

**Ashland Board of Health Meeting Minutes**  
**Ashland Town Hall, 101 Main Street, Ashland, MA**  
**Ashland Public Library, 6:30 P.M.**  
**September 20, 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, Charles Legassey, Mary Mortensen and KG Narayana (left at 6:58 P.M.)

**Others Present**

Mark Oram, Health Agent / Director  
Laura Clifford, Administrative Secretary  
Michael Herbert, Town Manager  
Steve Mitchell, resident  
Mark Dassoni, resident  
Steve Morgan, resident  
William Gath, Ashland Day Committee

**Call to Order**

Mr. Fetherston called the meeting to order at 6:35 P.M. Mr. Fetherston announced that the agenda was subject to change, and that the meeting was being streamed live on WACA-TV and audio recorded.

**Citizen's Participation**

Steve Morgan commented that he does not recall a discussion at Town Meeting regarding the use of funds of \$2,200.00 for mediation of the Health Board which was not in the budget. Mr. Morgan mentioned that he saw on the agenda that there was to be a discussion on the Open Meeting Law complaint, while he has not yet received a response to his public records request others have been put on the agenda. Mr. Fetherston clarified that this agenda item has nothing to do with a records request; this is in regards to an Open Meeting Law complaint filed against the Board of Health by a member.

Mr. Morgan said he hopes the Board hasn't forgotten its commitment to have the agenda documents shared with the public online.

Steve Mitchell clarified, in response to Mr. Morgan's comments regarding public records, that he is waiting for a response to a public records request, which is currently in the hands of the individual Board Member, and it is going through the process.

Mark Dassoni inquired if the Board reviews Open Meeting Law complaints as they come up. Mr. Fetherston explained the process by which Open Meeting Law complaints are handled.

Mr. Dassoni updated the Board regarding the progress he has observed at the High School, Howe Street, and the Rail Transit Apartments.

Michael Herbert said that he would like to address Mr. Morgan's concerns regarding funding the Board of Health's mediation, which he explained will be through the Town Manager's contracted services line. Mr. Herbert stated that he feels this is an important expenditure for the Board and the Town. Mr. Herbert encouraged members to put aside issues of the past and start with a clean slate, adding that he looks forward to seeing the Board get back on track. Mr. Fetherston thanked Mr. Herbert for his comments and for his time in coming to the meeting.

Mr. Fetherston congratulated Bill Gath, Chairman of Ashland Day, on a successful Ashland Day. Mr. Gath said he had sent a letter to the Board regarding the permitting of One Day Food Permits and said that he had to turn businesses away due to the Board not meeting prior to an event or fundraising events like the Dragonfly Festival. Mr. Gath noted that in other towns it is up to the Health Agent to sign the permits for One Day Food Permits. Mr. Gath would like to see the current process changed to allow more flexibility. Mr. Fetherston said this is an important issue which will be discussed as agenda item #5.

Mr. Narayana informed the Board about Board of Health participation at the September 27, 2016 Ashland Farmer's Market and requested other Board Members to join. Mr. Narayana discussed a Metrowest Senior Health Fair in Framingham and would like to see the Board of Health involved with this. Mr. Fetherston asked Mr. Narayana to forward the information and he agreed to do so.

Mr. Narayana said that he has corrections to the September 6, 2016 draft meeting minutes but didn't have a chance to send them to the Board of Health office.

Mr. Narayana distributed a letter from the Attorney General's office regarding Steve Mitchell's public records request to the Board. Mr. Fetherston said it is not on the agenda so we won't be discussing it. Mr. Narayana said he has not yet received a response from Town Counsel regarding his questions on this issue.

**Acceptance of Minutes: July 25, 2016, August 9, August 16, 2016 and September 6, 2016. (To include discussion of missing document (prepared statement) from June 27, 2016 meeting)**

**July 25, 2016**

Mr. Narayana questioned if the July 25<sup>th</sup>, 2016 minutes were approved. Mr. Legassey said that is now corrected in the minutes, that it was the June 27, 2016 minutes which were approved, we never got to the July 25<sup>th</sup> minutes at the last meeting. Mrs. Mortensen made a motion to accept the minutes as submitted. Mr. Narayana reserved his right to make amendments. Mr. Legassey seconded the motion. The motion was approved 3-0-1 (Narayana abstained).

**August 9, 2016**

Mr. Fetherston noted that there are edits to the minutes in blue. Mr. Legassey made a motion to accept the August 9, 2016 minutes with the corrections as noted. Mrs. Mortensen seconded the motion. The motion was approved 4-0.

**August 16, 2016**

Mr. Fetherston noted that there are edits to the minutes in blue. Mr. Legassey made a motion to accept the August 16, 2016 minutes as presented with the corrections. Mrs. Mortensen seconded the motion. The motion was approved 4-0.

**September 6, 2016**

Mr. Fetherston asked Mr. Narayana if he would like the Board to hold off on voting on the September 6, 2016 minutes. Mr. Narayana told the Board he would like to see some added information, but it could be amended

later. Mr. Legassey made a motion to accept the September 6, 2016 minutes as presented with corrections, reserving the right to amend. Mrs. Mortensen seconded the motion. The motion was approved 4-0.

### **Board Mediation**

The Board discussed communication received from Metrowest Mediation Services. Mr. Narayana stated that he is waiting for clarification regarding confidentiality. Mr. Fetherston stated that he does not want to spend taxpayer's money on personality disagreements. Mr. Narayana thought the Board would be going on a retreat, and stated that we are adult enough to resolve the issues and this new process was thrust on us. Mrs. Mortensen said that a past discussion regarding a retreat was met with resistance. Mr. Narayana disagreed and stated that there was not a strong opposition to the retreat and even last meeting the Board agreed on the retreat. Mr. Narayana said the only thing that was pending was a date and feels that often things go left undone. Mr. Fetherston did not agree, and after multiple discussions with Michael Herbert and MAPC, MAPC recommended mediation, adding whether it's called mediation or a retreat, both are in place to accomplish the same result. Mr. Narayana said being a public meeting may limit his statements, because these become public record. Mr. Narayana said when he gets his answer he will make a decision. (Mr. Narayana left the meeting 6:56 P.M.)

Discussion continued regarding Board mediation, and the possibility of taxpayer's money being wasted. Mr. Fetherston inquired as to why the Board is dysfunctional. Mr. Legassey said since last October there has been criticism of our Health Agent/Director and feels there has been a witch hunt going on. Mr. Legassey said mediation cannot work without massive change in some members' hearts, attitudes and agendas. The Board tabled the discussion.

### **Approval of Board of Health permits by Health Agent / Director**

Mr. Fetherston discussed with the Board the letters received from William Gath and another letter received regarding the Dragonfly Festival. Discussion ensued regarding the Health Agent approving food permits. Mr. Legassey made a motion that the Ashland Board of Health give authority to its Health Agent/Director to issue any and all permits under the purview of the Board of Health and to sign them as necessary with the exception of any permit that would have a conflict with any presiding Board Members. Mrs. Mortensen seconded the motion. Mr. Oram clarified that he currently issues septic and well permits; this would include food, tobacco, pool, beaches, anything other than septic; however, if a waiver is required, then it would need Board approval. Mr. Legassey clarified that any permit that has a conflict, including the food permits, would also need to come before the Board; Mr. Oram also noted that grease trap waivers need Board approval. Mr. Legassey noted that this policy covers any future Board of Health members, and any conflicts they may have. Mr. Gath stated that he thinks this is an excellent move policy and procedure wise, this way the Board can put their attention towards other matters. The motion was approved 3-0.

### **Board Mediation (continued)**

Mr. Fetherston asked the Board to go back to this agenda item #4, and thinks the responsible thing would be to make a decision, noting the Town Manager has spent a lot of time trying to coordinate this. Discussion continued regarding mediation. Mrs. Mortensen made a motion that the Board communicate to the Town Manager that we are willing and look forward to the mediation process. Mr. Legassey seconded the motion. The motion was approved 3-0.

### **Follow up to Judy Margulies' Open Meeting Law Complaint**

Mr. Fetherston said that the Board is in receipt of a letter dated September 7, 2016 from the Office of the Attorney General which granted the Town an Extension of time for a response, which, Mr. Fetherston noted is Thursday, September 22, 2016. Mr. Fetherston read the Attorney General's letter and noted that Town Counsel found no merit in the Complaint. Mr. Legassey made a motion to accept Town Counsel's response to the Attorney General. Mrs. Mortensen seconded the motion. Mr. Fetherston mentioned that it was brought up that they had used town resources irresponsibly. The motion was approved 3-0.

**Health Agent / Director's Report:**  
**FY17 and FY18 Budget, Revolving Fund – Update on equipment for vaccine including freezer and digital recorder**

Mr. Oram noted that the Board of Health budget is at 20%, adding that he has informed Town management that we will need additional funding for the landfill for remediation of the gas that has been discovered with the new deeper monitoring pipes. Mr. Oram informed the Board that they are planning to install gas permeation trenches, which will have engineering and installation expenses.

Mr. Oram noted that on October 1<sup>st</sup> the Town Manager and Finance Director will be issuing operating budget instructions for FY17 and suggested Board Members look at various things they think are needed for our budget, including additional personnel. Mr. Oram would like to see at least a 20 hour position, and possibly a regional concept. Mr. Legassey mentioned he would like to see the Board request in the budget a second full-time person, and compensation for the secretarial work provided for meetings. Mr. Fetherston suggested setting up a joint meeting with the Board of Selectmen, the Nyanza group and the Board of Health to discuss the landfill.

**Rail Transit District Apartments, request for irrigation well – 9 Stone Road - 7:30 PM**

David Eastridge, for Campanelli Development, explained to the Board that the proposed well would be used for irrigation only. Mr. Eastridge stated that he has provided a plan to show the restricted use limitations, which he stated are restricted due to its proximity to Nyanza. Mr. Eastridge showed that the plan has three possible drilling locations, shown as Areas “A”, “B” and “C” ; and they will drill about 500’ deep. Mr. Oram clarified that they have only applied for 1 well; Mr. Eastridge says they will take it a step at a time, and just drill one for now.

Mr. Fetherston stated that Mr. Eastridge may be coming late to be asking for an irrigation well in a town with water restrictions. Mr. Oram said that he lets well applicants know that there may be the day when a water ban will apply to well owners also. Mr. Oram said this map should be further reviewed by EPA and DEP with this overlay showing groundwater withdrawal restrictions. Mr. Fetherston said that he was told by the Water Department Superintendent that the water was at a critical stage. Mr. Oram mentioned that other commercial well applicants have allowed the Town to connect to their wells in an emergency. Mr. Oram said they will also need to comply with all Town well regulations, including an engineer certification stating that there are no other wells within the distant requirement.

Mr. Fetherston stated that we will need to reschedule the well approval until after Mr. Oram speaks to EPA and DEP. Mr. Oram noted that well drillers who drill into ledge and encounter hazardous chemicals, this area then becomes a 21E site.

**Howe Street Solar Project and Recent ECS Reports**

Mr. Oram explained that through the testing there is still a discovery of gas, right now there are two permeation trenches, they will be adding another one along the boundary of Howe Street. Mr. Oram said that gas is being found in various probes, it may have always been there, but the probes are now at a deeper level. Mr. Oram said there will be a meeting/conference call tomorrow which will include the Water Department, Fire, ECS and Ameresco regarding the remediation and the shutting down and relocating of a fire hydrant, it will also include discussion on placement of the berm. Mr. Oram said there was a spike in levels in June; DEP described the process of what needs to be done to rectify. Mr. Oram explained how the trench is installed and how it works.

**Food Inspector Position – Update**

Mr. Oram said they have interviewed 8 people for the food inspector position, they had decided on an applicant but it fell through due to her scheduling. Mr. Oram said that the hours would be 8-10 hours per week. Mr. Fetherston said this issue is long overdue and needs to be done by our first meeting in October. Mr. Legassey

inquired if 8-10 hours is enough; Mr. Oram said that we may need to increase the hours in order to have an effective program with food vendor education as well.

#### **Erica's Ristorante' – Update**

Mr. Oram stated that Erica's is expecting to open in 4 weeks; he finds this to be a better result when owners take their time in opening.

#### **Update on Intern project**

Mr. Oram said that the Board of Health intern, Joy Vetter, did a terrific job this past summer and was chosen as 1 of 5 students to be a speaker and present her poster project, which focused on the stigma and use of Narcan. Mr. Fetherston suggested inviting her to a future meeting and present her with a citation for her good work.

#### **Request for Pesticide Waiver, High School**

Mr. Oram explained to the Board that he has received four pesticide waivers and they are typically issued within 1-2 hours. Mr. Oram said that the common issue has been biting insects including wasps, hornets and bees.

#### **Ashland Day booth with MRC and Green Up members– September 17, 2016**

Mr. Oram said Ashland Day was successful with members from Board of Health, Medical Reserve Corp and Green Up Ashland. Mr. Oram said Board Members were given additional space for their large display.

#### **DEP approval for emergency water, August 22, 2106**

Mr. Oram updated the Board regarding the need to conserve water and the notice received from DEP, noting that water level in the public water wells is at a dangerous stage. Mr. Oram said that DEP has great ideas for conserving water.

#### **Update on flu shots to be offered by Rite Aid**

Mr. Oram said that unfortunately the Board of Health no longer receives free flu vaccines, with the exception of individuals who are under 19 or uninsured, adding that last year only two people came in for flu inoculations which were administered by Mrs. Mortensen. Mr. Oram said that Rite Aid has offered to help by giving flu vaccines to the seniors at the Community Center on October 19<sup>th</sup>, and they have opened this up to Town employees also. Mr. Oram agreed to get this information onto the website, but noted this service is also offered at most local CVS and Rite Aid stores. Mr. Oram said he will send out an email to everyone through the Town email.

#### **Overview of investigation of ultra light helicopter accident at Ashland Reservoir**

Mr. Oram explained that a small ultra light helicopter landed safely in the reservoir, this was concerning because it was under water. Mr. Oram and Mr. Fetherston were both at the site when the State Fire Department was able to pull the helicopter out, it did not release any gasoline.

#### **Development and management meeting with updates from past meeting(s) / development matrix**

Mr. Oram mentioned that they have had more development meetings which include the Building, Planning, Conservation, Economic Development and Health Departments. Mr. Oram updated the Board on possible upcoming development.

#### **Tech Review meeting held September 8, 2016**

##### **81 West Union Street**

Mr. Oram discussed a proposed storage facility at 81 West Union Street. Mr. Oram said this will be close to the Middle School and that he advised the developers during Technical Review, when it comes to demolition

and construction, they will need to pay attention to ensure proper fencing and minimize dust and noise, they will need to have a preconstruction conference.

### **310 Pond Street, Conceptual Plan**

Mr. Oram said this conceptual plan for 310 Pond Street was brought to Tech Review and involves a proposed learning center, a car wash and a drive-thru bank.

### **Food Establishment updates:**

#### **-Voluntary closures by owners: Super Pao and La Papusa Loca Grill**

Mr. Oram updated the Board on two Town restaurants which have recently closed. The owner will try to seek new businesses to come in.

Mr. Legassey said they are converting the Shell station on Union Street, Mr. Legassey inquired if they are coming to the Board of Health prior to construction. Mr. Legassey said he would hate for them to go through the expense to then find out they need an exterior grease trap. Mr. Oram said it depends what they are planning to do, he will look into it.

Mr. Fetherston commended Beth Reynolds for her efforts in the Economic Development Office, noting you can't find a nicer or more dedicated person; Mr. Oram agreed it is an important position and she fills the role well.

### **Updates on Medical Reserve Corps coordinated efforts at Ashland Day and meeting with Chair**

Mr. Oram stated that Michael Gernick, Chairman of the Ashland Medical Reserve Corp, usually conducts two MRC meetings per year. Mr. Oram said 10-11 people signed up on Ashland Day, it is just a matter of keeping them busy, it is on the quiet side right now.

### **Updates – Decisions at Every Turn**

Mr. Fetherston said that he attended last night's marijuana forum at the High School hosted by DAET, and he is appalled that if Question 4 passes, and marijuana becomes legal, the Board of Health would lose all jurisdiction and feels this is terrible legislation. Mr. Fetherston said that Chief Davis made a phenomenal presentation, these statistics involving drug driving show it is imperative that we don't get political, but, lay out the facts. Mr. Fetherston suggested this could be done through a regional forum possibly in mid-October. Mr. Oram said this sounds different from the strict regulations that go along with medical marijuana, but if local control is taken away-that's not appropriate. Mr. Fetherston and Mr. Oram will work together to set up a forum, possibly October 18th.

Mr. Oram complimented Decisions at Every Turn on a fantastic retreat. Mr. Oram said the retreat included a roundtable discussion on future events. Mr. Oram said we need to stress to kids that marijuana should not be idolized, and using athlete celebrities who kids look up to as a way to reach out.

Mr. Fetherston said he cannot say enough good about DAET and would like to recognize their efforts and make a presentation to the public, adding it is good to recognize heroes in the community and they are definitely heroes.

Mrs. Mortensen said she would like to discuss on a future agenda a new blood test that is available which detects a head concussion in 20 minutes, Mrs. Mortensen would like to research this and bring it back to the Board for discussion. Mr. Fetherston responded it would be great after all the work she and others have done on concussions.

Mr. Oram would like to review many of our regulations such as Title 5 and Tobacco Regulations including vape shops; Mr. Oram says it would be important to possibly tweak or make additions to our Regulations. Mr. Fetherston would like the Tobacco regulations on the November agenda.

Mr. Fetherston recapped points of the meeting.

**Discuss dates for future Board of Health Meetings: October 4 and 18, 2016; November and December 2016**

The Board discussed possibly meeting November 1 and November 15, and December 13, 2016.

**Adjournment**

Mr. Legassey made a motion to adjourn. Mrs. Mortensen seconded the motion. The motion was approved 3-0. The meeting was adjourned at 9:17 p.m.

ASHLAND BOARD OF HEALTH

DOCUMENTS REVIEWED AT THE 9/20/2016 MEETING

(All items stored in the Board of Health files unless otherwise noted)

1. Citizen's Participation – KG Narayana distributed a letter from the Attorney General's office to the Town Clerk dated September 2, 2016, regarding a public records request of a Board of Health member
2. Acceptance of Minutes- Draft Minutes from July 25, August 9, August 16 and September 6, 2016
3. Approval of Board of Health Permits by Health Agent
  - a. Letter from William Gath
  - b. Letter from Catherine Rooney
4. Follow up to Judy Margulies' OML Complaint
  - a. Letter from Attorney General's office
5. Irrigation Well Request – Rail Transit Apartments
  - a. Well application
  - b. Plans
6. FY17 / FY18 Budget, Revolving Fund
  - a. Year-to-Date Budget Report
7. Howe Street Solar Project
  - a. ECS Reports
8. Request for Pesticide Waiver
  - a. Pesticide Waiver Request forms (4)
9. DEP approval for emergency water
  - a. Letter from DEP
10. Tech Review – 81 West Union Street / 310 Pond Street
  - a. Plans