



OBSERVER CORPS REPORT

BOARD OF HEALTH – 12-10-24

Hybrid Meeting - Recorded

LWVM Observer: Tom Krueger

Members in Attendance: Andrew Petty, Tom McMahon (absent), Tom Massaro, Helaine Hazlett

Ms. Hazlett opened the meeting by saying that Mr. McMahon was absent as his wife had just had a baby a few days ago.

Massachusetts Association of Health Boards training

Cheryl Sbarra, JD, executive director of MAHB, came to the board meeting to give a training regarding the legal authority of boards of health. She stated that this training is not to legally represent MHD but for teaching and education. (For background she related that the MAHB is a non-profit and began in 1982, as the Conservation Law Foundation was getting many calls from local boards of health. Later the MAHB incorporated and is separate, serving 351 MA municipalities.)

Federal law sets minimum standards for boards of health, allowing the states to go further, and the MA legislature in turn has given much authority to local BOH. The legislature went as far as allowing local BOH to adopt local laws and regulations with the same enforcement power as police and fire departments. There is always a balance between public health and individual freedom. Examples of these include requiring motorcycle helmets and smoke detectors. The MA Supreme Judicial Court has upheld these actions with presumption that BOHs regulate reasonably. (She cited a case in Cambridge where ADL wished to build a facility for manufacturing chemical weapons. There were three different studies that deemed this 99% safe, but the SJC upheld the Cambridge BOH 1% danger and the facility was not built.) She cited two other examples whereby the ruling of the BOH was upheld - one involving flavored cigarettes, and another where smoking was prohibited at a private club that acted like a public bar.

She discussed the limitations of when to act - 1) when a state or federal law would prevent the action, 2) a balance test - privacy vs risk to public health, and 3) risk to a specific person or cohort. In short acting doesn't always mean a BOH should.

Other questions that could be asked are a) what is the burden to an individual, b) is it reasonable and fair to the town, and c) is the regulation going to be effective.

Following this overview, Ms. Sharron discussed some specific aspects of what is in the purview of BOHs: nuisance law, inspections, enforcement, open meeting law, as well as the terms “public body”, “meeting”, and “deliberation.” Briefly, nuisance law enables and requires BOH to examine that which may be of damage to the public health. BOH is obligated to resolve such nuisance. How is a nuisance determined? - it is the BOH’s opinion with guidance from public health principles. For example, is the nuisance one that could spread? If it could spread, could it affect the public and injure them? If a nuisance exists, take the steps for it to “cease and desist” with punishment only as the last resort. In regard “noisome trades”, such as auto body shops, car washes, etc. BOHs can refuse the business in town or cite conditions (e.g. limiting hours.) Regarding inspections there are two types periodic (e.g. restaurants) and complaint. If in a complaint, the health officer is denied entry, a search warrant is needed. Enforcement is another duty. The first step is to tell the violator to remediate the action. Other possible actions, the most powerful, is revoke or not renew permits. This step requires due process. Ms. Sbarra briefly defined “open meeting law” (as a meeting of the public body open to the public), and the words “public” (any government multi-member body); “meeting” (a deliberation by the majority of the public body); and “deliberation” (communication of the public body)

After the training, Dr. Massaro began a discussion about how the OML is a challenge to the BOH. He fully understands the purpose, but discussed how one can’t even brainstorm with other members, and the result is that the BOH becomes very inefficient. On a separate topic he also asked about the relationship of health departments (HD) and boards of health (BOH). HD are statutory creations, all towns have HD, but there are no towns with statutory created BOH. But, BOH delegate to HD and health directors report to BOH. Should not BOH evaluate health directors? Ms. Sbarra’s informal answer was that each year BOH should delegate responsibilities to the HD (noted in minutes), and separately an evaluation should be done. (Note Mr. Petty, the health director, does have a job description to which he is held accountable.)

Community Health Update

- Creating A Healthier Marblehead CAHM - work is proceeding on the two projects
- Mental Health Task Force - Dr. Massaro reported on initiatives presented the MHTF: a) Gina Rabbitt, who works with the MHD police department is working on a project of remembrance for MHD residents we have been lost to substance abuse; b) Wen Kent from Lynn discussed three projects that are addressing the feelings of youth not belonging anywhere; c) Dr. Massaro talked about promoting CAHM whose aim is to assess the health status in MHD and improve wellness. He is making presentations to various civic groups, hoping to solicit funds to further this project.

Transfer Stations Bid Review and Award - Mr. Petty opened this agenda item by saying that there were NO good bids for the project, with the lowest bid at ~\$2.4M and the available funds ~\$1.65M, a \$900,000 gap. For now the new compactor (which has been purchased and is on site) needs to be installed. There also needs to be a new small control booth (6x6 with heat and A/C) and a transaction hut (6x8 hut) to be built and installed for a total \$27,000, hopefully in the next 6-8 weeks. The BOH moved and passed the funds for the two huts. In regards the larger project other less costly work (site work, siding, etc.) could proceed. The question is whether the BOH should go back to the town to ask for the additional \$900,000.

Transfer Station Fees

Mr. Petty presented the board with the current and recommended fees for the transfer station. Each of the recommended fees is an increase because of increased costs to the transfer station (trucking, etc.) Many of the fees are relatively modest changes. The proposed residential facility sticker fee would go from \$80/\$25 to \$125/\$40. This fee is still less than most other towns, and it was felt that the HD wouldn't have to "go back" soon for another increase. The fee structure was moved and passed. (There was some brief discussion about possible sticker for just Devereaux Beach use.)

Separately, the HD is moving to have LPR (license plate reading camera) installed so that compliance will be easily checked. The timing is still uncertain as to when this will happen. In addition, all transactions will be by check or credit card.

Wellness Fair - will happen on 1/18/25 and applications will continue to be received by 12/19/24.

Substance Abuse Programming - will occur 3/12/25 with guest speakers about substance abuse.

Directors Report

- Transfer Station Software Update - Townhall 247 - discussed above
- Feasibility Study for Construction and Demotion Material - this study is about whether it is worth the cost and effort to sorting C and D material as a possible source of revenue. Hayley and Ward will proceed with the study at a cost of \$25K that has already been allocated from funds that "have to be used". It was moved and passed to proceed.