

Ashland Board of Health Meeting Minutes
Ashland Town Hall, 101 Main Street, Ashland, MA
Selectmen's Meeting Room, 7:00 P.M.
June 21, 2016

Jon A. Fetherston, Chairman
Charles Legassey, Vice-Chairman
Judith Margulies, Clerk

Mary Mortensen, Member
Koduvayur Narayana, Member
Mark Oram, M.P.H., Agent/Director

Members Present

Jon Fetherston, Judith Margulies and Koduvayur Narayana

Participants

Mark Oram, Health Agent / Director
Laura Clifford, Administrative Secretary
Diane Passafaro, Food Inspector
Daniel McIntyre, P.E.
Val Uzoma, resident
Mark Dassoni, resident
Christine Tofani, resident
Steve Morgan, resident
Cecelia Doucette, resident

Call to Order

Mr. Fetherston called the meeting to order at 7:00 p.m., noting that the meeting was being recorded live on WACA-TV and audio recorded.

Citizen's Participation

Steve Morgan came to follow up on his Open Meeting Law complaint filed with the Board of Health, Mr. Fetherston said it is on our agenda to be discussed, and it will be discussed at that time. Mr. Morgan asked that copies be made and distributed regarding his recent public records request; copies were made and distributed to the Board Members.

Cece Doucette Wi-Fi presentation

Cece Doucette spoke to the Board regarding wireless technology safety, Wi-Fi Hypersensitivity and issues surrounding electromagnetic fields generated by cellular devices and Wi-Fi technologies. Ms. Doucette discussed strategies to lessen microwave radiation, such as hardwiring electronics, turning off routers and using airplane mode. Ms. Margulies stated that she has many questions after looking at the reference list, noting that the FCC is an industry-based organization, unlike the CDC or Surgeon General, she looks to them and doesn't see the same type of evidence. Ms. Doucette stated that it can be confusing, but said there have been many studies through the National Institute of Health and precautionary measures should be taken.

29 Holly Lane, Christine Tofani, Request for bedroom deed restriction for approval

Mr. Oram explained that Christine Tofani has provided a notarized statement regarding the room count which she will have recorded at the Registry of Deeds. Mr. Oram recommended a motion that the Board approve the deed recording so that she may move along with her addition. Mr. Oram showed a floor plan to Board Members. Ms. Margulies made a motion to accept the deed restriction for 29 Holly Lane, Christine Tofani, grantor, 5 pages. Mr. Narayana seconded the motion. The motion was approved 3-0. Mr. Narayana made a motion that the Board approve the authorization of Mr. Fetherston signing the Deed Restriction on behalf of the Board. Ms. Margulies seconded the motion. The motion was approved 3-0.

Old and New Business

Food Inspections – Spreadsheet project - Update

Diane Passafaro reviewed with the Board the summary inspection charts she created from inspections done from 2014 and 2015. The majority of restaurants were inspected twice per year, she remarked that the most frequent violations were improper cold holding and improper segregation of foods. Ms. Passafaro stated that overall, the establishments in Ashland are receptive to her and the process of conducting food inspections.

Ms. Margulies asked for clarification of the revolving funds account. Mr. Oram explained that fines go into the general fund, fees go into the revolving fund. Ms. Margulies inquired about the importance of displaying the food permit. Ms. Passafaro responded that there are clearly many regulations in the CMR, she primarily looks at risk factors which cause food born illnesses.

Mr. Narayana asked if it is safe for a town to have a part-time inspector; Mr. Oram responded that the department could use additional staffing and is on a risk-based food establishment inspection process and would like the Board's support for this when they go before the finance committee.

Ms. Passafaro said it was a pleasure working with Mr. Oram and the Board and is glad for her time working in Ashland. Mr. Fetherston thanked Ms. Passafaro for her work, and stated that she was an asset to the Town.

44 Ramblewood Drive, Val Uzoma, owner, request for State and local septic waivers

Dan McIntyre, Engineer, represented the owners of 44 Ramblewood Drive who are putting an addition onto their home. Mr. McIntyre explained to the Board that he is requesting waivers for a septic replacement at 44 Ramblewood Drive due to the high groundwater table, which will require an innovative technology / raised system. Mr. McIntyre is proposing a two compartment septic tank, a pump tank and innovative technology. Val Uzoma, owner, joined the meeting.

Ms. Margulies made a motion on behalf of the owner of 44 Ramblewood Road, Val Uzoma, to grant waivers from the following Title 5 local upgrade approvals and from the Ashland Board of Health Regulations; 15.405 (1)(B), 15.405 (I)(J) and 15.405 (1)(H); and Local Regulations 303-7(A), 303-11 and 303-11(D), with the conditions that a deed recording be placed on the property stating no garbage

grinder shall be installed and a septic tank effluent filter shall be installed. Mr. Narayana seconded the motion. Mr. Oram recommended approval. The motion was approved 3-0.

Open Meeting Law Complaint

Mr. Fetherston explained that Steve Morgan filed an Open Meeting Complaint on June 13th with the Town Clerk regarding Board of Health meetings of May 24, 2016 and June 7, 2016. Mr. Morgan stated that he attended the meeting on May 24th, and watched the meeting of June 7th on cable. Mr. Morgan said items were discussed which were not on the agenda, and thought the agendas were not clear and detailed. Mr. Morgan would like to see the Board have further training, and items not on the agenda be moved to the next meeting. Mr. Fetherston commended Mr. Morgan for watching out, but stated this may have been handled with a phone call. Mr. Fetherston said that it would be irresponsible to not discuss something that is on the front page of a newspaper, adding that the Board was being forthright.

Mr. Narayana suggested the Board create a response to Mr. Morgan without the expense of Town Counsel. Mr. Fetherston stated that the Board does not need to appease Mr. Morgan, the Board only needs to follow the laws set forth by the Attorney General of the State of Massachusetts, and does believe Town Counsel should weigh in. Mr. Morgan would like to work with the Board to correct the items constructively. Ms. Margulies recused herself from the conversation, due to the fact that she has two pending Open Meeting Law complaints filed against the Board of Health. Mr. Fetherston made a motion that the Board work with counsel to create a response to Mr. Morgan's Open Meeting Law complaint. Mr. Narayana seconded the motion. The vote on the motion was 2-0-1. The motion failed due to lack of a majority of 3 votes. (Ms. Margulies abstained).

Old/New Business

Mr. Fetherston brought up the topic of use of electronic signatures since this issue was in the newspaper. Ms. Margulies stated that she was not aware of the articles in the paper, but wants to discuss the permit issue. Ms. Margulies stated she spoke to the AG's office IT department, and was not aware that her electronic signature was being used for permits issued and therefore feels the permits are invalid. Ms. Margulies stated that the renewal of food permits needs to come before the Board of Health, but never did. Mr. Oram suggested that the Board could take a vote tonight to approve all existing permits issued up to this date; and the Board could grant authority to the Health Agent when Board Members are not able to meet. Mr. Oram said it is not fair to the businesses to not consider approving permits, if there were issues with any of the establishments, Board Members would know about it, and there would be a hearing in front of the Board.

Ms. Margulies explained that she was told there would be a charge for her public records request (copies of issued permits), and disapproved of the timeframe in which she received them. Mr. Fetherston said, in his opinion, this Board has gotten so contentious that the Board has stopped operating. Mr. Narayana took objection. Mr. Fetherston said there is a disconnect and we can only be better going forward.

Ms. Margulies suggested issuing temporary permits and stated she does not want permits maintained out there with her signature on them that she did not approve. Ms. Margulies wants to know more before her signature is put on permits; and suggested that the existing permits be extended while the Board works to reevaluate and reissue new permits. Mr. Fetherston stated that it could be a learning

opportunity and the Board should move forward. Mr. Oram said that there are 3 members who signed electronically for the intended use of issuing permits, adding that he could speak to legal counsel and verify if this would suffice. Discussion continued regarding the permitting process and the use of electronic signatures.

Mr. Fetherston made a motion to validate the authenticity of the issued permits to every business in Town for the life of each permit. Ms. Margulies said she came across an issue with a permit, and needs to research further, and cannot go forward with any motion to maintain the permits. There was no second to the motion.

Mr. Narayana suggested extending the permits 30 days, for further research. Mr. Oram said he would speak to legal counsel regarding both the use of the signatures as well as the permits being issued without a Board of Health vote to approve. Discussion continued regarding the use of electronic signatures. Mr. Morgan commented that these permits are now part of the meeting / public record.

Mr. Dassoni said he has been hearing the same arguments for over a year and it is an embarrassment to the Town. Ms. Margulies said this is an important topic, and appreciates the lack of interruptions.

Mr. Narayana made a motion to temporarily extend the permits without issuing new permits, and look at this at the next meeting. Ms. Margulies asked Mr. Narayana to withdraw his motion to be reworded to consider the documents presently in possession as being of valid use for a 30-day period. Mr. Fetherston said they are either valid or not, that would not be fair to the business owner. Ms. Margulies made a motion that we, as a Board of Health, in the best interest of the citizens, accept the presently issued permits as being valid for the next 30-day time period. Mr. Narayana seconded the motion. Mr. Oram noted that it could be as easy as permission from 3 Members, who approved the use, to make the permits valid. Ms. Margulies responded that if there is one invalid signature, it invalidates the document. Mr. Oram said that if counsel agrees they are valid, they would be reissued, at a cost to the Town, with the 3 signatures. Mr. Fetherston stated that in his opinion this is being politicized. Mr. Fetherston asked for a roll call on Ms. Margulies' motion, the vote on the motion was 2-1. The motion failed due to a lack of majority of 3 votes. (Mr. Fetherston opposed).

IG Report - Update

Mr. Fetherston stated that there is an IG investigation and an ongoing audit of payroll records being conducted and that he was informed that the investigation should be concluded by the end of the month. Mr. Narayana said that he was given a video recording of the Sherborn Selectmen's meeting and said that the Town was aware of these facts but this Board did not receive any documents. Mr. Fetherston said that the Board was told about the investigation. Ms. Margulies said she agreed with the Sherborn Board of Selectmen, and feels this is a serious letter, for the Board of Health not to respond, doesn't look favorably to the I.G., and would like the Board to produce a response. Mr. Fetherston said we will wait until we meet with Mr. Herbert and follow what he has set forth, adding that he will not speculate and has faith in the Town Manager. Ms. Margulies said there is a June 30th deadline, and the Board should have a time scheduled to prepare a response. Ms. Margulies inquired if 3 years is an adequate amount of time to go back for a 33 year employee, and said she has still not been contacted by the investigating company for input. Mr. Fetherston will attempt to get an update and expected completion date as to the investigation.

Potential Medical Marijuana Dispensary – Update

Ms. Margulies updated the Board regarding the letter that was sent to Beth Reynolds, consisting of 21 questions, and hopes it will be helpful to her. Ms. Margulies suggested bringing this topic back up in a few months and possibly reaching out to other Boards to clarify where we stand as a Town.

Nyanza - Update

Mr. Fetherston confirmed that Senator Markey’s office received the letter submitted by the Board of Health regarding the Rail Transit District project, which was sent to Governor Baker and others.

Ms. Margulies would like to discuss 0 Megunko Road at a future meeting.

Mr. Fetherston said the Board of Selectmen may be putting together a Nyanza Study Committee, and may be looking to get a member from various Boards and some surveyors, adding that he is glad to see a proactive approach being taken.

Discussion of MGL Chapter 41, Section 81U

Mark Oram said this item was under discussion with Planning and has been forwarded to Town Counsel. Mr. Narayana said that he feels projects such as RTD should come before the Board of Health; Mr. Oram said that once the review is done, it will come to the Board. Mr. Fetherston said that Tech Review is a public meeting, but doesn’t happen all the time. Board Members asked Mr. Oram to forward any notices of Tech Review meetings to them because health related issues are coming up.

Landfill - Update on present investigation

Mr. Oram informed the Board that we are still waiting on the State regarding their assessment. The Town’s consultant, ECS, did note that the water level behind the Landfill has risen and it is suspected to be beavers, adding we are working toward beaver control which is also believed to be an issue at Main Street and South Street.

Mr. Fetherston inquired if the reshaping is being funded by Ameresco: Mr. Oram said that it is, and that they are aware of the current issue. There will be expense to the Town for the immediate response action, which he will go over during the budget discussions.

Heat Stress in Schools - town and school policies

Mr. Fetherston said this issue has a long history and can, for now, be moved to a later agenda.

Hiring of Food Inspector – Update

Mr. Fetherston is glad that we have the food inspection spreadsheet, which this is helpful tool to have. Mr. Oram said the Human Resources Director has put together a job description and this will be going onto the MAHB website and newsletter. Ms. Margulies asked who to send feedback on the job

description to, Mr. Oram said any feedback may be sent to him and he will forward to the HR Director.

Vaccine purchasing / program – Update

Mr. Oram said he is working with the nurse on a vaccine purchasing program, but it's been back and forth on the budget. Mr. Oram stated that with having only 5 hours for the public health nurse, and the competition with the local drugstores, the flu vaccine may not be a good option, adding that the vaccine he would like to see is the Shingles vaccine.

Zika Virus/mosquito – Update

Mr. Oram went to a public health orientation and met with Matt Osborne of DPH, who mentioned Zika shouldn't be underestimated but has taken attention away from EEE and West Nile Virus, which are more prevalent in this area. Ms. Margulies said that Zika is a national conversation, and is largely about preparedness.

Ms. Margulies asked if some Members of the Board can station a tent at the Farmer's Market and distribute fliers on tics. Members discussed availability and scheduling a date. Mr. Narayana suggested also having a Zika handout.

Schedule meeting with Town Manager

Mr. Fetherston will send a request to the Town Manager for a date for him to attend a meeting and the IG update.

Review of Board of Health Policies and Procedures: Form subcommittee to address policy and procedures

Mr. Fetherston said he has asked for edits, Mr. Narayana said his edits were submitted in May, Mr. Fetherston said they have now been voted on and approved, the lion's share must be up to those who did not approve it. The Board agreed to discuss further at the next meeting.

Health Agent / Director's Report

FY16 and FY17 Budget, Revolving Fund – Update

Mr. Oram informed the Board that the Landfill work will have the greatest bearing on the budget, and the revolving fund has sufficient funds to carry through to the next permitting year. Ms. Margulies said she would like to meet prior to the meeting with the Town Manager to discuss priorities, which align with budgetary funding.

Tobacco control - routine point of purchase inspections

Mr. Oram explained that the tobacco compliance officer, Elliot Brown, checked all 18 tobacco retailers and checked signage, pricing and permits being posted, which is done twice per year. This is also an opportunity to meet and greet the vendors.

Intern, status of projects and future Board of Health meeting attendance

Mr. Oram said that Joy Vetter, the Board of Health intern, has decided to do her poster project on Opioid abuse, adding that she was glad to be at the presentation at MPH today and has shadowed the food inspector. Mr. Oram said he would like to invite her to come to an upcoming meeting. Mr. Fetherston is working with Governor Baker towards having Secretary Sudders come to Ashland to do a WACA-TV program on Opioid abuse; he hopes Joy can attend.

Acceptance of Minutes, May 24, 2016 and June 7, 2016

Ms. Margulies said she is continuing to have concerns about the minutes, finding that there are select items that have more content than others, and suggested they be summarized further. Ms. Margulies stated that some things are substantive and need more detail, while opinions should be summarized, and thinks it is not a balanced conversation. Ms. Margulies proposed that she draft this meeting's minutes. Mr. Fetherston said he is satisfied with the minutes as presented. Ms. Margulies said she had to spend four hours listening to the meeting to make corrections. Mr. Fetherston said this is not acting like a Board Member, adding that Boards should discuss plans of action together, not as a single agent. Mr. Fetherston stated that he feels something is askew. Discussion continued regarding meeting minutes.

Mr. Fetherston asked if there were any edits for the May 24 and June 7, 2016 minutes. Ms. Margulies suggested changing "Others Present" to "Participants" who spoke or participated (going forward). Ms. Margulies would like the minutes sent out prior to the weekend in a word document format. Discussion continued regarding sending PDF versus Word documents. Since the time was after 11:00 P.M., Mr. Oram said the doors are now locked and the meeting must adjourn soon.

Future Board of Health Meetings, for discussion: July 19 and August 16

The Board decided to next meet on Thursday, July 7th and discussed agenda items. Board Members agreed the most important item is the review of the Policies and Procedures.

Adjournment

Mr. Fetherston suggested a motion to adjourn. Mr. Narayana so moved the motion. Ms. Margulies seconded the motion. Motion to adjourn was approved 3-0. The meeting adjourned at 11:20 P.M.

ASHLAND BOARD OF HEALTH
DOCUMENTS REVIEWED AT THE 6/21/2016 MEETING
(All items stored in the Board of Health files unless otherwise noted)

1. 44 Ramblewood Drive, Plan and Application
2. 29 Holly Lane, Notarized Deed Restriction Form
3. Stephen Morgan Open Meeting Law Complaint
 - a. Open Meeting Law Complaint Form
 - b. Letter from State regarding Open Meeting Law Complaint
4. Cece Doucette Wi-Fi presentation
 - a. Transcript from School Committee Meeting Presentation
5. Copies of permits received via records request by Member Judy Margulies
6. M.G.L. CH. 41, §81U
7. Potential Medical Marijuana Dispensary, letter from the Board to Beth Reynolds
8. Year-to-Date Budget Report dated June 17, 2016
9. Mass. DPH Weekly Zika Virus Update
10. Job description of food inspector
11. Food Establishment Inspections Data Spreadsheets - created by Food Inspector
12. Robert's Rules, distributed by Member K.G. Narayana
13. Draft Meeting Minutes of May 24, and June 7, 2016
14. Audio Recording of Meeting Available