



BOARD OF HEALTH

TOWN OF WESTBOROUGH MASSACHUSETTS

TOWN HALL
34 WEST MAIN STREET,
WESTBOROUGH, MA 01581-1998

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

BOARD OF HEALTH MONTHLY MEETING

Tuesday
July 19, 2016
Westborough Town Hall, 34 West Main Street,
Lower Level Conference Room
5:30 p.m.

AGENDA

1. Minutes of Meeting (June 21, 2016)
 2. Director's Report (June)
 3. Sanitarian's Report (June)
 4. Health Inspectors' Reports (June)
 5. New Business
 - A. Hampton Inn - 6:00 pm - Lifeguard Variance Request
 - B. Solid Waste Contract
 - C. Appointment of Chairman
 6. Director's Issues
- Adjournment



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Minutes of Board of Health Meeting July 19, 2016

The regular Board of Health meeting was held on Tuesday, July 19, 2016, in the conference room in the lower level of Town Hall, 34 West Main Street. The meeting was called to order at 5:45 p.m. by Chairman Walsh. Present: Member Hashmi, Director Baccari, Sanitarian Gauthier, and Inspector Gilchrist. Absent: Ehrlich.

The minutes of the meeting held on June 21, 2016, were approved.

Director's report (June) was discussed and approved.

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

Health Inspectors' reports including part-time Health Inspector (June) were discussed and approved. Both Chairman Walsh and Member Hashmi expressed deep concerns and reservations regarding the last couple of inspections conducted at Mirchi. The facility continues to do very poorly and has been on probation for the past twelve months. The Board discussed closing the facility, but Director Baccari said there is currently no provision for closing a restaurant while it's still on probation. He would prefer to discuss the issue when a full board is present. Further discussion will be tabled until the Board's next meeting in September.

New Business

HAMPTON INN - LIFEGUARD VARIANCE REQUEST

At 6:00 p.m., the Board met with Jonathan Buck, general manager of the Hampton Inn located at 15 Connector Road and Paresh Patel, representing PKY Properties LLC. They are seeking a variance from the lifeguard requirement for their indoor pool.

Director Baccari provided background information. The Board of Health has lifeguard requirements at all public pools. Some pools have been granted variances with certain conditions and requirements. The pool at the Hampton Inn is 15' x 27'; the deepest point is 4.5 ft. There is capacity for approximately 25 swimmers.

Mr. Buck said the hours of operation will be 9 am to 10 pm. There is very little activity during the week; the pool gets more use during the weekend. There will be some kind of monitoring device mounted at the front desk area that would show the entire pool. Hampton Inn requires front desk personnel to be certified in First Aid, CPR and pass a swim test. He, along with the maintenance engineer, are the CPOs. The pool will not be rented out to non-hotel guests. Proper signage will be displayed around the pool.

Director Baccari commented that the Extended Stay has a camera and key card access only. The Doubletree utilizes a camera during the week; lifeguards are required on weekends. The real issue from the BOH's view is safety.

Chairman Walsh made a motion to grant the variance from Chapter V, State Sanitary Code, Minimum Standards for Swimming Pools, 105 CMR 435.23 (1) Lifeguards, with the following conditions: a closed-circuit camera with a dedicated monitor to view the pool at all times. The location of the monitor must be approved by the Board of Health. Front desk personnel must be certified in First Aid, CPR and pass a swim test. Signage must be posted stating "no lifeguard on duty". Entry to the pool will be key-card access only. The pool will not be rented out to non-guests. The motion was seconded by Member Hashmi; the vote was unanimous.

The Board strongly recommended that the pool be staffed by lifeguards during periods of heavy use.

SOLID WASTE CONTRACT

The Board signed the one-year contract with E. L. Harvey & Sons. The agreement commenced on July 1, 2016, and will terminate on June 30, 2017. The fee remains the same as last year's contract (\$38.00/ton).

APPOINTMENT OF CHAIRMAN

Member Hashmi made a motion to nominate Chairman Walsh to continue as chairman for the term July 1, 2016 to June 30, 2017. The motion was seconded by Chairman Walsh; the vote was unanimous.

REMOTE PARTICIPATION

Chairman Walsh made a motion to adopt the *Policy for Remote Participation at Meetings*. Member Hashmi seconded the motion; the vote was unanimous. (Copy of the policy attached.)

There being no further business the meeting adjourned 6:28 pm.

The next meeting is scheduled for September 13, 2016.

Respectfully submitted,

Kathleen Smith

TOWN OF WESTBOROUGH
BOARD OF SELECTMEN

POLICY FOR REMOTE PARTICIPATION AT MEETINGS*

Effective date: 07/22/2014

Adopted: 07/22/2014

Applicability: All Boards, Committees, Commissions, Work Groups of the Town ("Town Boards") that are subject to the provisions of the Open Meeting Law, regardless of whether such Town Boards are appointed or elected. Where the Remote Participation Policy is more stringent than 940 CMR 29.10, the Policy shall control.

I. Purpose.

This policy is implemented to allow for remote participation at meetings subject to the Open Meeting Law for those individuals are who not able to attend for specific, identified reasons. The Board of Selectmen may revoke Remote Participation at any time under 940 CMR 29.10(3).

II. Policy.

A member of a Town Board shall be permitted to participate remotely in a meeting if the person chairing the meeting determines that one or more of the following factors makes the member's physical attendance unreasonably difficult yet still leaves that member able to actively participate in the meeting:

- a) Personal illness;
- b) Personal disability;
- c) Emergency;
- d) Military service; or,
- e) Geographic distance.

Individual Town Board members may participate remotely up to three (3) times per fiscal year.

A quorum of the public body, including the individual chairing the meeting shall be physically present at the meeting location. Members who participate remotely shall not be deemed to be absent.

Members of a Town Board shall not be permitted to participate remotely from his or her place of business or other locations if the person chairing the meeting determines that travel from that location to the meeting location is reasonably possible.

III. Procedure.

- 1) Any member of a Town Board who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his/her request.
- 2) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10 for his/her remote participation. This information shall also be recorded in the meeting minutes.
- 3) Remote participants shall preserve the confidentiality of executive session. Certain media, such as speakerphone, can inadvertently be heard by people not party to the executive session discussions. The remote participant shall state at the start of any executive session that no other person is present and/or able to hear the discussion at the meeting location unless the presence of that person is approved by a simple majority vote of the Town Board.
- 4) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
- 5) The focus of the chair should always be on maintaining the flow of the meeting. If the chair determines that technical difficulties are inhibiting the progress of the meeting, the chair may elect to terminate the participation of the remote member. If technical difficulties arise resulting in the loss of connection with the remote participant, that participant's attendance shall be terminated. The meeting should not be interrupted while any attempt to restore the connection is made.
- 6) Members participating remotely are cautioned that the same obligations of consideration apply as in any physical meeting. Remote participants should direct all their attention to the meeting, and should make their decisions based upon the same information as is available to all the other participants in the meeting. The remote participant shall also state at the beginning of any meeting that no other person is in proximity who could exert undue influence on the participant, in either executive or public session, and shall inform the chair if that situation changes.

IV. Technology.

The acceptable means of remote participation are: conference telephone, internet, or satellite-enabled audio or video conferencing; or, any other technology that is available that enables the remote participant and all persons present to be clearly audible to one another. The chair or in the chair's absence, the person authorized to chair the meeting shall make this determination.

If video technology is used, the remote participant shall be clearly visible to all persons present at the meeting location. The Town shall not be responsible for the reimbursement of any out-of-pocket costs associated with the remote participation of Town Board members.

V. Violations.

Violations of the Open Meeting Law are reportable through the Open Meeting Law division of the Attorney General's office. If the Attorney General determines, after an investigation, that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

**Pursuant to MGL c. 30A, s. 20(d); 940 CMR 29.00*

Town of Westborough
Contract for Solid Waste Disposal

This agreement made on this 21th day of July, 2016, by and between the Town of Westborough, a municipal corporation in the County of Worcester and the Commonwealth of Massachusetts (hereinafter called the "Town") and E. L. Harvey and Sons (hereinafter called the "Contractor").

STATEMENT OF FACTS

The Town has entered into a contract with Signal Resco, now Wheelabrator Technologies, Inc. (WTI). The contractor operates a solid waste disposal and recycling business.

The parties hereby agree as follows:

1. TERM

The term of this agreement shall be for a period commencing on July 1, 2016, and ending on June 30, 2017, subject to appropriation by Town Meeting.

2. HANDLING AND TRANSPORTATION OF RESIDENTIAL ACCEPTABLE WASTE

For purposes of this agreement, the term "Residential Acceptable Waste" shall have the same definition as set forth in the Town's agreement with WTI relative to the disposal of such Residential Acceptable Waste at the incinerator. During the term of this agreement, the Contractor shall be obligated to handle and transport all Residential Acceptable Waste of the Town in accordance with the Board of Health's Trash Disposal Policy. This policy may be subject to change during the term of the contract. The Contractor shall have no obligation to handle, transport or dispose of any residential solid waste which is not Residential Acceptable Waste, provided the Contractor may agree with the Town to handle, transport and/or dispose of such non-acceptable waste upon mutually agreeable terms. The Contractor shall not be obligated to handle, transport or dispose of any commercial or any industrial solid waste, demolition or construction materials, hazardous waste, closed barrels, or accept as hereinafter provided, any landscaping or brush. The Contractor shall handle and transport such Residential Acceptable Waste to the incinerator site in Millbury. In the event that WTI, for any reason, shall refuse the delivery of any Residential Acceptable Waste at the incinerator, the Contractor, at the Town's request, shall handle, transport and/or dispose of any such Residential Acceptable Waste to alternative disposal site designated by WTI under the terms of its agreement with the Town. It is understood and agreed that the Contractor shall make all reasonable efforts to comply with the requirements of WTI with reference to the transportation and/or disposal of Residential Acceptable Waste at the site in Millbury.

3. CONTRACTOR'S COMPENSATION

The Town shall pay to the Contractor a sum of \$38.00 per ton ("per ton cost") for handling and transportation to the incinerator site in Millbury. In the event that the Contractor shall handle, transport and/or dispose of any Residential Acceptable Waste at an alternative disposal site, as provided in paragraph 3 above, the Town shall pay to the Contractor reasonable compensation commensurate with the service provided by the Contractor including, without limitation, any tipping fees, for the handling, transportation and/or disposal, as the case may be, of such Residential Acceptable Waste.

4. PAYMENT

Each month the Contractor shall invoice the Town for compensation due under this agreement in an amount equal to the actual tonnage of solid waste handled, transported and/or disposed for the previous month.

5. RECYCLABLE MATERIALS

Wherever practical in the operation of the contract, the Contractor shall recycle any recyclable materials, such as metal, newspaper, plastics, glass, and cardboard. The Contractor shall be entitled to no compensation, either in the form of a tipping fee or for handling and transportation for any materials so recycled. The Town shall promote a program for recycling rubbish and the Contractor shall cooperate with the Town regarding the implementation of such program. The Contractor shall cooperate with a designee of the Board of Health for this purpose.

6. LEAF AND SMALL BRUSH / MULCH PILE

At all times during the term of this agreement the Contractor shall operate, for the convenience of the Town and the Town's residents, a leaf, yard waste, and small brush pile for the sum of \$95,000.00.

7. TOWN'S RIGHTS AT THE INCINERATOR

In the event that the Residential Acceptable Waste from the Town does not meet the minimum requirements under the terms of the Waste Delivery Schedule, Appendix II of the Millbury Resco Waste Supply Agreement, the Contractor may from time to time cause to be delivered any unused tonnage of Residential Acceptable Waste available under the Town's agreement. If WTI does not allow such deliveries, such inability of the contractor to cause to be delivered any unused tonnage of Residential Acceptable Waste shall not constitute a breach of this Agreement. In consideration of the foregoing, the Contractor shall pay to the Town an amount equal to the tipping fee per ton charged by WTI under the waste supply agreement for each ton so delivered.

8. CANCELLATION OF CONTRACT

If the Contractor fails to dispose of solid waste in accordance with these specifications and the provisions of this Contract, the Board of Health may, at its own discretion, give the Contractor a notice in writing of any deficiencies, and may notify the contractor that it has sixty (60) days, the Board may give the Contractor notice in writing that the Contract will be terminated as of a date specified, not earlier than thirty (30) days following receipt of this notice.

9. COMPLIANCE

The Contractor shall comply with all sanitary regulations and all other applicable laws and regulations which may be imposed by Federal or State Governments of the Town of Westborough.

10. CONTRACT PERFORMANCE

If the Contractor fails to comply with any provision of the Contract, the Board of Health may impose such additional reasonable and remedial terms as they deem to be in the public interest to remedy or compensate for the Contractor's failure. The work to be performed under this Contract involves the public health and convenience of the Town, and the Contractor hereby recognizes this fact and agrees that competent, efficient, and courteous service is mandatory and that exacting performance is required.

11. ASSIGNMENT OF CONTRACTOR'S RIGHTS

The Contractor shall not assign the Contract in whole or in part or delegate any of the work to be performed in disposal of solid wastes to any other person, firm, or corporation without the written permission of the Board of Health.

12. WAIVER

Any provision of this contract or its specifications can be waived upon mutual consent of the Board of Health and the Contractor if that action is in the best interest of the Town of Westborough and the disposal service. The waiver shall be in writing only.

13. EQUIPMENT

Equipment shall be provided by the Contractor in accordance with the Rules and Regulations of the Massachusetts Department of Environmental Protection.

14. SUPERVISION AND DIRECTION

The Contractor shall maintain an office which can be reached by telephone at all times during the usual business hours of every day excluding the following holidays:

- ▶ New Year's Day
- ▶ Martin Luther King Day
- ▶ Washington's Birthday
- ▶ Patriots' Day
- ▶ Memorial Day
- ▶ Fourth of July
- ▶ Labor Day
- ▶ Columbus Day
- ▶ Veterans' Day
- ▶ Thanksgiving Day
- ▶ Christmas Day

There shall be in said office of the Contractor a responsible person. It shall be the duty of that person to see that all complaints are investigated promptly and that the same are properly disposed of whenever possible on the same day as received. Said person shall also report to the Board of Health office once each week. The Town shall have the right to monitor and regulate who may dispose of rubbish and the type of rubbish that may be disposed of through the Contractor's operation in Westborough. The Contractor shall cooperate with the Town in monitoring those who dispose of rubbish through the Contractor's operation.

15. HOLIDAYS EXCLUDED

The Contractor shall provide services as noted in the proposal every day except those holidays noted in Item #14.

16. INDEMNIFICATION


The Contractor shall indemnify and save harmless the Town of Westborough and all of its officers, agents, and employees against all suits, claims, or liabilities of every name, nature, and description arising out of or in consequence of the acts of the Contractor in the performance of the work covered by the Contract and/or his failure to comply with the terms and conditions thereof and will at his own expense defend any and all such suits and actions. The Contractor shall carry indemnity and liability insurance in the amount of \$1,000,000/\$2,000,000. The Contractor shall deposit with the Town Certificates of Insurance for such coverage in form and substance satisfactory to the Town and shall deliver to the Town new policies or certificates thereof for any insurance about to expire at least ten (10) days before

such expiration. All such insurance policies shall contain an endorsement requiring ten (10) days written notice to the Town prior to cancellation or change in coverage, scope or amount of any such policy or policies. Compliance by the Contractor with the insurance requirement, however, shall not relive the Contractor from liability under the indemnity provisions.

17. PERFORMANCE AND PAYMENT BONDS

The Contractor, prior to starting work under this Contract, shall obtain and deposit with the Town a performance bond and a payment bond in the amount of fifteen percent (15%) of the total yearly amount budgeted by the Town for the purpose of this contract.

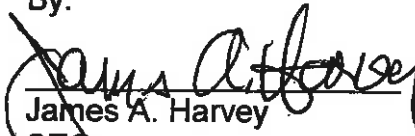
Board of Health
Town of Westborough
By:



Nathan P. Walsh, PhD.
Chairman


E. L. Harvey & Son, Inc.

By:



James A. Harvey
CEO

Alan M. Ehrlich, M.D.
Member



Syed Hashmi, M.D.
Member