

## HAMILTON BOARD OF HEALTH

TUESDAY, MAY 11, 2010

**Members Present:** Lindle Willnow, Karen Zagorski, Susan Wilfahrt, Health Agent Leslie Whelan and Administrative Assistant Nancy Stevens.

**Meeting Opened:** 7:33 p.m. at Hamilton Town Hall

**Discussion (Update) – Peter Britton, Brick Ends Farm (regarding residents complaining about odor)**

On April 20, the Board of Health toured the Brick Ends Farm facility and discussed changes with farm owner Peter Britton to mitigate odors related to composting operation. Health department received one call since its April 6 meeting about the odor from the farm that is bothering neighbors in Sharon and Bradford Roads, and Asbury and Highland Streets areas.

Britton has been using enzymes to control odors and is stirring up a smaller amount of material at a time compared to what he was doing in the past with his composting operation. He is noting the wind direction before he moves material to minimize the odor transmission.

Britton has been closing the gate at the beginning of his driveway so there would not be any truck traffic at odd hours of the day or night.

Board Chair Lindle Willnow wrote a draft report on odor problem at Brick Ends Farm and distributed it to other Board members. It outlines the problem, jurisdiction of the Board, issues not addressed by the Board, details about the composting operation and steps taken by the Board and Brick Ends Farm as well as possible additional future steps. Report will be reviewed by Board and made public at end of next meeting.

**Variance Request – Ann & Paul Ricker attending meeting regarding 73 Lake Drive**

A septic system plan was approved in 2006 for a one-bedroom leach field at 73 Lake Drive. Plans for upgrading existing cottage outlined a one-bedroom and property owner Paul Ricker has attached a deed restriction for one bedroom that is appropriate under the 2006 code.

Willnow moved that the Board of Health approve the variance request for a one-bedroom septic system at 73 Lake Drive that will go to the Department of Environmental Protection for subsequent approval. Susan Wilfahrt seconded the motion. VOTE: Unanimous.

Health Agent Leslie Whelan will forward an application for variance found on the DEP website to Paul Ricker who will send the application to DEP for its approval.

Discussion on Board of Health's role with the Canterbrook Farms application for a senior housing development that the Planning Board is working on. The proposed development will have nitrogen-loading requirements especially because the property is located in the Zone 2 water district.

### **Review and Approve – BOH Minutes**

Willnow moved the Board approve the minutes with changes noted (correct spelling of larvacide and reference to no new commercial customers being accepted at this time at Brick Ends Farm). Wilfahrt seconded the motion. VOTE: Unanimous.

Report on odor problem at Brick Ends Farm to be attached to May 11 meeting minutes. Britton would comment on the report. Final report will be posted on Town's website.

### **Old Business, New Business**

Karen Zagorski asked that this section be added to the Board's agenda. Discussion was on need to update Hamilton contact information in Emergency Dispensing Site plan with names of new personnel (i.e., Police Chief Russell Stevens). Also, that the health department should do an inspection at the Acord Food Pantry on Willow Street. Mosquitoes have been noticed in Town. Any occurrence of mosquitoes found with West Nile Virus or Eastern Equine Encephalitis would typically be identified by the Northeast Mosquito Control District in mid to late summer.

### **Meeting Adjourned:**

Willnow moved at 8:26 p.m. to adjourn. Zagorski seconded the motion. VOTE: Unanimous. The Board's next meeting is on Tuesday, June 15.

### **ATTEST:**

cc: Selectmen, Planning Board, Town Clerk, Conservation

## **Report on Odor Problem at Brick-Ends Farm, Hamilton**

**Lindle Willnow, Chair**

**Hamilton Board of Health**

**June 15, 2010**

At the April 6, 2010 meeting of the Hamilton Board of Health (BOH), a number of residents expressed their concerns over the odors emanating from the composting operations at Brick Ends Farms at 464 Highland Street. Subsequently, members of the BOH toured the compost facility led by Mr. Peter Britton, owner and proprietor of Brick Ends Farm on April 20, 2010.

### **Problem**

Residents of Asbury Street, Highland Street, Sharon Road, and Bradford Road have experienced periods of extreme malodor. There have been several reports recently, with one occurrence verified by the Health Agent, and with other reported occurrences over that the past several years. These residents came to the BOH asking whether the BOH has any jurisdiction on this matter and what could be done to reduce or eliminate the odors.

### **Jurisdiction of the BOH**

The BOH does have jurisdiction on the matter as indicated in Massachusetts General Law (MGL) 111 Chapter 31C which states: "A board of health, or other legal authority constituted for such purpose by vote of the town or city council shall have jurisdiction to regulate and control atmospheric pollution, including, but not limited to, the emission of smoke, particulate matter, soot, cinders, ashes, toxic and radioactive substances, fumes, vapors, gases, industrial odors and dusts as may arise within its bounds and which constitutes a nuisance, a danger to the public health, or impair the public comfort and convenience." Currently, there are no specific local BOH regulations which govern odors.

### **Issues not Addressed by BOH**

Some of the issues raised by the concerned residents do not fall under the purview of the BOH. These issues will be relayed to the appropriate town board or department. The main non-BOH issues are:

- **Traffic Speed on Highland Street** – This is a matter for the police for enforcement and for the DPW, who may adjust speed limits on Highland Street.
- **Truck Traffic Volume on Highland Street** – There are no specific limits on the amount of trucks that can travel on Highland Street nor are there any limits on the amount traffic into or out of Brick Ends Farm. If noise from the trucks is an issue, the police may enforce exhaust noise ordinances, if applicable.
- **Leachate's impact on Groundwater** – It does not appear that runoff from the composting area travels towards Asbury Street and the Town's Patton Well. Runoff travels to the north and east and eventually moves towards Black Brook which then flows into the Ipswich River downstream of any other Town's drinking water source intakes. Thus, the DPW or Water Department is not believed have jurisdiction. There is a collection pond on the site which collects surface runoff from the site and allows sediment in the runoff to settle. The issue of impact on groundwater or wetlands would be under the purview of the Conservation Commission.

### **Composting Operations**

Operations are conducted at Brick Ends as agricultural compost operations under a Massachusetts Agricultural Composting Permit issued under 330 CMR 25.00: AGRICULTURAL COMPOSTING PROGRAM. This regulation allows Brick Ends to operate this facility provided that defined agricultural wastes and other compostable material are used with contaminants removed and that the facility operates under the guidelines set forth in Paragraph 25.05 of this regulation. Specifically, the facility:

1. Agricultural composting facilities must be secure from illegal dumping of waste materials.
2. Composting operations shall comply with all state and local regulations governing agricultural composting including those which relate to siting requirements (310 CMR 16.00) and the Department's Agricultural Compost Guidelines.
3. The operation of the composting facility must be done in a manner to minimize odors, noise, drift of materials, and risk to humans or the environment.

### **Types of Materials Composted**

In general, Brick Ends receives materials for composting including vegetable wastes from grocery stores, household organics from curbside pickup, manure, and yard waste from local residents. In the past, the farm received and included gelatin waste (a food grade material) but no longer does. In addition, biosolids (conditioned digested sewage sludge from a publicly owned treatment plant) was land applied on site assigned fields to grow animal feed but that program has been suspended as well. The end product is used as a soil amendment. Analysis of the compost end product has found acceptable levels of metals and other contaminants. Testing has been done by the University of Massachusetts Soil and Plant Tissue Testing Laboratory and the Soil Control Lab of AgreSource.

### **Steps taken by Brick Ends Farm to Mitigate Odors**

Upon being notified of the complaints in advance of the April 6, 2010 meeting, modifications are being made at the facility to mitigate the odor problem. These include:

- Alter turning operations – Materials are being allowed to react for a longer period before being disturbed, the method for casting the materials to higher levels of the pile is less likely to aerosolize any contaminants, and care is being taken to conduct these turning operations when the prevailing wind direction is not from the north (which brings any odors towards the residential areas).
- Use of Enzymes – An enzyme material is being added to the piles which facilitates the composting reactions and reduces the amount of odorous chemical being generated.
- Limit hours of access – The front gate to the site will be locked at night so access is available only between 7:00 am and 4:00 pm.
- Notify BOH of changes in operations – Brick Ends will continue to notify the BOH when changes in operations are anticipated that may cause an increase in odors.

### **Steps Taken by BOH**

The Hamilton Board of Health, within its jurisdictional limits will complete the following steps and will follow up later in 2010.

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- Complete report on incident and transmit copies to Board of Selectmen, affected residents and Brick Ends Farm.
- Develop Contact List of residents and share any developments or regulatory developments with them
- Continue to field calls from residents and pass along the messages to the residents.

#### **Possible Additional Future Steps**

If additional severe incidents occur, the following steps may be required. At this time, these steps are not felt to be necessary.

- Changes in Composting Operations – Additional operational measures may be required to limit odors or to capture odorous substances prior to atmospheric release.
- Installation of Odor reduction devices - Additional structural measures may be required to limit capture or treat odorous substances prior to atmospheric release.
- Air Quality Monitoring by DEP – The Massachusetts Department of Environmental Protection may be contacted to evaluate the need for air quality monitoring in the area.

## **Attachment 1: Excerpts from Massachusetts General Laws**

### CHAPTER 111. PUBLIC HEALTH

#### CITY AND TOWN BOARDS OF HEALTH

#### **Chapter 111: Section 26. Boards of health in cities; membership; appointment; removal; compensation**

Section 26. In each city, except as hereinafter provided, the board of health shall consist of three persons, one of whom shall be a physician. No one of them shall be a member of the city council. One member shall be appointed in January of each year for three years from the first Monday of the following February. Unless otherwise provided in the city charter, the members shall be appointed by the mayor, subject to confirmation by the board of aldermen, and may be removed by the mayor for cause, and vacancies shall be filled by appointment for the residue of the unexpired term. Members of the board shall receive such compensation as the city council may determine. Boards of health in towns shall be chosen as provided in chapter forty-one. This section shall not apply to any city in which a different type of organization is authorized by special legislative act or by the acceptance of sections twenty-six A to twenty-six E, inclusive.

#### **Chapter 111: Section 26E. Rules and regulations for departments of health; assistants and clerks**

Section 26E. Every such commissioner of health shall make rules and regulations for the department of health, its officers, agents and assistants. He may appoint such necessary assistants and clerks as may be required to execute the health laws and regulations of the department. They shall devote their entire time to the performance of their duties unless specifically employed on a part-time basis.

#### **Chapter 111: Section 31. Health regulations; summary publication; hearings; filing sanitary codes and related rules, etc.**

Section 31. Boards of health may make reasonable health regulations. A summary which shall describe the substance of any regulation made by a board of health under this chapter shall be published once in a newspaper of general circulation in the city or town, and such publication shall be notice to all persons. No regulation or amendment thereto which relates to the minimum requirements for subsurface disposal of sanitary sewage as provided by the state environmental code shall be adopted until such time as the board of health shall hold a public hearing thereon, notice of the time, place and subject matter of which, sufficient for identification, shall be given by publishing in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days prior to the date set for such hearing, or if there is no such newspaper in such city or town, then by posting notice in a conspicuous place in the city or town hall for a period of not less than fourteen days prior to the date set for such hearing. Prior to the adoption of any such regulation or amendment which exceeds the minimum requirements for subsurface disposal of sanitary sewage as provided by the state environmental code, a board of health shall state at said public hearing the local conditions which exist or reasons for exceeding such minimum requirements. Whoever, himself or by his servant or agent, or as

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the servant or agent of any other person or any firm or corporation, violates any reasonable health regulation, made under authority of this section, for which no penalty by way of fine or imprisonment, or both, is provided by law, shall be punished by a fine of not more than one thousand dollars.

Boards of health shall file with the department of environmental protection, attested copies of sanitary codes, and all rules, regulations and standards which have been adopted, and any amendments and additions thereto, for the maintenance of a central register pursuant to section eight of chapter twenty-one A.

**Chapter 111: Section 31C. Atmospheric pollution; regulation and control; publication; hearings; penalties; enforcement; jurisdiction; injunction**

Section 31C. A board of health, or other legal authority constituted for such purpose by vote of the town or city council shall have jurisdiction to regulate and control atmospheric pollution, including, but not limited to, the emission of smoke, particulate matter, soot, cinders, ashes, toxic and radioactive substances, fumes, vapors, gases, industrial odors and dusts as may arise within its bounds and which constitutes a nuisance, a danger to the public health, or impair the public comfort and convenience.

Said board of health or other legal authority, subject to the approval of the department of environmental protection, in this section called the department, may from time to time adopt reasonable rules and regulations for the control of atmospheric pollution. Before the board of health or other legal authority submits such rules and regulations to the department for approval, such board or other legal authority shall hold a public hearing thereon, of which notice shall be given by publication for one day in each of two successive weeks in a newspaper published in the town, the first publication to be at least fourteen days prior to the date of the hearing, or if no newspaper is published in such town, by posting a copy of such notice in a public place therein. Said rules and regulations, when approved by the department, and after publication in a newspaper published in the town, or, if no newspaper is published in such town, after posting a copy in a public place, shall have the force of law.

The department shall advise the board or other legal authority in all matters of atmospheric pollution. The department may, upon request of the board of health or other legal authority of a town adversely affected by atmospheric pollution arising in another town, after a hearing to all parties interested, assume joint jurisdiction to regulate or control such cause of atmospheric pollution and may exercise all powers of the local board of health or other legal authority under provisions of the General Laws or any special laws.

Whoever violates any order, rule or regulation promulgated or adopted under the provisions of this section shall be punished, for the first offense, by a fine of not less than one thousand nor more than five thousand dollars and for a subsequent offense, by a fine of not less than five thousand nor more than ten thousand dollars. For the purpose of this paragraph each day or part thereof of violation of such an order, rule or regulation whether such violation be continuous or intermittent, shall be construed as a separate and succeeding offense.

Rules and regulations promulgated or adopted under the provisions of this section shall be enforced by said board of health or other legal authority either of which may delegate the power to enforce specific regulations to other agencies or departments of the same city or town. The superior court shall have jurisdiction in equity to enforce such rules and regulations and may restrain by injunction any violation thereof.

**Chapter 111: Section 142A. Pollution or contamination of atmosphere; prevention; regulations; violation; enforcement**

Section 142A. The department of environmental protection, referred to in this section and in sections one hundred and forty-two B through one hundred and forty-two M, inclusive, as the department may from time to time adopt regulations, pursuant to this section and sections one hundred and forty-two B through one hundred and forty-two M, inclusive, to prevent pollution or contamination of the atmosphere. Whoever violates any such regulation or any permit or plan approval or order issued thereunder: (a) shall be punished for each violation by a fine of not more than twenty-five thousand dollars, or by imprisonment for not more than one year, or both such fine and imprisonment; or (b) shall be subject to a civil penalty of not more than twenty-five thousand dollars for each violation. Each day or part thereof that such violation occurs or continues shall be a separate violation. The civil penalty may be assessed in an action brought on behalf of the commonwealth in the superior court. The commonwealth may also bring an action for injunctive relief in the superior court for any such violation, and the superior court shall have jurisdiction to enjoin such violation and to grant such further relief as it may deem appropriate.

**Chapter 111: Section 143. Trade or employment attended with noisome and injurious odors; assignment of places; prohibition; appeal**

Section 143. No trade or employment which may result in a nuisance or be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or may be attended by noisome and injurious odors shall be established in a city or town except in such a location as may be assigned by the board of health thereof after a public hearing has been held thereon, subject to the provisions of chapter forty A and such board of health may prohibit the exercise thereof within the limits of the city or town or in places not so assigned, in any event. Such assignments shall be entered in the records of the city or town, and may be revoked when the board shall think proper.

The department of environmental protection shall advise, upon request, the board of health of a city or town previous to the assignment of places for the exercise of any trade or employment referred to in this section, and any person, including persons in control of any public land, aggrieved by the action of the board of health in assigning certain places for the exercise of any trade or employment referred to in this section may, within sixty days, appeal from the assignment of the board of health to the department and said department may, after a hearing rescind, modify or amend such assignment.

Notwithstanding any provision in section one hundred and twenty-five A of this chapter, this section shall apply to the operations of piggeries.

## **Attachment 2: Pertinent Mass Codes**

### **310 CMR 6.00: AMBIENT AIR QUALITY STANDARDS FOR THE COMMONWEALTH OF MASSACHUSETTS**

- SO<sub>2</sub>
- Particulate Matter
- CO
- O<sub>3</sub>
- NO<sub>2</sub>
- Pb
- 

### **310 CMR 7.00: AIR POLLUTION CONTROL**

### **310 CMR 8.00: THE PREVENTION AND/OR ABATEMENT OF AIR POLLUTION EPISODE AND AIR POLLUTION INCIDENT EMERGENCIES**

### **310 CMR 16.00: SITE ASSIGNMENT REGULATIONS FOR SOLID WASTE FACILITIES**

### **310 CMR 19.000: SOLID WASTE MANAGEMENT**

### **330 CMR 25.00: AGRICULTURAL COMPOSTING PROGRAM**

#### **25.05: Operation of Composting Facilities**

- (1) Agricultural composting facilities must be secure from illegal dumping of waste materials.
- (2) Composting operations shall comply with all state and local regulations governing agricultural composting including those which relate to siting requirements (310 CMR 16.00) and the Department's Agricultural Compost Guidelines.
- (3) The operation of the composting facility must be done in a manner to minimize odors, noise, drift of materials, and risk to humans or the environment.

### **330 CMR 22.00 AGRICULTURAL PRESERVATION RESTRICTION PROGRAM**

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Lindle Willnow, Chair  
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### **Attachment 3. Chemical Analysis of Composted Material**