

Ashland Board of Health Meeting Minutes
Ashland Town Hall, 101 Main Street, Ashland, MA
Meeting Room B/C
May 11, 2016

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

Jon Fetherston, Member
Koduvayur Narayana, Member
Mark Oram, M.P.H., Agent/Director

Members Present

Mary Mortensen, Charles Legassey and Jon Fetherston

Others Present

Mark Oram, Health Agent / Director
Laura Clifford, Administrative Secretary
Mark Dassoni, resident
Attorney Lisa Mead, Town Counsel

Call to Order

Mrs. Mortensen called the meeting to order at 1:04 P.M. and read an opening statement noting that the meeting was being audio recorded.

Citizen's Participation

Mr. Oram noted that after receiving letters from opposing attorneys regarding a discussion that took place during citizen's participation at the last Board of Health meeting, he was advised by Town Counsel that discussion during citizen's participation should be limited to what is on the agenda.

Mark Dassoni inquired as to how the Board calculates the timeframe of agenda items. Mrs. Mortensen said that the Chairperson and Health Agent/Director work together on this, adding that agenda items have been getting dragged out when they could be handled more precisely. Mr. Oram noted that there have been meetings where the time was miscalculated, but that timeframes are usually based on past history.

Health Agent / Director's Report

FY16 and FY17 Budget Updates, Revolving Funds

Mr. Oram informed the Board that the budget hasn't changed much, and is at 78.5% of the budget at this point, below the expected 85%.

Mr. Oram said that he has spoken with the Town Manager regarding the landfill which is being reviewed for gas migration. Mr. Oram stated that he went to four homes on Saturday to deliver notices and spoke to residents at two of the four homes. Mr. Oram said that these homes, as well as a few other homes in the area, were tested by the Town's contractor, Environmental Compliance Services, Inc., (ECS). MassDEP will be coming out to evaluate further and will take samples.

Mr. Oram said that he was told by ECS that the additional cost will be approximately \$7,500-\$8,000; this may come from the public health nurse budget. Mr. Fetherston inquired if there was language included in the solar contract with Ameresco regarding financial responsibility if an issue such as this arose. Mrs. Mortensen and Mr. Oram responded that they thought it was only if it was from Ameresco causing the issue. Mr. Oram said this could be a natural process caused by degradation of the landfill waste that has been going on for years, but DEP is being careful. Mr. Oram said there is unused money in the public health nurse budget since we have not had a nurse replacement, and that is what is being looked at as a way to pay for this unexpected work, according to our Town Manager.

Mr. Oram reviewed the revolving funds' budget with the Board. Mr. Oram told the Board that the Town Manager is considering moving the Animal Control / Inspector position over to the Police Department. The Board discussed whether this should remain under the Board of Health. Mr. Legassey inquired as to the status of the appointment of the Animal Inspector. Mr. Oram responded that Dona Walsh was appointed by the State, noting that she is a good Officer.

Tobacco sales to a minor, review April 30, 2016 compliance checks

Mr. Oram informed the Board that on April 30th, 2016, a person under the age of 21, under the direction of the tobacco compliance officer, conducted a compliance check and attempted to buy cigarettes without an ID, two of the tobacco retailers sold to the minor. Mr. Oram reviewed the videotape with the owner of Main Street Wine and Spirits, noting the owner has been a proponent of the Town's tobacco regulations. The owner inquired about the way the sale occurred. Kyromina Oil Corp. / Excell also sold to the minor; the owner did not contest the ticket.

Mr. Oram asked the Board when they would like to meet, so that the tobacco vendors may be invited to attend the meeting. Mrs. Mortensen stated that she spoke to Barbara Chisholm regarding alternating taping of Zoning Board and Board of Health meetings. The Board discussed the tobacco violations chart, Mr. Fetherston inquired if this was Main Street Wine & Spirits' first offense. Ms. Clifford noted that after reviewing all the tobacco vendor's files, the chart was compiled from this information, adding that the chart starts at 2014 because there were no violations in 2013 other than those through the State compliance checks.

Emergency permit for beaver complaint at Oregon Club

Mr. Oram told the Board that there is a large pond off the Mass. Turnpike, behind the Oregon Club, which was created from a blocked culvert. The Department of Transportation said they would come out right away to remove the beavers; they first needed an Emergency Beaver Permit issued.

Landfill, review of gas migration investigation and public relations format

Mr. Oram informed the Board that last week he received a call from both ECS and DEP regarding the discovery of gas being permeated at the new gas probes at the landfill. Mr. Oram said that there was a lot of rain, which could affect the groundwater levels at the landfill which were higher than usual. Mr. Oram and ECS were told by DEP to test the street and that further in-home testing is required. DEP will coordinate the testing dates with the residents, and will keep Mr. Oram updated; he in turn will keep the Board updated.

Old / New Business

Nurse position, history and status for employment

Mr. Oram spoke to Mr. Herbert and the Human Resources Director regarding the nurse position. Mr. Oram was told that since this was a specialized position it was not necessary to go out and advertise, however the position was advertised through the Mass. Association of Public Health Nurses. Mr. Oram said Nancy Cleary will be appointed by the Board of Selectmen on May 18th, and will be subject to a 14-day waiting period. Mr. Fetherston said that he would like her to get going as soon as possible; the Board asked Mr. Oram to speak to Mr. Herbert regarding waiving the waiting period. Mrs. Mortensen agreed, noting that the Board has been without a nurse for a long time.

Mr. Fetherston made a motion for Mr. Oram to ask Mr. Herbert to request the Board of Selectmen to waive the 14-day waiting period. Mr. Legassey seconded the motion. The motion was approved 3-0, Margulies and Narayana absent.

Acceptance of Minutes

Mr. Oram told the Board that he spoke to Attorney Mead regarding whether or not Mr. Fetherston would be allowed to vote on accepting minutes at meetings which he was not present for. Mr. Legassey had also inquired of Town Counsel if Mr. Fetherston were to view the videotape or listen to the audiotape, would he then be able to vote, Attorney Mead told Mr. Legassey that she would check the law and discuss at today's meeting.

Mr. Fetherston made a motion to approve the minutes of April 12, April 13 and April 26, 2016 as submitted. Mr. Legassey seconded the motion but requested two minor edits to be made. The motion was approved 3-0, Margulies and Narayana absent

The Board discussed a noise issue brought up at the candidate's forum.

Attorney Mead entered the meeting room (approximately 1:40 p.m.) and was told that two Members did not show up for the meeting. Attorney Mead asked if the meeting was properly posted, Members responded that all received the same notice. Ms. Clifford told Attorney Mead that Ms. Margulies had sent an email specifying that she may be late due to professional conflicts.

Board of Health Policies and Procedures

The Board Members were given copies of the draft Policies and Procedures handbook created by Ed Hart and distributed to the Board on November 10, 2015, based on the Board of Selectmen's handbook. Board Members were given copies of revised drafts received from Mr. Narayana and Ms. Margulies.

Mr. Legassey suggested minor grammatical changes with additional suggestions by Attorney Mead.

Mr. Fetherston inquired and Attorney Mead responded that her recommendations have already been incorporated into the document. Attorney Mead stated that once adopted, these are the operating policies of the Board of Health enforced by the Chair. Attorney Mead clarified that Board Members may only represent the Board of Health with permission from the Board. Mr. Fetherston suggested that we include the Policies

and Procedures handbook into Members' meeting books. Attorney Mead recommended adopting the Policies and Procedures book.

Mr. Fetherston made a motion to adopt the Town of Ashland Board of Health Operating Policies and Procedures, as amended, effective May 11, 2016. Mr. Legassey seconded the motion. Mr. Oram stated that the other two members did submit questions and recommended changes and thought today's meeting would be the avenue for this to be discussed. Mr. Fetherston said there was no indication from the other members at last night's forum that they wouldn't be here. Mrs. Mortensen said that she has gone over the other drafts, and is happy with what we already have. The motion was approved 3-0, Margulies and Narayana absent.

The Board discussed emails becoming serial communications and the Open Meeting Law.

Attorney Mead stated that there is nothing in the Open Meeting Law from preventing a person not present during the meeting from voting on the meeting minutes. Attorney Mead said that it is strongly suggested that a person listen to the audio, and if Mr. Fetherston has listened to the audio, he may approve the minutes. Mr. Fetherston stated that he has. Mrs. Mortensen suggested a motion to accept the meeting minutes of November 10, 2015 as written. Mr. Fetherston so moved the motion. Mr. Legassey seconded the motion. The motion was approved 3-0, Margulies and Narayana absent.

Mr. Legassey made a motion to approve the February 9, 2016 meeting minutes. Mr. Fetherston seconded the motion. The motion was approved 3-0, Margulies and Narayana absent.

Mr. Legassey made a motion to approve the February 23, 2016 meeting minutes. Mr. Fetherston seconded the motion. The motion was approved 3-0, Margulies and Narayana absent. Board Members agreed to come into the office to sign the Policies and Procedures document.

Clarification with Town Counsel on Board of Health legal process and liability

Attorney Mead agreed to speak generally on this topic at the Open Meeting Law training on May 23, 2016. Mr. Legassey inquired if this training is mandatory; Attorney Mead responded that it is not, only the Conflict of Interest training is mandatory.

Mr. Legassey asked the number of members who need to vote for a majority vote; Attorney Mead responded that a majority is a majority as constituted, but will be addressing this also at the training session, and will be sending out a memo.

Decisions at Every Turn: Board of Health appointment

Mrs. Mortensen made a motion to appoint Mr. Fetherston as the Board of Health representative to the Decisions at Every Turn Steering Committee. Mr. Legassey seconded the motion. Mr. Fetherston thanked the Board; Mrs. Mortensen said he has been there since day one and should continue. The motion was approved 3-0, Margulies and Narayana absent.

Future Board of Health Meetings

The Board agreed to meet on Tuesday, May 24, 2016 at 7:00 P.M. Mrs. Mortensen stated that the meeting needs to end at the posted time. Attorney Mead stated that the doors cannot be locked while an open meeting is going on. Mrs. Mortensen said we need to speak to the Town Manager regarding the doors locking. The Board agreed that a reorganization of the Board should occur at the first Board of Health meeting following a Town election. Mr. Fetherston made a motion to amend the Board of Health Policies and Procedures to change the Board of Health reorganization to the first meeting following the election. Mr. Legassey seconded the motion. The motion was approved 3-0, Margulies and Narayana absent.

Adjournment

Mr. Legassey made a motion to adjourn. Mr. Fetherston seconded the motion. The motion was approved 3-0, Margulies and Narayana absent. The meeting was adjourned at 2:10 p.m.

ASHLAND BOARD OF HEALTH
DOCUMENTS REVIEWED AT THE 5/11/2016 MEETING
(All items stored in the Board of Health files unless otherwise noted)

1. Board of Health Policies and Procedures
 - a. Original draft, draft submitted by J. Margulies, draft submitted by K.G. Narayana
2. FY16 and FY17 Budget Updates, Revolving Funds
 - a. Year to date budget report
3. Tobacco sales to minor, review April 30, 2016 compliance checks
 - a. Compliance check forms
 - b. Copies of issued fines
 - c. Tobacco violations spreadsheet
4. Emergency permit for beaver complaint at Oregon Club
 - a. Copy of 10-Day Emergency Beaver Permit
5. Nurse position, history and status for employment
 - a. Copy of FY15 Department Strategic Goals regarding hiring of health nurse
6. Acceptance of Minutes
 - a. November 10, 2015, February 9, 2016, February 23, 2016, April 12, 2016, April 13, 2016, April 26, 2016 draft minutes
7. Audio Recording of Meeting available