margulies and Mr. Narayana were opposed). The Board voted 3-2 to approve the minutes (Ms. Margulies and Mr. Narayana were opposed).

Mr. Narayana had a question regarding the November 10, 2015 meeting; Mr. Narayana indicated that he had requested Mr. Oram to obtain a written response from Attorney Mead as to the votes taken on October 13<sup>th</sup>. Mrs. Mortensen agreed to table voting on these minutes. Ms. Margulies asked if the list of documents would be attached to the minutes, Mrs. Mortensen said they would be on file in the Board of Health office. Mr. Narayana asked if they could be scanned and emailed, Mr. Oram agreed.

Mr. Hart made a motion to accept the minutes of November 17, 2015. Mr. Legassey seconded the motion. Ms. Margulies said that she disagreed with Mr. Oram's statement regarding information he received from the Town Clerk's office related to the need for the voting on the minutes in a timely manner; she noted there is no requirement as to when minutes may be approved. Mr. Legassey called to move the vote. Mr. Hart seconded the motion. The Board voted 3-2 to move the vote (Ms. Margulies and Mr. Narayana were opposed). The Board voted 3-2 to approve the minutes (Ms. Margulies and Mr. Narayana were opposed).

Mr. Hart made a motion to accept the minutes of December 15, 2015. Mr. Narayana had a question regarding Mr. Oram's statement regarding a packet that new Board Members receive from the Town Clerk. Mr. Oram said he would look into this. Mr. Narayana inquired as to the approval of the external/internal waivers, and suggested the word "internal" be stricken, since the

vote was only for external grease traps. Mr. Oram agreed to remove the word from the minutes. Mr. Narayana inquired if there is a way to determine the water consumption by the restaurants; Mr. Oram said the water and sewer department may be able to get that from the water meters. Ms. Margulies asked if there are spreadsheets that show the restaurants which are not on town sewer, Mr. Oram responded that they are The Oregon Club and Honey Dew Donuts. Mr. Legassey made a motion to move the vote. Mr. Hart seconded the motion. The Board voted 3-1-1 to move the vote. (Mr. Legassey abstained since he was not at the December 15<sup>th</sup> meeting, Ms. Margulies was opposed). The Board voted 3-1-1 to approve the minutes with the change to the wording as suggested by Mr. Narayana and a list of documents to be attached. (Mr. Legassey abstained, Ms. Margulies was opposed).

Mr. Hart made a motion to accept the minutes of January 26, 2016 as presented. Mr. Legassey seconded the motion. Mr. Narayana suggested the minutes be revised to reflect who made the motion approve the external grease trap waivers. Ms. Margulies said there is no document list attached. Mr. Legassey made a motion to take a ten minute recess, Mr. Hart seconded the motion. The meeting was back in session at approximately 8:00 p.m. Mr. Hart made a motion to accept the minutes as amended. Mr. Legassey seconded the motion. The motion was approved 4-1 (Ms. Margulies was opposed).

#### **Animal Control Officer – Dona Walsh**

Dona Walsh introduced herself to the Board and distributed a List of Duties. Ms. Walsh stated she is the only animal inspector in Ashland, and secondary animal inspector in Holliston, adding that this is a State-appointed position through the Department of Agriculture. Mr. Narayana asked and Ms. Walsh responded that she does not have coverage for times when she is out, adding that her son, Mark, has gone through training and has been doing work on a volunteer basis for a long time.

Mr. Narayana asked if there was a measure taken when they had her wrong email address when there was a quarantine issue in Holliston. Ms. Walsh stated that there is a primary inspector in Holliston, whom she tried contacting multiple times, the message did get to the Holliston Inspector, this incident was not in Ashland.

Ms. Margulies inquired as to how Ms. Walsh's position is funded. Mr. Oram stated that the Animal Inspector is nominated at the local level and approved at the State level. The Board thanked Ms. Walsh for coming in and thanked her son for volunteering.

#### **Ashland Convenience Store, sale of tobacco to a minor**

Joseph Gaied, owner, stated that he received a letter dated December 22, 2015 from the FDA, but that the letter did not detail the incident. Mr. Gaied was unable to access the store's video footage, but was able to determine who sold the tobacco through his records. Mr. Gaied distributed a copy of a letter that he sent to the FDA which included his corrective measures taken. Mr. Oram said he is going to check with the FDA and Cheryl Sbarra to see how this should be handled, whether this will be counted as a first offense.

#### **Review of Policies and Procedures**

Mr. Hart stated that he gave a copy of the draft Policies and Procedures to the Town Attorney for her review; Mr. Hart read Attorney Mead's legal opinion to the Board: *"I have closely reviewed each section against applicable state laws, including, but not limited to, the Open Meeting Law, election laws, town bylaws, and the town charter. Additionally, I have researched prior decisions*

*of the Attorney General Municipal Law Unit. I have identified only one problematic provision. Specifically, Section IV, giving the Board of Health (“BOH”) authority to call a special town election in order to fill a vacancy is in conflict with state law. Under G.L. c. 41 §11, in the event of a vacancy in the BOH, the remaining members of the BOH must give written notice of the vacancy to the Board of Selectmen within one (1) month of the vacancy. The Selectmen, with the remaining members, must then give seven (7) days’ notice and fill the vacancy by roll call vote. If the remaining members of the BOH fail to give the Selectmen notice of the vacancy, the Selectmen shall fill the vacancy with a person who is a registered voter of the town and who will perform the duties of the office until the next election. To bring the proposed operating policies and procedures in line with state law, I recommend deleting the second and third sentences in the first paragraph of Section IV. Otherwise, the Board may adopt these procedures.”*

Mr. Hart made a motion to accept the Policies and Procedures Manual, effective when they are passed. Mr. Narayana said that he and Ms. Margulies had sent revised versions of the document, Mr. Hart stated that he passed those along to the town attorney and that she reviewed what was presented to her and found nothing wrong with the original draft document. Mr. Hart added that there is a procedure within the document which allows Board Members at any time to make changes, or even negate the document. Mr. Hart said his sole purpose in doing this was to get things done and doesn’t like arguing. Mr. Narayana said he hasn’t gotten a single document regarding parliamentary procedures, Mr. Hart responded that people need to do their own homework, the Robert’s Rules are available to anyone. Mr. Narayana thought that there may be different versions. Ms. Margulies stated that the town attorney may have determined these policies to be legally correct, but questioned if the document is the best for representing the public health needs of the residents, and some may contradict state law. Ms. Margulies questioned why Cheryl Sbarra rather than Lisa Mead wasn’t consulted. Mr. Hart said this manual was suggested by a member of the Board of Selectmen, which is a basic copy of what they have used since 2009. Mr. Hart stated that he thought the manual would be a means to get business done since the Board has been caught up in much minutia and this document could cut through some of that so that they may work together better as a group. Mr. Oram said that Cheryl Sbarra will not act as our town attorney, she has made that clear in the past. Mr. Oram stated that Robert’s Rules are how you conduct a meeting under parliamentary procedure, and you can find this on any website. Mr. Narayana said that he still has questions, and would like to have this reviewed by Cheryl Sbarra, that we should at least ask for her opinion. Ms. Margulies said we should review this section by section, adding that the Board of Health is a different type of Board than the Board of Selectmen and comes from a different perspective. Mr. Hart said the town attorney went through the document section by section with that in mind, and with a copy of the suggested changes submitted by Ms. Margulies and Mr. Narayana, and she came up with a different conclusion. Mr. Hart stated that he had hoped this would make things easier, not more difficult, and feels this is getting too lost in the weeds. Mr. Hart suggested Ms. Margulies or any members with questions meet with the town attorney to go through section by section because he already has and feels it is fine. Ms. Margulies said she would like to go through it section by section as a Board. Mr. Oram said that he also spoke with the town attorney who told him that these are in proper order and ready for approval. Ms. Margulies said she feels that there are things that delegate some activities to the health agent, and would like to discuss why. Mrs. Mortensen responded that we delegate these activities to the health agent because he is the expert. Ms. Margulies added- “who advises us?”. Mr. Oram explained the background history of how his position as health agent and director came about per MGL Chapter 111, Section 30. Ms. Margulies said she doesn’t believe anything in this document will help to make the Board function better. Mr. Hart tabled the motion.

Mr. Hart asked to quickly address an issue that came to him in an email from Judith Margulies. Mr. Hart stated that Cadillac Paint is not an advisory group, it is a research working group charged with exploring possible uses for the site and gathering data regarding any past contaminants. Mr. Hart said that the group submitted one report, they do not take votes or take attendance or make recommendations, and are not a public body; there was a request for minutes, there are no minutes.

### **Adjournment**

Mr. Legassey made a motion to adjourn. Mrs. Mortensen suggested the Board attend a retreat run by professionals, offsite, where Board Members can work out a lot of these issues; Mr. Hart asked if you can talk freely, Mrs. Mortensen said there are no recordings and it is so that you can speak freely. Ms. Margulies said that if any topic comes up that is part of any deliberation or any item that may come in front of this Board, it becomes an open meeting. Mr. Oram said in his experience, these retreats focus on team building and how to get things done. Ms. Margulies said that it sounds vague, and would like more information. Mr. Hart seconded the motion to adjourn. The motion to adjourn was approved 3-2. The meeting was adjourned at 9:03 p.m.

ASHLAND BOARD OF HEALTH  
DOCUMENTS REVIEWED AT THE 2/9/2016 MEETING  
(All items stored in the Board of Health files unless otherwise noted)

1. Draft Minutes for Review: September 22, 2015, October 13 and 27, 2015, November 10 and 17, 2015, December 15, 2015 and January 26, 2016.
2. Dona Walsh, Animal Control / Inspections
  - List of Duties for Animal Control / Animal Inspector
3. Ashland Convenience Store, Sale to a Minor
  - Letter from FDA
  - Letter from Joseph Gaied, Store owner
  - Letter from store clerk
  - Letter from Board of Health to Ashland Convenience
4. Draft BoH Policies and Procedures Manual
  - Legal Opinion from Attorney Lisa Mead