

Acton Board of Health

Minutes

December 12, 2005

Members Present: William McInnis, Chairman, Mark Conoby, Vice-Chairman, Joanne Bissetta, Member, Dr. Bill Taylor and Philip Alvarez (voting for Dr. Harting-Barrat).

Staff Present: Doug Halley and Sheryl Ball.

Others Present: Mary Michelman, Carol Holley, Tina Grosowsky and Debra Simes

The meeting was called to order at 7:35 p.m.

Minutes

On a motion made by Ms. Bissetta, seconded by Mr. Conoby, the Board unanimously voted to accept the minutes of November 28, 2005 as amended.

Appointment

On a motion made by Mr. Conoby, seconded by Ms. Bissetta, the Board unanimously voted to appoint Mary Bassett-Stanford to the Environmental Standards for Fill Committee.

Discussion – Environmental Fill Committee

Mary Michelman, as chair of the committee, presented the Board with the Environmental Standards for Fill Committee draft report. The Committee was formed after Sue Kennedy was concerned with the standards for fill and filed a Citizen's Petition for last spring's town meeting. After meeting with the Board of Health and listening to the Board's concerns it was decided that the Citizen Petition be pulled from Town Meeting with the condition that a working group be formed to address the environmental standards for fill. The committee examined existing regulations to determine if changes could be made to the existing regulations or bylaws. The committee identified the following five areas of concern:

1. **Asbestos** - The committee stated that asbestos is not characterized by DEP as a hazardous waste but as a special waste. The committee would recommend that a clear definition of Special Waste be included in the Hazardous Waste Bylaw.
2. **C & D wastes** - The committee looked at Massachusetts and other state's definitions and determined that DEP has recently revised their regulations and at this point in time it is forbidden to use as fill.
- 3 & 4. **Use of contaminated soils at the capped landfill and Possible future Development of landfill; use of hazardous materials** - The current landfill is considered capped with written approval from the DEP. As part of this approval, the Town proposed possible future use as recreational field. The committee feels that the landfill site should never be re-developed and expressed concern with the existing stockpiles of material that have been placed on top of the cap for possible future use. The committee strongly feels that the clay should be tested for arsenic, asbestos, cadmium, chromium, lead, mercury, PAH's, PCB's, SVOC's, Total Petroleum, hydrocarbons, and VOC's. It was also stated that any future development would require the landfill to be capped according to today's standards
5. **Other areas in town** - The committee would like to see all outside fill tested. The Health Department stated that this would be difficult to enforce as staff and resources are limited. The current zoning regulations prohibit the use of any hazardous materials fill in Acton which also references the hazardous material control bylaw. Ms. Michelman indicated that other towns, including Sudbury, Plympton and Cambridge have taken steps to ensure the quality of fill coming into their towns. Ms. Michelman also indicated that the committee discussed having developers complete paperwork, indicating that the fill they are using is clean and also indicating where it came from.

The Environmental Standards for Fill Advisory Committee has the following recommendations:

1. Revise the existing hazardous materials control bylaw – include asbestos and the addition of special waste. Also some other changes are recommended to provide consistency.

2. Revise Acton Zoning bylaws. The Board agreed this recommendation should be forwarded to the Planning Board to consider adopting the proposed changes in the Zoning bylaw.
3. Landfill Reuse – existing stockpiles be tested. Ms. Michelman indicated that Bruce Stamski, Public Work Director, will look into this testing. The Board supported the DPW Director testing the fill at his discretion.
4. Landfill redevelopment –If the landfill is redeveloped then recapping will be required. The committee would like to see a definition of clean fill in the revised bylaw. The Board stated that this should be required from the BOS.
5. Two possible recommendations for fill in other areas in town. Mr. Conoby suggested that any fill brought into Acton should be evaluated as to size of load, where it came from, etc. The Board also indicated that the committee should get feedback from the developer. The Board also agreed that this item should be discussed in the future.

The Board stated that they would like time to review the fifth recommendation and thought of having this brought back to them at the first meeting in February. The Board also agreed that they would like the revised regulations/bylaw placed on the Spring Town Meeting. The Board of Health agreed that they will ask the selectmen for a place holder on the Town Meeting warrant in order to get time to revise the bylaw and conduct public hearings. Mr. Conoby recommended holding two public hearings at least 30 days prior to town meeting. The Board also agreed that they liked what the committee has done so far. On a motion made by Mr. Conoby, seconded by Mr. Alvarez, the Board unanimously voted to request to the BOS that they hold an article in order to make amendments to the Hazardous Materials Control Bylaw.

Ms. Bissetta stated the consensus of the group is that house cleaning is needed to amend the existing bylaw. Dr. Taylor asked about testing of large quantities of fill and if the testing that is needed has been worked out as to who will be responsible for the testing. Mary stated that they would seek a professional to ask about the logistics of testing the fill. Mr. Alvarez likes the direction that it is going but would like to see the fill tested. Mr. Alvarez stated that there is a gray area in regards to fill. Mr. Halley stated that he is concerned with enforcing this level of testing with current staff and budget constraints. Mr. Alvarez stated that the developer should be

responsible for the testing of the fill but Mr. Halley stated that enforcement is too difficult. Mary stated that Wilmington currently has testing requirements for fill. The committee would like to be able to trace the fill to find out where the contaminated fill came from and backtrack. The zoning bylaw covers fill. Ms. Michelman asked the Board what the environmental fill committee needs to do at this point. The Board indicated that they should support the warrant article to the BOS and work on the definitions

Tobacco Regulations – Tina Grosowsky

Ms. Grosowsky stated that she is seeking Board approval for the proposed draft regulations before the Board this evening. Ms. Grosowsky indicated that she has added a condition that all businesses that sell to minors during a compliance check have to attend a training seminar. Ms. Grosowsky stated a compliance check was conducted in November and three stores sold to the minors. The Town of Acton Tobacco Control Bylaw needs to be amended by the Board so that they are consistent with the State's regulations which are more stringent. Mr. McInnis stated that he would like to see the Board add the proposed regulations in the current Board of Health Rules and Regulation and delete the existing Tobacco Control Bylaw. Dr. Taylor asked Ms. Grosowsky the trends in underage smoking. Ms. Grosowsky stated that the numbers have been going down but the rates are still too high and off the top of her head she approximated that 27% of the youth in Acton are smoking. Mr. McInnis stated that he would like to see the Board adopt a new regulation prior to taking the Bylaw amendment/deletion to the Spring Town Meeting. The Board also agreed that this should be done prior to this Spring's Town Meeting. Mr. Alvarez agreed to look at the proposed regulations submitted by Ms. Grosowsky and submit his comments to the Board at a future meeting. Once these are done to the Board's satisfaction there will be a public hearing scheduled. Mr. Conoby stated that he would like to see a redlined version of the proposed regulations. Ms. Grosowsky stated that she will provide the current State Regulations, the proposed regulations received from a set of lawyers and Acton's current Tobacco Control Bylaw. The Board inquired about smoking in private clubs. The Board stated that the new regulations should address every scenario. The Board agreed to ask the BOS for place holder for amendments, modification for warrant article. On a motion made by Mr. Conoby, seconded by Ms. Bissetta, the Board unanimously voted to revise/amend/delete the

existing Tobacco Control Bylaw and ask the Board of Selectmen for a place holder for a warrant article at the Spring Town Meeting.

Variance- 35 Robbins Street

The Health Department is in receipt of a variance to Article 11-7.2 for a reduction in the required setback to the wetlands for the property located at 35 Robbins Street. The Health Department has reviewed the proposed plans and finds that the site is restricted by the topography of the lot, the placement of the house and ledge. The Health Department recommends approval of this variance as the existing system is in failure and it has been designed to meet maximum feasible compliance.

On a motion made by Ms. Bissetta, seconded by Mr. Conoby, the Board unanimously voted to grant a variance from Article 11-7.2 to the property located at 35 Robbins Street with the following conditions:

1. The outlet tee of the second septic tank shall be outfitted with an effluent tee filter and a cast iron cover to be brought to within 6" of final grade.
2. The septic tanks shall be pumped a minimum of at least once every two years.
3. The system shall be constructed in accordance with the above conditions and a plan stamped by Anthony Del Gaizo, PE dated 11/29/2005.

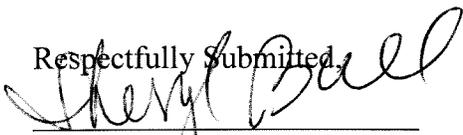
Other –

- Have Board members look at massage regulations and make comments to Doug as the massage practitioner's applications have become routine and the Board feels it is time for the regulations to be modified to bring approval to staff level if all regulations are met by the applicant.

Adjournment

On a motion made by Mr. Conoby, seconded by Ms. Bissetta, the Board unanimously voted to adjourn the meeting at 9:50 p.m.

Respectfully Submitted,



Sheryl Ball, Health Secretary
Acton Board of Health



William McInnis, Chairman
Acton Board of Health