



# TOWN OF WESTBOROUGH MASSACHUSETTS

BOARD OF HEALTH

FORBES MUNICIPAL BUILDING  
45 WEST MAIN STREET, SUITE 25  
WESTBOROUGH, MA 01581-1916

TEL. (508) 366-3045  
FAX (508) 366-3047

## BOARD OF HEALTH MONTHLY MEETING

Tuesday  
October 30, 2012  
Forbes Municipal Building, Room 24  
5:30 p.m.

## AGENDA

1. Minutes of Meeting (9/18/2012)
2. Director's Report (September)
3. Sanitarian's Report (September)
4. Health Inspector's Report (September)
5. New Business
  - A. Discussion of second dump sticker policy
6. Director's Issues
7. Adjourn



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## Minutes of Board of Health Meeting October 30, 2012

The regular Board of Health meeting was held on Tuesday, October 30, 2012, in room 24 in the Forbes Municipal Building, 45 West Main Street. The meeting was called to order at 5:30 pm. by Chairman Walsh. Present: Members Ehrlich and Federici, Director McNulty, Sanitarian Baccari and Inspector Gilchrist. Bills and payroll were signed.

Minutes of the meeting held on September 18, 2012, were approved.

Director's report (September) was discussed and approved. Director McNulty informed the Board that he had spent most of yesterday (Monday, October 29<sup>th</sup>) at the EOC (Emergency Operations Center) located at the fire station. The EOC was activated to deal with Hurricane Sandy. The AM Radio Notification System was activated as well. Superintendent of Schools agreed to be shelter manager. Plans are well underway for a written shelter plan with designated personnel and departments.

Sanitarian's report (September) was discussed and approved.

Health Inspector's report (September) was discussed and approved.

### **New Business**

#### *Discussion - Second Dump Sticker Policy*

Ms. Morin was informed of the meeting, but was not present for this discussion.

Member Federici was absent from last month's meeting when Westborough resident, Beth Morin, questioned the Board's policy for the discounted fee for a second dump sticker. Member Ehrlich gave a brief summary of the discussion and said he felt that the entire Board should be present for a decision that may require a change in the policy.

Chairman Walsh reiterated Director McNulty's explanation from last month's meeting for the current policy.

In response to a question from Member Ehrlich, Director McNulty responded that the Board members, at the time the policy was adopted, realized it was not a "perfect" solution, but it would cut down on the abuse of the discounted price for the second sticker. The resident would have to decide as they were purchasing a sticker, whether they wanted one or two. The choice had to be made at that time.

Chairman Walsh mentioned the proposal suggested by Ms. Morin where the sticker number would match the registration of the vehicle. That would require the attendant to verify the sticker number with the vehicle registration. The Board felt that would be too cumbersome and place too much responsibility and extra work on the attendant. The attendant is an employee of E. L. Harvey & Sons, not a Town employee. Director McNulty said he thought it would be too difficult.

The option of a free second sticker was discussed, but Director McNulty said the potential for cheating and abuse was too high. Member Federici agreed.

Member Federici mentioned the study committee that the Board of Selectmen recently formed to study the Town's trash program. Director McNulty said he was blind-sided by that. He just found out about it yesterday. The Town Manager proposed the committee to the BOS at their last meeting to study a pay-as-you-throw waste management program. The committee will comprise of two representatives from the BOH, two representatives from the BOS and the Town Manager. This is the second time the Town Manager has proposed a PAYT program. If approved, the new program could be in place by next July 1<sup>st</sup>. The contract with E. L. Harvey is renewed annually.

Returning discussion back to the sticker policy, Member Ehrlich said he would be ok with charging the discounted fee for the second sticker anytime.

**Member Ehrlich made a motion to change the fee structure for the second transfer station sticker. The discounted fee for the second sticker will apply regardless of when the first sticker was purchased during the two-year cycle. Member Federici seconded the motion.**

**Chairman Walsh amended the motion to include an implementation date of July 1, 2014. Member Federici seconded the amended motion; the vote was unanimous.**

Member Ehrlich emphasized that the new policy is not retroactive and if Ms. Morin is still interested in purchasing a second sticker, she will have to pay full price. That is the current policy.

Member Ehrlich volunteered to be the BOH representative to the ad-hoc committee recently organized by the Town Manager to study a pay-as-you-throw program for Westborough. Chairman Walsh, along with Members Ehrlich and Federici, said they were very happy with the Town's current waste management program. **Chairman Walsh made a motion to have Director McNulty and Member Ehrlich represent the BOH in the ad-hoc study committee. Member Federici seconded the motion; the vote was unanimous.**

**The Board acknowledged Geri Matraia, 23 Deerfield Way.**

Ms. Matraia wanted to know what it means when someone is cited.

Chairman Walsh said that refers to someone who is written up due to a violation to a policy.

Sanitarian Baccari added that there is usually a timeline to correct it.

Ms. Matraia asked if the violation is not corrected by the re-inspection, what happens then?

Director McNulty replied that it depends on the regulations that cover the violation.

In response to a question from Ms. Matraia regarding fines, Director McNulty said fines are issued in very limited situations. Fines are also usually appealable to the court, just like speeding tickets.

Member Ehrlich explained that an inspection fee is not a fine, but a fee.

Director McNulty said there are state regulations regarding what a board can discuss at a meeting. Most items have to be put on the agenda ahead of time so that all interested parties will have the opportunity to attend.

Ms. Matraia referenced a letter sent to the Board from a law firm representing the Board of Trustees of The Village at Walker Meadow Condominium. Director McNulty told the Board he had planned to address that during his Director's Issues.

Member Ehrlich said he wanted to reiterate what Director McNulty had said. This issue was not on the agenda. There can be discussion, but no action will be taken just like last month's discussion about dump stickers because it was not on the agenda.

Chairman Walsh suggested the Board move on to Director's Issues.

Under Director's Issues, Director McNulty referenced a letter from the law firm mentioned by Ms. Matraia about an issue at Walk Meadow and the minutes of a BOH meeting held on February 14, 2012 (Board members had copies of the letter in their packets). The letter requests the minutes be amended. If the minutes cannot be amended, it was requested that the letter be placed within the file. Director McNulty explained that any correspondence is automatically placed in a file; it doesn't have to be requested. If the Board decided to take action on the minutes, then the issue would have to be placed on the agenda for another meeting. If the Board decided that no action is needed, then the letter will be placed in the file. Director McNulty said a vote would have to be taken to put it on the agenda for another meeting.

Ms. Matraia said she did not know about the meeting. The Board of Trustees should have been at that meeting. It looks like Walker Meadow doesn't care. We did not know.

Sanitarian Baccari said he notified the property manager, John Vandenberg, as your agent, of the meeting.

Ms. Matraia said she had no idea they could come. John told her that they didn't have to be there. The Board's position is that they should've been there.

Sanitarian Baccari said the issue was not with the Board of Trustees, but with a unit owner. He said the property manager was notified of the meeting and what was going on. There must have been some miscommunication, but he was notified.

Director McNulty said the matter has been decided by the court.

Member Federici said the other issue is amending the minutes.

Director McNulty told the Board members if the Board does nothing, that will be the end of it.

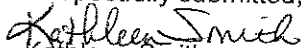
Member Ehrlich said he was not in favor of putting it on next month's agenda.

Continuing with Director's Issues, Bombay Bazaar, 276 Turnpike Road, has closed.

There being no further business, the meeting adjourned at 6:45 p.m.

The next meeting will be held Tuesday, November 13, 2012.

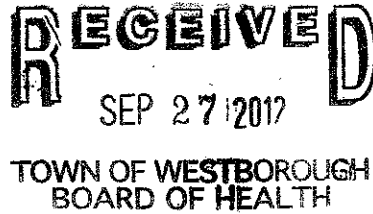
Respectfully submitted,

  
Kathleen Smith

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September 25, 2012

CERTIFIED MAIL# 7011 2970 0002 9567 1007  
RETURN RECEIPT REQUESTED

Priscilla A. Federici, RN  
Chairperson, Board of Health  
Town of Westborough  
Forbes Municipal Building  
45 West Main Street, Suite 25  
Westborough, MA 01752

Re: Village at Walker Meadows Condominium

Dear Ms Federici:

Please be advised this office represents the Board of Trustees of The Village at Walker Meadow Condominium, the duly elected members of the Village at Walker Meadow Condominium Trust which Trust is the organization of unit owners of the Condominium. Our client has asked us to write to you in connection with their review of the minutes of your February 14, 2012 meeting and a serious error contained therein. The error is set forth below.

Page One of the minutes, under "NEW BUSINESS" at the next to last paragraph, states:

Sanitarian Baccari contacted members of the condo association  
and they declined to attend the meeting.

We would suggest that you revisit this memorialization of the meeting as we have been informed that Mr. Baccari talked to John Vandenberg, the Property Manager for the Condominium. As a result of this conversation, Mr. Vandenberg told the Board that their presence was not necessary. However, Mr. Baccari did not contact the "members of the condo association" (presumably this refers to the Board) either formally or informally and did not suggest to Mr. Vandenberg that the Board members attend the meeting. Accordingly, as the Board members had not been contacted by Mr.

Please remit all correspondence to 3 Allied Drive, Suite 120, Dedham MA, 02026

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Board of Health  
September 25, 2012  
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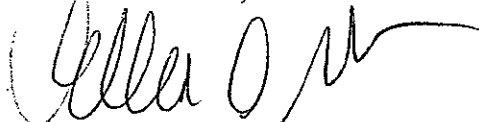
Baccari they could not have declined to attend the meeting. Mr. Baccari himself has acknowledged this inaccuracy in the minutes to Mr. Vandenberg. Therefore, to have such a misstatement in the official minutes of the Board of Health is extremely disturbing, not only for its inaccuracy but for the implication that my client was ignoring this issue

Enclosed please find a copy of the decision of the Clerk Magistrate of the Worcester Housing Court who heard Mr. Bell's complaint on this issue this past spring. As you can see, the Clerk Magistrate, completely understood that the rear steps to each person's unit at the Villages at Walker Meadow Condominium, are "exclusive use common area" and, as such, are the responsibility of the unit owners to whose units the stairs are appurtenant. It is our opinion that this decision is dispositive of the issue as Mr. Bell chose the forum in which to litigate the matter.

If you believe that the minutes cannot be amended we would appreciate it if you would place this letter within the file as it sets forth my client's position, including the important fact that they were unaware of this meeting.

Thank you for your attention to this matter. If you require any additional information please do not hesitate to contact me.

Very truly yours,  
GOODMAN, SHAPIRO  
& BOMBARDI, LLC



Ellen A. Shapiro

EAS/ms

Enclosure

cc: Board of Trustees

Gregory Franks, Esq.

Paul McNulty, Director of Public Health

Steven Baccari, Sanitarian

Dr. Nathan P. Walsh

Dr. Alan M. Erlich

COMMONWEALTH OF MASSACHUSETTS  
WORCESTER HOUSING COURT

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George Bell

Plaintiff

-v.-

Trustees at Walker Meadow

Defendant

No. 12SC120

12SC156

FINDINGS OF FACT AND ORDER  
FOR JUDGMENT

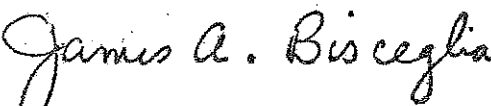
The court has consolidated these actions which involve identical parties.

With respect to the plaintiff's claim that the defendant is responsible for clearing snow and ice from his rear porch steps, the court finds in favor of the defendant since the subject steps are an extension of the common area porch, are within the exclusive control of the plaintiff and, most importantly, since the Master Deed requires the owner to "keep such common area clean and in good and safe order." The court's interpretation of this latter clause is that it includes the removal of snow and ice.

Plaintiff is also suing to recover a \$1000 deductible which he allegedly paid in connection with water damage to his condo unit. The main contention is that defendant's failure to immediately remove the ice dam causing the water leak resulted in more extensive damage to plaintiff's property. Putting aside the fact that there was no evidence that the plaintiff actually paid \$1000 to repair the damage or what the total cost of the repairs were, the court finds that defendant's delay, even if it were found to be unreasonable under the circumstances, did not cause the plaintiff any monetary loss inasmuch as, under his insurance policy, he was responsible for the first \$1000 of damages. It is more probable than not that plaintiff's unit had sustained this amount of damages when the defendant first responded. It would seem that plaintiff's delay argument would one which would be more appropriately made by his insurance company in a subrogation action.

Judgment for the defendant on both claims.

July 9, 2012

  
James A. Bisceglia, Clerk Magistrate