

HAMILTON BOARD OF HEALTH

MINUTES OF MEETING

January 16, 2019

Members Present: Giselle Perez, Walter Row (via telephone), and David Smith (Chairman)

This meeting was called to order at 7:00 pm in the Memorial Room, Hamilton Town Hall by David Smith.

Discussion - Brick Ends Farm – Air Quality Complaint

David Schylling (407 Highland St.) addressed the Board. Mr. Schylling said he had spoken with Peter Britton regarding noxious and foul odors at the Brick Ends Farm composting site. Mr. Schylling said the odors and burning (eyes, nose, and tongue) sensations experienced from the composting facility were ruining the enjoyment of his property. Mr. Schylling assumed the odor was from methane or ammonia and suggested the town rent testing equipment to determine the make-up of the odors.

David Schylling distributed a copy of the State permitting law 310 CMR and wondered if the facility was operating under the permit requirements. According to Mr. Schylling, the grantee (Peter Britton) was required to show his operation or products did not result in a discharge of pollutants to the air, water, land, or other natural resources of the Commonwealth, create a public nuisance, or create or present a significant threat to public safety or environment. Mr. Schylling said the facility was definitely creating a nuisance.

310 CMR indicated that the facility needed to be sited a certain distance from human or environmental receptors such as residences, schools, public or private water supplies, wells, wetlands, streams, or rivers. Under Section D., requirements for handling organic materials and the need for an odor control plan that was appropriate for the size and type of operation that would minimize the production of migration of odorous compounds were needed. According to David Schylling, Peter Britton had checked wind directions and tried to stop what was happening such as turning compost to mitigate the issue but the problem would return. Mr. Schylling said the facility needed a mitigation plan appropriate for the size and type of facility. David Schylling referred to the pages of the document that outlined the requirements.

David Schylling said he was not alone in his complaint but there was a group of individuals who were affected. Mr. Schylling referred to the new science regarding the release of bio-aerosols. The proposed legislature would not allow facilities within 1,000 meters of residences. Mr. Schylling wanted the Town to be aware. Mr. Schylling hoped Peter Britton could run his facility within the guidelines of the permit.

Giselle Perez noted that as there were no respiratory issues, there was no clear cause and effect even though the issue was interesting. David Schylling said when the odors went away, the burning effects also disappeared so there was causal cause and effect.

Peter Britton (466 Highland St.) explained that his composting operation was operating under a permit issued under 330 CMR 25. Mr. Britton said he composted 100 tons of organic material per week. Material included food waste (meat and vegetables) collected through the Hamilton Wenham curbside program. Fall leaves were used as a carbon component of the recipe. Woodchips and finished compost were used as an odor control mechanism. Mr. Britton used a static pile system. According to Mr. Britton, the facility served the community and agriculture.

Peter Britton referred to 310 CMR section 16 and subsections and 330 CMR 25. The program was established under 330 CMR 25 and authorized by MGL 21H Section 7, which established the criteria under which the Department of Agricultural Resources may register agricultural composting operations in the Commonwealth as stated in 310 CMR 1603 2.c.1. an agricultural composting operation located on an agricultural unit and registered by the Department of Agricultural Resources would not require a site assignment under 310 CMR 16. Site assignments regulations for solid waste facilities and facilities permit pursuant to 310 CMR 19 solid waste management, a general waste permit pursuant to 310 CMR 16.04 or 16.05 if the owner operates best management practices in a manner that prevents a discharge of pollutants to air, water, or other natural resources of the Commonwealth, does not create a public nuisance,, does not present a threat to public health, safety, or environment or satisfies all requirements of 330 CMR 25. 310 CMR 25 facilitated agricultural composting and ensured that agricultural composting operations are effectively managed in order to protect the natural resources of the Commonwealth.

Peter Britton also referred to the Hamilton Right to Farm By-law, which had been passed by the Town years ago. The General By-law promoted agricultural by allowing agricultural uses and related activities. Mr. Britton would leave a copy of the above reference material with the Board of Health.

Peter Britton said agricultural composting was permitted under a separate program under the MA Department of Natural Resources rather than the Department of Environment Protection (DEP). Mr. Britton said he was under the jurisdiction of the Department of Agriculture. Mr. Britton said he had the number two permit in the State, which he renewed annually with the Department of Agriculture. David Schylling, who had quoted DEP wondered about the relationship between 330 CMR and 310 CMR.

Peter Britton said what was different in Hamilton was that the State description of agriculture did not specifically use the word "composting." The Town Warrant Article for the Right to Farm By-law, which was approved at Town Meeting, specifically included language for composting. The Attorney General approved the By-law. Mr. Britton said 330 CMR did not supersede 310 CMR but DEP had permitted that aspect of solid waste handling that related to agricultural composting to be managed and supervised by MA Department of Natural Resources. A farm would not need site assignment or a public hearing.

Giselle Perez asked if provisions were covered during the annual permit renewal. Peter Britton responded that he was required to report the volume of material and how it was handled. Mr. Britton said there was one inspector for the entire State who mainly relied on the report. The inspector visited Brick Ends Farm one to one and half years ago. A course was required for new establishments but Brick Ends Farm had been in operation for fifteen years. Mr. Britton said he had a reputation for good compost and was responsible in terms of management. Ms. Perez wondered if older equipment might not meet regulations or were less efficient in terms of processing. Mr. Britton said David Schylling's concerns had been helpful. Now the airport was contacted for wind direction and log-ins for activities were being conducted. Mr. Schylling said the wind direction or lack of wind did not change the effect.

David Smith said ten complaints had been filed, some of which covered multiple days. All complaints were from David Schylling except for three. The complaint from 327 Highland St. (10/17) was determined to be a truck loading loam rather than the compost. The complaint from 4 Sharon Road (1/18) was determined to be failed septic systems in the area. A non-specific and distant Wenham resident (12/18) complaint was determined to be too far away to have been generated by the farm.

David Schylling had been a resident for 26 years and had only complained after he recently retired. Mr. Schylling thought others might not complain because they assumed it would go away or there was nothing to be done about it. Mr. Schylling would share the Board of Health contact information for others to issue their concern. Mr. Schylling said no matter what permit the project was issued under, polluting the environment was not allowed. Mr. Schylling hoped new techniques or equipment could be found to minimize the odor.

Giselle Perez thought burning eyes were enough to suggest additional investigation was warranted. Ms. Perez noted the issue was based on assumptions rather than data. Ms. Perez said if left as is, the Board could make scenarios in their mind rather than have data to go by or make assumptions or scenarios that may not be founded.

Peter Britton said he would investigate if VOC's were precursors of ozone. Mr. Britton said the application of compost on top of piles could reduce odors up to 40% and he intended on using that plan. Mr. Britton noted the impacts to the 23 units of over 55 housing to be built next to the facility. Mr. Britton added that odor vector did not go directly to the Schylling residence. Mr. Britton said it was helpful when Mr. Schylling called as there were times that the wind gauge was incorrect. Mr. Britton planned on degassing the product prior to it becoming airborne and learning how to deal with what was already airborne.

David Smith suggested that David Schylling give neighbors the Board of Health's contact information and that Mr. Schylling contact the Board of Health as soon as there was an unacceptable issue so Mr. Smith could respond immediately to it. Mr. Smith said it would take

time for the Board to digest all the information provided. Mr. Smith said odor problems were hard to deal with due to the range of sensitivity. Odor concentration could not be measured. Peter Britton said the NAAQ standards for measurement in Essex County were revoked.

Discussion - Recent Joint Meeting with the Wenham Board of Health

The two Town Boards had met the previous Thursday. Giselle Perez recalled discussion regarding vaping and smoking and what the Boards could do together such as having a penalty or consequence if either activity occurred on school premises. The Boards discussed what could be done under the regulations and language within the By-law. Ms. Perez recalled opportunities to intervene such as collecting money to go to a high schooler to quit smoking. David Smith said e-mails had been received and placed regarding the mechanism by which the Boards could provide the Schools with the ability to levy fines on violators and how money collected through fines could be used for education and prevention. Both Boards were working on how to provide authority to the Schools. The component would be added to the non-smoking policy

David Smith said he had met with Joe Domelowicz who was arranging a meeting with Town Counsel to determine the simplest legal mechanism to give the Schools authority to levy fines. Town Meeting was not required. Walter Row said State statute enabled towns to have fines and how to administer and enforce them. Mr. Row thought keeping vaping physically out of the School was the simplest solution. David Smith recalled his conversation with Chris Lee who said vaping had become a “cat and mouse game” as it was practically impossible to catch a student using vaping. Catching a student in the act was necessary in order for discipline to occur. Mr. Smith thought education including fines would be most effective. Mr. Row said the addictive behavior would become obvious if the product was not allowed on the premises and truancy would occur, which would accentuate the problem. The Schools were frustrated trying to keep students from vaping on school grounds. Donna Brewer would be contacted to determine a reasonable way to proceed. The Boards agreed to coordinate activities when the Schools were involved.

The joint meeting also discussed mosquito control and flu vaccination clinics.

Discussion - Mosquito Control Policy Draft

Postpone item until the next meeting.

Discussion - Health Agent Update

Leslie Whelan’s report was attached to the agenda. The Board had no questions regarding the report.

Discussion - Unanticipated Items/Announcements

David Smith updated the Board regarding the Dilapidated Building By-law. Mr. Smith said 22 Elliot St. had clean-up their front yard and the front of the house. The resident had been contacted and told that it would cost her less to clean up the house and yard than the fines would

cost. The case had not been closed yet. 86 Meyer Road owners had been contacted and were told to either finish construction of the home or demolish it as it had been under construction for years. The owner hired a contractor who started interior work. Patrick Reffett said the project was scheduled for completion by the end of June. The Building Commissioner visited on a regular schedule and if the construction did not follow the schedule, the owners would be fined. It was agreed that the By-law had done a good job.

The Board decided to research 330 CMR 25 and 310 CMR to determine which entity had the authority to issue a permit for a composting facility. It was agreed that if Brick Ends Farm were governed by 310 CMR 16, then he would have far more requirements including a public hearing to meet before the permit would be issued. David Smith wondered if the DEP yielded to the Department of Natural Resources regarding composting operations.

David Smith said the Board did not have permitting authority over Brick Ends Farm but if local residents were to become sick from the Farm, they could impose requirements. Walter Row said it was a reasonable path for air quality testing. Giselle Perez said data was needed and cancer took many years to develop. Ms. Perez said she would love to see the air tested and wondered if the equipment was out of date, the regulations might not have been followed because checks were so infrequent.

Nancy Stevens would copy and distribute information to all members. David Smith wondered if the effects to David Schylling were an anomaly because no one else had complained. Giselle Perez said it was notable that the resident had lived there many years and only recently made complaints. Mr. Smith said odor sensitivities were variable. Discussion ensued regarding the relationship between the rights of the individual and the common good. It was agreed that Brick Ends Farm provided a valuable public service to the community. Waste would be disposed of in another manner, which could create more serious environmentally serious hazards. Ms. Perez said odors were one thing but health hazards were enough to outweigh the benefits due to potential health costs. Mrs. Smith would ask Town Counsel if the Board had the authority to request air quality monitoring.

Review - November 29, 2018 Draft Minutes.

Motion made by David Smith to approve the minutes of November 29, 2018 as presented.

Giselle Perez seconded.

Vote: Unanimous in favor.

List of documents and exhibits reviewed.

E-mails between Nancy Stevens, Leslie Whelan and Dave Schylling regarding Brick Ends Farm air quality

Health Agent Update, dated January 16, 2019.

310 CMR distributed by David Schylling.

Adjournment

Motion made by David Smith to adjourn at 8:23 pm.

Seconded by Giselle Perez.

Vote: Unanimous in favor.