



EARTH REMOVAL BOARD

MEETING Minutes

Tuesday January 16, 2018 7:00 PM

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MILLBURY, MASS.

Meeting started: 7:00pm

Board Members in Attendance: Al Peloquin (Chairman), Scott Despres, Leonard Mort and Anna Lewandowski

Board Members Unattended: Tom Brown

Meeting Subjects:

1. Call to Order
2. Review meeting minutes from Tuesday, November 21st, 2017.
3. Aggregate – Paul Hutnak from Andrews Survey
4. Open meeting for Soil Contamination
5. Final Decision for Aggregate's Application Renewal
6. Adjournment

1. Call to Order:

Al Peloquin called the meeting to order.

2. Review of Meeting Minutes from Tuesday, November 21st, 2017:

Leonard Mort made a motion to accept the secretaries meeting minutes from Tuesday, November 21st, 2017, **Scott Despres** second the motion all members were in favor 3 – 1 Anna Lewandowski abstained.

3. Aggregate Industries / Paul Hutnak with Andrews Survey:

Al Peloquin introduced to the board Paul Hutnak who works for Andrews Survey Mr. Hutnak is there representing Aggregate Industries and the pending renewal application. Paul Hutnak introduced himself and explained to the board that Aggregate Industries has maintained a permit for the last five (5) years or so and what Aggregate would like to do is extend the permit for another year, Aggregate has done some work on the property and Mr. Hutnak had brought some plans for the board to review. Aggregate has moved several piles (Mr. Hutnak has no idea where these piles were moved) and has done some restoration they haven't moved any earth from the site nor do they intend on moving any in the foreseeable future however if they do want to they would like to have a permit in place to do so. Dave Lavallee use to be Al Peloquin's contact person with Aggregate but Mr. Hutnak has explained that Mr. Lavallee has since retired. Al explained to Mr. Hutnak the last time he was in contact with Mr. Lavallee that Aggregate wanted to keep the permit going for the next several years or so but now that learning of his retirement Al had to explain to Mr. Hutnak that the permit ran from the end of June 2016 to the beginning of July 2017 and unfortunately Aggregate never renewed for the 2016/2017 period. The committee has to decide should they have Aggregate commit to a new application fee or a renewal fee? Since Aggregate never renewed the board assumed that Aggregate was done. Al explained to Mr. Hutnak that the renewal fee is \$500.00 and the application fee is \$1000.00 if Aggregate was to reapply at the fee of \$1000.00 then come July 2018 Aggregate would have to renew again at an additional fee of \$500.00. Al explained to Mr. Hutnak that the committee needs to discuss what would be the best approach for Aggregates permit and when they have come to a final decision Al will be in touch with Mr. Hutnak as to what procedures Aggregate will have to take.

4. Open Meeting for Soil Contamination:

Anna Lewandowski had presented to the board her presentation of a possible contaminated soil bylaw using the Wilmington bylaw as a template, (please see attached), and explained to the board her changes, additions and where it would fit in the towns zoning bylaws. Al Peloquin also created a rendition of a bylaw also using the Wilmington bylaw as a template. Scott Despres brought in

the final bylaw from the town of Uxbridge which the board agrees is very comprehensive but by reviewing the Wilmington bylaw and the Uxbridge bylaw the board can combine the two for further options for Millbury's own bylaw. The board agrees that getting the Planning Board involved to assist and support the future of a new contaminated soil bylaw. The board also agreed that before they do any further changes and additions to the current bylaws that Anna and Al have created that the board should meet with the Planning board. Al has volunteered to go to the Planning Board and the Building Inspector with the two copies of a possible bylaw that has been created and for them to review and request to get on the Planning Boards Agenda in one of their upcoming meetings.

5. Aggregate Industries / Final Decision on Renewal Application:

Al Peloquin discussed with the board the options that the board should consider for Aggregate; a new application fee or a renewal fee. To reapply Aggregate would have to pay \$1000.00 for the application fee and an addition \$500.00 for an engineering fee for the total of \$1500.00 which would immediately take affect and then come June 30th 2018 Aggregate would have to pay again \$500.00 to renew. The board agreed that Aggregate should reapply for a new permit at the fee of \$1500.00 and let it go until next year making the permit good until June 2019 and allowing Aggregate to opt out on paying a renewal fee come this June 2018, Al Peloquin asked the board for a motion to let Andrews Survey / Aggregate Industries to submit a new application for this coming year; Leonard Mort made the motion for a new application for Aggregate, Scott Despres second the motion all members were in favor 4 – 0.

6. ADJOURNMENT:

Al Peloquin asked the board for a motion for adjournment; Leonard Mort made the motion to adjourn; the motion was second by Scott Despres, all members were in favor 4 - 0.

Al Peloquin approved Nancy's time card.

Adjournment was at 7:45 PM

Next meeting: Tuesday February 20th, 2018 @ 7:00 PM

Contaminated Soil

Purpose

The purpose of this Section ____ is to protect the health, safety and welfare of the citizens of the town Of Millbury, including without limitation to protect the Town's drinking water supply.

Authority

This by-law is adopted by the Town of Millbury pursuant to its police powers to protect the public health, safety and welfare, and the Home Rule Amendment of the Massachusetts Constitution, Article 89 of the Articles of Amendment, independent of the provisions of Section 150A of Chapter 111 of the General Laws and regulations promulgated thereto.

Definitions

The following terms as used in this section ____ shall have the following meanings:

- A. Contaminated soil: soil containing oil and/ hazardous material as a result of release to the environment in which levels of contamination exceed the background levels o contamination.
- B. Background levels of contamination: those levels of oil and/or hazardous material that would exit in the absence of the disposal site of concern and which do not exceed the levels of concentration in natural soil stated in the Department of Environmental Protection technical updated "Background Levels of Polycyclic Aromatic Hydrocarbons And Metals In Soil" dated May 2002 and which are:
 - (1) Ubiquitous and consistently present in the environment at and in the vicinity of the disposal site of concern: and attributable to geologic or ecological conditions, or atmospheric deposition of industrial process or engine emissions:
 - (2) Attributable to coal ash or wood ash associated with fill material:
 - (3) Releases to groundwater from public water supply systems: or
 - (4) Petroleum residues that are incidental to normal operation of motor vehicles.
- C. Environment: waters, land, surface or subsurface strata, or ambient air.
- D. Release: any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing inti the environment, but excludes:(1) emissions from the exhaust of engine, (2) release of source, by product, or special nuclear material from nuclear incident, as those terms are defined in 42 USC Sec.. 2014, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under 42 USC Sec. 2210, (3) the normal application of fertilizer, and (4) the application of fertilizer, and (4) the application of pesticides consistent with their labeling.
- E. Zone II: an area designated and approved by the Massachusetts Department of Environmental Protection to be the zone of contribution for public water supply well. For the purpose of this

DRAFTED By: A.P.

Section ____, the term shall also include any Interim Wellhead Protection Area (IWPA) for any public water supply. Both Zone II and IWPA as further defined in 310 CRM:22.02

Section ____ Zone ii Prohibition

Contaminated soil which results from a release to the environment is prohibited from bring into the Town of Millbury to be disposed pf, stored, stockpiled, spread onto the ground surface for any purpose, used for shaping, grading, or closure of a landfill of former landfill area, or used as fill material for any and all purposes within any Zone II aquifer protection area which has been approved by the Department of Environmental Protection.

Section ____ Enforcement

Failure to comply with the provision of this Section __ - is a violation of this Section ____. Each separate day of failure to comply constitutes a separate violation. Additionally, each individual instance of violation within each day constitutes a separate violation. In addition to and without limitation of any other available remedies, any person or entity who violates any provision of this Section ____ shall be subject to civil and/or criminal prosecution in a court of competent jurisdiction, including without limitation a civil action for injunctive relief to enjoin any such violation. Any violation of this Section ____ shall be punishable by a fine of \$300.00 In addition to and without limitation of any other available remedies, this Section ____ may be enforced by use of non-criminal disposition procedure set foth in M.G.L. c40 21D"

*Al Peloquin Chairman
Leonard Mort, Vice Chair
Thomas Brown, Jr. Clerk
Anna Lewandowski
Scot Despres*



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Phone: 508/865-4710
Fax: 508/865-0843*

EARTH REMOVAL BOARD

ENVIRONMENTAL CONTROLS--CONTAMINATED SOIL

Section 37:

Section 37.1 Purpose

The purpose of this Section is to protect the health, safety and welfare of the citizens of the Town of Millbury, including without limitation to protect the Town's drinking water supply.

Section 37.2 Authority

This bylaw is adopted by the town of Millbury pursuant to its policing powers to protect the public health, safety and welfare and the Home Rule Amendment of the Massachusetts Constitution, Article 89 of the Articles of Amendment, independent of the provisions of Section 150A of Chapter 111 of the General Laws and regulations promulgated thereto.

Section 37.3 Definitions

The following terms as used in this Section 37 shall have the following meanings:

- A. Contaminated soil: soil containing oil and/or hazardous material as a result of release to the environment in which levels of contamination exceed the background levels of contamination.
- B. Background levels of contamination: those levels of oil and/or hazardous material that would exist in the absence of the disposal site of concern and which do not exceed the levels of concentration in natural soil stated in the Department of Environmental Protection technical update intitled "Background Levels of Polycylis Aromatic Hydrocarbons and Metals in Soil" dated May 2002 and which are:
 - (1) ubiquitous and consistently present in the environment at and in the vicinity of the disposal site of concern; and attributable to geologic or ecological conditions, or atmospheric deposition of industrial process or engine emissions;
 - (2) attributable to coal ash or wood ash associated with fill material;
 - (3) releases to groundwater from a public water supply system; or
 - (4) petroleum residues that are incidental to the normal operation of motor vehicles.
- C. Environment: waters, land, surface or subsurface strata, or ambient air.
- D. Release: any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, but excludes:

DRAFTED by: A.L.

(1) emissions from the exhaust of an engine, (2) release of source, by product, or special nuclear material from a nuclear incident, as those terms are defined in 42 USC Sec. 2014 if such release is subject to requirements with respect to financial protection established in the Nuclear Regulatory Commission under 42 USC Sec. 2210, (3) the normal application of fertilizer, and (4) the application of pesticides consistent with their labeling.

E. Zone II: an area designated and approved by the Massachusetts Department of Environmental Protection to be the zone of contribution for a public water supply well. For the purpose of this Section 37, the term shall also include any Interim Wellhead Protection Area (IWPA) for any public water supply well. Both Zone II and IWPA as further defined in 310 CMR: 22.02.

Section 37.4 Zone II Protection

Contaminated soil which results from a release to the environment is prohibited from being brought into the Town of Millbury to be disposed of, stored, stockpiled, spread onto the ground surface for any purpose, used for shaping, grading, or closure of a landfill or former landfill area, used as fill for any **proposed development and/or personal property** or used as fill material for any and all purposes within any Zone II aquifer protection area which has been approved by the Department of Environmental Protection.

Section 37.5 Enforcement

Failure to comply with any provisions of this Section 37 is a violation of this Section 37. Each separate day of failure to comply constitutes a separate violation. Additionally, each individual instance of violation within each day constitutes a separate violation. In addition to and without limitation of any other available remedies, any person or entity who violates any provision of this Section 37 shall be subject to civil and/or criminal prosecution in a court of competent jurisdiction, including without limitation a civil action for injunctive relief to enjoin any such violation. Any such violation of this Section 37 shall be punishable by a fine of **\$500.00**. In addition to and without limitation of any other available remedies, this Section 37 may be enforced by use of the non-criminal disposition procedure set forth in M.G.L. c.40 ss21D.



EARTH REMOVAL BOARD

**Signature of Attendees and Approval for Minutes
(Meeting Minutes from Tuesday, January 16th, 201)**

Al Peloquin - Chairman: _____ *Al Peloquin*

Leonard Mort - Vice Chairman: _____ *Leonard Mort*

Tom Brown - Clerk: _____

Scott Despres - Member: _____

Ann Lewandowski - Member: _____ *Ann Lewandowski*

Comments: _____

