

HAMILTON BOARD OF HEALTH

MINUTES OF MEETING

December 4, 2019

Members Present: Giselle Perez, PhD, Christopher Small, and David Smith (Chairman)

Health Agent: Leslie Whelan

This meeting was called to order at 7:00 pm in the Council on Aging Building, Bay Road by David Smith. Richard Boroff was present and recording the meeting.

Introduction of new Board member, Christopher Small

Mr. Small said he was happy to be a member of the Board.

Comments on the Town Counsel memo banning Roundup/Glyphosate herbicide

Dr. Perez said the memo from Town Counsel was appropriate. Christopher Small thought a portion of the fourth paragraph appeared to be an over-reach and something that should not be done. Dr. Perez said her husband, who was a landscape architect said weed prevention was impossible without using herbicides. David Smith suggested that residents who wanted to ban Glyphosate should lobby on Beacon Hill for the pending State wide bill. Mr. Smith said if anyone approached him about banning the product, he would refer to the memo noting that the Town did not have the ability to ban the product, but the State might. Richard Boroff said the pending State legislation (House Bill 766) would allow towns to set up their own By-laws regarding the use of the products if they wanted to do so. Mr. Boroff added that Audubon's chemist judiciously swabbed a product on stem cuts of invasive species. Mr. Smith reiterated that the Town did not have the authority to ban the product until the State took action on the legislation.

Demolition Permit Review Policy

Leslie Whelan explained the application used for a demolition permit. The order of approvals was discussed and the Building Inspector would determine if signatures were needed. Ms. Whelan recalled that the Board of Health did not have rules on demolition so she contacted several other towns to learn that about half of them had rules, a town By-law, Board of Health Regulations, or a paragraph that the Board of Health followed when they signed off for rodent inspections or asbestos removal. Some towns had regulated the removal of lead paint. The City of Salem had a winter intern who would be tasked with the analysis of what towns were doing in an effort to create a consistency that would help builders. Ms. Whelan suggested the Town of Hamilton create a policy that said the Board of Health was investigating how to develop a regulation and until that time, felt strongly that it was important that a pest control operator conduct an inspection and provide a letter indicating there were no rodents present before demolition occurred. Discussion ensued regarding if rodents should be poisoned or trapped in an effort to not adversely affect neighborhood animals or wildlife. If rodents were present, a ten

day waiting period would go into effect for eradication before demolition could occur. There would be no wait if rodents were not present.

Motion made by David Smith that this Board task our Health Agent with developing a procedure for requiring rodent inspections for demolition projects submitted to the Town as part of the Building Permit application and a Guideline for how to handle extermination in the event that evidence of rodents is found.

Dr. Perez seconded.

Vote: Unanimous in favor.

Leslie Whelan would let the Building Department know that the Health Department would sign off on the form. Ms. Whelan would also look for inspection results and documentation of extermination if the presence of rodents was found.

Leslie Whelan would read through all the information to determine how septic systems would be involved with demolition. David Smith thought it might be covered under Title 5 with the abandonment of a septic system. Ms. Whelan added that it could specify that contractors not run over a septic system.

According to Leslie Whelan, towns that reviewed demolition applications for pests, also reviewed them for asbestos. One town reviewed applications for lead paint. It was agreed that OSHA had regulations for lead paint. Proper removal of lead paint would be described in the demolition application. Ms. Whelan said removal should be conducted by a person who was certified in asbestos removal. Determining who would sign off on the removal would be discussed by Ms. Whelan and the Building Department.

Variance Request 256 Linden St. leaching area near property line setback.

Rick Clark (EPS Associates) was present. The proposal was for a four bedroom house with a failing septic system. The tank and pump chamber were installed in 2000 but would be replaced with a Presby system. Leslie Whelan was currently reviewing the plan. The system proposed was 6.5' from the property line. 10' was required. The application also needed a reduction to groundwater from 5' to 3', which was allowable with a Presby system. Mr. Clark said he met with the abutters (Bruce and Susan Webb) who found the solution acceptable.

Rick Clark said an addition to the house was done in 2004. The Conservation Commission reviewed the plan at that time. Test pits found peat and silty sand. As the property could not be perc tested, soils were sent out for analysis. Mr. Clark said he found great soils in the corner of the lot and construction would not affect the new driveway. Mr. Clark said he also checked the neighbors' soil to find them to be good near the location of the proposed system. Leslie Whelan stated that she did not have a problem with the request.

Motion made by David Smith to approve the variance request for 256 Linden St. for the property line set back as documented in the drawing, which would bring it within 6.5' of the property line where we otherwise require 10'.

Seconded by Chris Small.

Vote: Unanimous in favor.

Health Agent Updates

Leslie Whelan said septic systems would need to be installed by December 15 to 20th due to freezing.

Unanticipated Items/Announcements.

David Smith reported that he had submitted the final rationale and justification for a full time Health Agent. The request was put in as a line item in the FY21 Health Department budget. Mr. Smith recalled that the request had been sent to Patrick Reffett, Joe Domelowicz, and then to the FinCom for approval. Mr. Domelowicz was reportedly not optimistic about the request but Mr. Smith recalled that residents had recently voted to spend an additional \$1M on the Town Hall renovations to save the historic stairway. Mr. Smith said the request would be pursued with vigor.

David Smith said that David Schilling had submitted complaints about the odors generated by the Brick Ends Farm composting facility. Dr. Perez, who lived in the area agreed. Mr. Smith noted that incidents occurred early to mid-morning during weather that concentrated odors and spread them across Highland St. during early and late winter. Dr. Perez said the Hamilton Wenham Facebook page also exhibited complaints about the odors. Dr. Perez responded that she didn't notice the weather variable but did notice more pungent odors recently.

David Smith visited David Schilling and promised he would speak with Shawn Bowen, Department of Agricultural Resources (DAR) about pursuing the problem. Mr. Bowen would visit Brick Ends Farm the following Friday for a site assessment and offer to mitigate the cause of the odors. Joe Domelowicz was alerted to the situation. Mr. Bowen had explained that the DAR issued a permit for the 50 composting operations in the State of MA, of which Brick Ends Farm is either the first or second largest. Mr. Bowen said the DAR could revoke the permit, which would require the farm to register under DEP. DEP had more financial resources and regulatory authority to take action against the farm. The second option would be to have the Board of Health issue a fine or pursue a cease and desist order.

Leslie Whelan thought the Brick Ends Farm operation was mainly composting and DEP had regulations for commercial compost facilities. Ms. Whelan did not believe it was a farm. David Smith agreed the farm was not agricultural but rather a composting facility on a farm permitted through DAR. If DAR revoked his permit because he was not a farm, he would then need to make a case that he was a farm or be permitted under DEP. Mr. Smith did not think Joe Domelowicz wanted to incur legal costs. Ms. Whelan said it would be DAR who incurred legal

costs. Ms. Whelan said DAR rules were set up for farms to compost and have protection from over-regulation. Ms. Whelan said DEP had better resources and would do a better job as DAR had 50 farms to regulate.

David Smith would send an e-mail summarizing his meeting with David Schilling and Shawn Bowen's visit as well as any recommendations or actions to be taken and what the Town can do to monitor Brick Ends Farm. One suggestion was to have Brick Ends Farm issue a monthly report on follow up actions. Mr. Smith said if reports were issued and odors continue, the Town could request that the farm lose its permit from DAR and be permitted through DEP. While Town records made the situation appear to be minor, Leslie Whelan thought some residents who had complained in years past had moved away due to the smell. Dr. Perez thought some residents might not know the source of the odor. One suggestion was to contact those living within a mile of the farm to determine the extent of the problem but Mr. Smith wanted to see how the site visit would go. If more complaints were received, a more aggressive plan of action would be pursued. Mr. Smith added that 90% of residents within one mile of the farm knew of its presence before they moved in within the last 20 years. Mr. Smith presented the log with dates and addresses of residents who had complained.

Review/Approve minutes of October 30, 2019.

Motion made by David Smith to approve the minutes of the meeting of October 30, 2019.

Seconded by Dr. Perez.

Vote: Unanimous in favor.

List of documents and exhibits reviewed.

Minutes dated, October 30, 2019.

E-mail chain regarding the banning of Roundup.

Demolition Application.

Adjournment

Motion made by David Smith to adjourn at 7:52 pm.

Seconded by Dr. Perez.

Vote: Unanimous in favor.

Prepared by: Marcie Ricker