



## ***EARTH REMOVAL BOARD***

### **MEETING Minutes**

**Tuesday November 21, 2017 7:00 PM**

**Meeting started: 7:00pm**

**Board Members in Attendance:** Al Peloquin (Chairman), Scott Despres, Tom Brown and Anna Lewandowski

**Board Members Unattended:** Leonard Mort (Vice Chairman)

**Meeting Subjects:**

1. Call to Order
2. Review meeting minutes from October 17<sup>th</sup>, 2017.
3. Andrews Survey – Aggregate
4. Open meeting for Soil Contamination
5. Adjournment

**1. Call to Order:**

Al Peloquin called the meeting to order.

**2. Review of Meeting Minutes from October 17<sup>th</sup>, 2017:**

Scott Despres made a motion to accept the meeting minutes from October 17<sup>th</sup>, 2017, Tom Brown second that motion all members were in favor 3 – 1 Anna Lewandowski was opposed.

**3. Andrews Survey / Aggregate Industries:**

Al Peloquin opened the discussion that Andrews Survey had contacted the ERB via email and that they were looking for an application to pursue some activity on the Providence Road site, Al also received a call from John Armstrong and indicated that he was looking for an application, since then Al received an email from the town clerk Jayne that John Armstrong was in the process of submitting an application. Aggregates account closed last year or that they never renewed their application. Al's question to the committee is how do they want to pursue this? A new application fee of \$1000.00 and the additional engineering fee of \$500.00 or do they just go with the \$500.00 for a renewal? After further discussion the board was in agreement to have John Armstrong attend the next meeting in January to find out what their objectives are. Anna Lewandowski made a motion for that, Tom Brown second the motion all members were in favor 4 – 0.

**4. Open Meeting for Soil Contamination:**

Al opened the discussion that he had done a little pursuing on the internet from any of the surrounding towns but he couldn't find anything. Scott Despres added that the Town of Uxbridge is still weighing on what they want to do in regards to their own town bylaw and that they have several proposals but nothing that anybody wants to put a signature to and that it's an ongoing process. The committee does have a copy of the Town of Wilmington's contaminated soil bylaw, (please see attached). The board has been using the Town of Wilmington's bylaw as a template to assist in some of the criteria that they would like to implement into Millbury's own contaminated soil bylaws. The board also discussed what type of fines should be implemented, Wilmington has a fine of \$300.00 the board agrees that it should be more however where should these fees be placed and to what accounts. Who would police this bylaw? The board of health, planning board, town police, etc... Al concluded that between November and the next meeting, January 16<sup>th</sup> that each member should write notes and possibly create their own bylaw and discuss at the January meeting what would be the best content for the Town of Millbury's bylaw. Referring to the Wilmington Bylaw Anna has offered to work on the Section 46.4 Zone II prohibition and Al has offered to put something together on the Massachusetts Constitution Article 89.

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**5. ADJOURMENT:**

Al Peloquin asked the board for a motion for adjournment; Tom Brown 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

**The board was in agreement for a holiday break and that there will be no meeting for December 19<sup>th</sup>, 2017**

**Next meeting: Tuesday January 16<sup>th</sup>, 2017 @ 7:00 PM**

# TOWN OF WILMINGTON

## Section 9      Penalties

Any person violating this by-law shall be liable to the Town in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of Chapter 40 of the general laws. Each day of violation shall constitute a separate offense.

## Section 10      Severability

The invalidity of any portion of provision of this by-law shall not invalidate any other portion or provision thereof.

## REGULATION OF AUTOMATIC AMUSEMENT DEVICES

### Section 44:

Selectmen shall not grant a license for any automatic amusement device that presents a risk of misuse as a gaming device. An automatic amusement device that presents a risk of misuse as a gaming device is one that has one or more of the following features: 1) the device involves matching random numbers, patterns or cards; 2) the device accumulates more than twenty-six (26) plays; 3) the device is equipped with a "knock off" switch, button or similar device; 4) the device has a mechanism for adjusting the odds; 5) the device has a remote control feature that can reset the device from another location; 6) the device is capable of returning money to the player other than the change for the excess amount deposited; 7) the device permits a player to pay for more than one game at a time; 8) each game on the device does not cost exactly the same amount for each player, and a player may change any aspect of the game by paying a different amount than any other player before or during the game; and 9) there is a metering device that accounts for both money/points in and money/points out.

All licenses for automatic amusement devices granted by the Board of Selectmen shall be subject to inspection by the Wilmington Police Department to insure conformance with submitted application information and local by-law requirements. Any unlicensed automatic amusement device shall be subject to immediate seizure by the Wilmington Police Department.

Any person found in violation of this by-law shall be punished by a fine of \$200.00 for each offense. If any sentence, clause or phrase of this by-law, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions.

### SECTION 45:

#### NO SMOKING RESTAURANTS AND FOOD ESTABLISHMENTS

Effective September 5, 2000, smoking shall be prohibited in any restaurant or other such establishment open to the general public that sells food products. The operator of any food establishment shall conspicuously post such notice or signs indicating that smoking is prohibited therein. Any person who smokes in a food establishment shall be subject to a fine of \$50.00. Any operator of any food establishment who does not comply with this provision shall be subject to a fine of \$50.00.

#### CONTAMINATED SOIL

### SECTION 46:

#### Section 46.1 Purpose

The purpose of this Section 46 is to protect the health, safety and welfare of the citizens of the Town of Wilmington, including without limitation to protect the Town's drinking water supply.

#### Section 46.2 Authority

This by-law is adopted by the Town of Wilmington 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.

### Section 46.3 Definitions

The following terms as used in this Section 46 shall have the following meanings:

- A. Contaminated soil: soil containing oil and/or hazardous material as a result of a 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 entitled "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 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:
  - (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 by 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 purposes of this Section 46, 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 46.4 Zone II Prohibition

Contaminated soil which results from a release to the environment is prohibited from being brought into the Town of Wilmington 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, 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 46.5 Enforcement

Failure to comply with any provision of this Section 46 is a violation of this Section 46. 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 46 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 46 shall be punishable by a fine of \$300.00. In addition to and without limitation of any other available remedies, this Section 46 may be enforced by use of the non-criminal disposition procedure set forth in M.G.L. c.40 §21D."



**EARTH REMOVAL BOARD**

**Signature of Attendees and Approval for Minutes  
(Meeting Minutes from November 21<sup>th</sup>, 2017)**

**Al Peloquin - Chairman:** \_\_\_\_\_ *Al Peloquin*

**Leonard Mort - Vice Chairman:** \_\_\_\_\_ *Leonard Mort*

**Tom Brown - Clerk:** \_\_\_\_\_

**Scott Despres - Member:** \_\_\_\_\_ *Scott Despres*

**Ann Lewandowski - Member:** \_\_\_\_\_

**Comments:** \_\_\_\_\_

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