

CHRISTINE McKIERNAN, M.D. - Chair
JESSICA COLLINS, Vice-Chair
KAREN WALSH PIO - Clerk
TONY JUDGE
STEPHEN FRANTZ

SHARON HART, Director of Public Health

NOTICE

BOARD OF HEALTH MEETING
(Hybrid – attend via Zoom Webinar or in person at South Hadley Library)
&
AGENDA

December 12, 2023
6:00 p.m.

Join Zoom Webinar from your Computer:

Please click this URL to join:

<https://us02web.zoom.us/j/83512824765?pwd=dVdud241Q3ZGMDNBaStlSHp5RDQ0T09>
Passcode: 029232

Or join by phone:

US: +1 312 626 6799
Webinar ID: 835 1282 4765
Passcode: 029232

NOTE: Not all the topics listed in this notice may actually be reached for discussion. In addition, the topics listed are those which the Chair reasonably expects will be discussed as of the date of this notice.

To: Board of Health Members

From: Sharon D. Hart, Director of Public Health

Re: A Board of Health Meeting (Hybrid) will be held on Tuesday, December 12, 2023 at 6:00 p.m. at the South Hadley Library.

- 1: Chair to Call the Meeting to Order**
- 2: Acceptance of the Minutes of November 14, 2023 meeting.**
- 3: Announcements and Open Forum (10 Minutes)**

4: New Business:

- (a): Director's Report
- (b): Master Plan Goals – Review with Master Plan Implementation Committee – Nate Therien and Michelle Theroux
- (c): Firearm Injury Prevention - Christine McKiernan, M.D., and Jessica Collins

5: Old Business

- (a) Update - Conservation Commission – Pollinator Resolution – Bill DeLuca and Tom Dennis
- (b): Update - South Hadley Drug & Alcohol Prevention Coalition – Karen Walsh Pio

6: Set Next Meeting Date – (TBD) at 6:00 p.m. at South Hadley Public Library

- 7: 6:15 p.m. Executive Session – Pursuant to G.L. c.30A sec 21(a)(3), and subject to the Chair's declaration that the public discussion of meeting minutes will have a detrimental impact on the litigating position of the Board, the Board will go into Executive Session to discuss strategy with respect to litigation in the matter of Chicopee Concrete Service, Inc. v. Hutchinson et al. (South Hadley Planning Board and Board of Health) C.A. No. 2180CV00038;**
- a. Approval of July 10, 2023 executive session minutes

8: Adjourn meeting

*** Please note: Meetings are recorded***

CHRISTINE MCKIERNAN, M.D., Chair
JESSICA COLLINS, Vice-Chair
KAREN WALSH PIO, Clerk
TONY JUDGE
STEPHEN FRANTZ

SHARON D. HART, Public Health Director

Board of Health Minutes

November 14, 2023

Present: Christine McKiernan, M.D., Chair; Jessica Collins, Vice-Chair; Karen Walsh Pio, Clerk; Tony Judge, Board of Health Member; Stephen Frantz, Board of Health Member; Sharon Hart, Public Health Director; Jennifer Jernigan, Assistant Public Health Director; Lisa Napiorkowski, Senior Center Acting Director; Lori Souder, Human Rights Commission Representative; Tamara Gheit, Health Department Assistant

The Board of Health Meeting was called to order at 6:00 p.m. by Chair McKiernan.

1. Acceptance of the Minutes of the September 12, 2023 Meeting:

Chair McKiernan introduced the minutes from the September 12th meeting and asked for a motion to approve the minutes with an understanding that a minor correction be made on the time adjourned. Tony Judge made the motion and Karen Walsh Pio seconded it. All members were in favor.

Tony Judge = Aye
Karen Walsh Pio = Aye
Stephen Frantz = Aye
Christine McKiernan = Aye
Jessica Collins = Aye

2. Announcements and Open Forum:

None

6:04 p.m. Jessica Collins arrived to the meeting.

3. New Business:

A) Presentation of Books to Senior Center

The Health Department donated books to the Senior Center, made possible by the Public Excellence Grant. Ten books were presented and will be available for residents in South Hadley, Chicopee, and Holyoke Senior Centers. These books target individuals who are interested in managing/coping with grief and end of life difficult conversations. Lisa Napiorkowski mentioned

Sheila Pennell, a nurse who oversees the nursing students every year, who offered graciously to do a talk on this subject as well.

6:06 p.m. Lisa Napiorkowski left the meeting.

B) Human Rights Commission Report – Lori Souder

Lori Souder is one of eight representatives on the new Human Rights Commission. She states the group is focused heavily on the progressive side of human rights. Lori stated that the group is focusing on getting out to talk with people in the community to see what is on their minds, what critical items need to be addressed. They are creating a website presence. They have discussed bullying, respect and compassion. They are working with the schools, library, senior center, and faith-based organizations to see what resources they offer. The idea is to get a feel for what is happening in the community and where the compassionate areas in town are taking place so people to be directed to that. They are working on a logo for the group.

6:21 p.m. Lori Souder left the meeting.

C) Director's Report

Director Hart mentioned what a success the drive-through vaccine clinic was which had over 300 vaccines given out. She states there were two Covid types along with two flu vaccines available with no cost to the public. Hart announced several updates since the last meeting. She discussed a dementia friendly three-part series presentation with Board of Health Nurse Maureen Couture at the South Hadley Senior Center. She also mentioned a survey that was recommended by the State regarding oral health. The program was set up at the South Hadley Public Library with a special guest, Dr. Block, who read a book on oral hygiene to the children who attended the program. Due to it being October and everybody eating candy, toothbrushes were handed out to get attendees to participate in the survey.

Director Hart also mentioned that November is Diabetes Awareness Month, a time when individuals, community groups and organizations around the globe bring attention to diabetes and urge action to tackle the epidemic. Director Hart mentioned Assistant Director Jennifer Jernigan's Diabetes Awareness program that was presented with a PowerPoint at the Senior Center. Dr. Wolf was also present, providing information on footcare.

In addition to providing awareness on diabetes, Director Hart presented a Tick Talk presentation during the Veterans at the Park event. She was accompanied by the Conservation Department and

Nurse Maureen, who covered different diseases associated with ticks. A Winter Preparedness Fair at the Council on Aging also covered tick topics and oral health. Director Hart mentioned that the Health Department will be doing a Public Health awareness presentation on a monthly basis. Director Hart also discussed that due to the opioid funding that each of the towns are getting, an outreach household survey was developed that will reach all of Hampshire County with the focus of collecting data and capturing opioid crisis information to provide resources.

D) Firearm Injury Prevention- Christine McKiernan, M.D., & Jessica Collins

Chair McKiernan presented a Firearm Injury Prevention PowerPoint specifically towards pediatric firearm injury data. Chair McKiernan asked that while being aware of Second Amendment rights, how do we make our environment as safe as possible for children? Chair McKiernan mentioned the rate of firearm injury in the United States is 18 times the average of most comparable countries. The rate is so high that when they calculate the comparable country average provided, they leave the US out due to the data being such an outlier that the data is skewed, making it uninterpretable. Since 2019 firearms are the number one killer of children and the numbers continue to go up. She questions how harm can be reduced in our town? What are certain strategies that can be practiced to keep our kids and families safe from firearm injury? McKiernan suggested posting a gun safety smart link for kids to the Board of Health and public schools' website to get the message out. The link would provide information on firearm injury prevention and firearm safety. Christine McKiernan offered writing letters to our State Senators in regards to providing an impact. Karen Walsh suggested inviting Jake Oliveira, the State Senator, to discuss this topic and to join our Board Meeting. Jessica Collins mentioned it would be valuable to reach out to Representative Dan Carey. Christine McKiernan confirmed she would reach out to Representative Carey for explanation and possibly get both Jake Oliveira and Dan Carey at the same time to attend.

E) Emergency Orders to Vacate- Ratify

Jernigan introduced the ratification of six emergency orders to vacate. She shared that most were condemned due to disconnection of utilities. Stephen Frantz questioned if lack of payment is the main reason for condemnation. Director Hart explains all cases can differ but offers solutions to residents to reach out to Wayfinders or other outreach services to help with funding. The Health Department, per the State Sanitary Code, must condemn dwellings that are deemed uninhabitable, which includes the lack of utilities. Christine McKiernan made a motion to ratify the emergency orders. Karen Walsh Pio seconded it.

- 28 Camden Street 2nd floor
- 170 Riverboat village Road
- 12 Sycamore Parc
- 12 Lawn Street

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- 51 Prospect Street
- 36 South Street

Board members in consensus.

Tony Judge = Aye
Stephen Frantz = Aye
Christine McKiernan = Aye
Karen Walsh Pio = Aye
Jessica Collins = Aye

4. Old Business

A) COVID -19 preparedness

Joanna Brown had joined us last meeting raising questions about masks and COVID preparedness resources available. Director Hart stated no masks are being funded at this time but did receive 1,800 COVID testing kits.

B) Vaccine Updates - Christine McKiernan

Christine McKiernan provided more information regarding vaccine rollouts. Starting in June the adult RSV vaccine became available. This vaccine is offered to adults 60 and older primarily in pharmacies at the moment. McKiernan mentioned versions of Moderna and Pfizer vaccines were made available in September for the new COVID-19 variant, available in pharmacies and grocery stores. The new RSV maternal vaccine is being carried primarily in obstetricians' offices, given to women while pregnant for infants to be born with antibodies.

C) Update- Conservation Commission-Pollinator Resolution-Bill DeLucca and Tom Dennis

Next Meeting.

D) Update- Syringe Services Program -Sharon Hart

Next Meeting.

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E) Update- South Hadley Drug and Alcohol Prevention Coalition-Karen Walsh Pio

Karen Walsh explained that the purpose of the Coalition is youth prevention and focuses on the upstream work that prevents opioid problems which develop from youth forward. Due to the Youth Prevention Coalition moving into its last years of funding, there's going to be a crossover discussion as to whether or not any opioid prevention or opioid money can be used to further the work of the prevention initiative. Walsh provided an update on the last couple months regarding youth prevention. The coalition had peer leaders at the High School doing a Halloween social norms campaign handing out candy with prevention messages to other peers. Middle School peer leader groups attended the New England League of Middle School Leaders Conference at AIC in Springfield, which informed students about leadership skills. Karen Walsh attended the Drug Take Back Event on October 28th and mentioned Director Hart's prior work to establish a Drug Take Back location in our Town, which is now being copied across the state. Another Youth Prevention effort is the awareness campaign for parents picking up pizza boxes with safe storage stickers of your drugs and alcohol on the pizza boxes. To promote awareness for addiction and mental health, kids are in the process of designing a banner to be displayed. The Coalition also has a new focus on speakers. Walsh mentioned last month the speaker was Cindy Boyle from the Police Department who came to talk about her role as the coordinator of Western Mass Crisis Intervention Team.

Respectfully,
Tamara Gheit

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November 14, 2023

ATTACHMENT A

RECORD LOCATION

BOH Meeting Minutes 09-12-2023

BOH File

Firearm Injury Prevention Powerpoint

BOH File

Summary	August 2022	September 2022	October 2022	November 2022	December 2022	January 2023	February 2023	March 2023	April 2023	May 2023	June 2023	July 2023	August 2023	September 2023	October 2023	November 2023
Complaints Received																
housing complaint	13	5	12	11	15	10	6	10	4	5	3	2	5	10	1	6
food complaints/questions	6	10	7	2	5	6	1	3	5	5	4	2	0	5	4	4
COVID inquiry/reporting	2	1	1	0	0	0	0		1	1	0	0	0	0	0	
animal control	9	4	9	3	2	3	3	3	4	5	3	3	2	5	0	
dumpster permit	6	1	2	2	0	0	0	2	0	0	5	2	2	0	0	1
hauler permit	1	1	1	0	0	1	0	1	1	1	3	1	1	0	0	
septic permit	1	2	5	3	3	2	0	6	7	7	2	3	2	1	0	
property care complaint	1	3	0	2	1	0	2	2	1	1	5	4	5	3	1	3
miscellaneous	3	13	11	7	8	4	3	3	6	6	0	0	0	0	0	
Total	42	40	48	30	34	26	15	30	29	31	25	17	17	24	6	14
Notices Issued																
housing orders		1	0	1	0	3	3	2	5	5	3	4	3		2	8
condemnations	1	1	0	1	0	0	1	2	0	2	6	1	1		3	3
property care notices	1		0	0	0	1	0	1	4	3	5	4	5	9	0	3
compliance	2	1	3	1	0	5	2	4	1	0	4	2	2	2	2	5
educational/best practice material	0	0	0	2	0	0	0	2	2	3	0	1	1	0	0	0
dumpster violations	0	0	0	0	0	0	0	3	3	3	0	0	2	0	0	0
Total	4	4	3	5	0	9	6	14	15	16	18	12	14	23	7	19
Inspections Conducted																
food inspections	4	1	6	0	0	7	9	13	17	14	3	2	3	6	1	4
lodging/housing inspections	4	3	1	0	4	3	4	4	5	5	4	3	4	4	1	4
site observations	2	2	0	0	0	0	2	4	5	7	2	1	1	2	0	8
perc tests/septic installs												2	2	2	0	3
Total	10	6	7	0	4	10	15	21	27	26	9	6	8	35	21	19
Miscellaneous																
records requests		6	9	18	9	1	1	2	3	1	1	2	1	3	3	1
food plan reviews		1	1	1	2	2	1	1	1	2	2	0	0	0	0	
summer camp permits	0	0	0	0	0	0	1	1	3	2	0	2	0	0	2	9
animal quarantines															3	3
Total		7	10	19	11	3	3	4	7	5	3	4	1	3	8	17

MEMORANDUM

TO: Sharon Hart, Public Health Director
Board of Health

CC: Anne Capra, Director of Planning & Conservation
Conservation Commission

FROM: Rebekah Cornell, Conservation Administrator/Planner

DATE: October 6, 2023

RE: General Bylaw §179-4 Property maintenance

The Conservation Commission is approaching the Board of Health to work jointly on a General Bylaw Amendment. The proposal is to remove §179-4 Property maintenance from the General Bylaw.

Bylaw §179-4 was adopted at Town Meeting on May 9, 2015. It was approved by the Attorney General with two comments. The first was that terms were not defined to provide minimal guidelines to govern enforcement. The second was there is no exemption for those that may not be able to care for their property due to age, disability, sickness, or absence. I have included the AG review with this correspondence.

The current General Bylaw language is below.

§ 179-4 Property maintenance.

A. All property owners will be responsible to keep their property in a reasonable state of repair. Grass will be kept no higher than six inches; leaves, excessive grass clippings will be removed, composted or otherwise properly disposed of; damaged branches will be addressed; and other debris or litter will be eliminated from the property.

B. Violation of this bylaw may result in a fine of \$100 per day. The enforcement authority for this bylaw shall be the South Hadley Police Department or South Hadley Health Department.

The Conservation Commission has started an initiative called "Growing Wild South Hadley". The goal is to promote biodiversity through planting native pollinator species. Pollinators are a crucial part of our ecosystem. This initiative follows guidance from others such as Douglas Tallamy's Homegrown National Park, DCR's Growing Wild Massachusetts, and the Western Massachusetts Master Gardener Association. This year, the Commission collaborated with the Massachusetts Pollinator Network and the Western Massachusetts Master Gardeners for a public outreach campaign on the

importance of biodiversity in the community. Educational lectures about the benefits of pollinators were held at the library. Two recommendations to promote biodiversity are to restrict mowing to every 2-3 weeks or convert your lawn into a meadow that is mown only 1-2 times a year. However, Bylaw §179-4 Property maintenance prohibits grass being kept longer than six inches. Regulating the length of grass is in contradiction with the benefits Growing Wild is working to promote. The Conservation Commissions asks you to consider proposing the removal of this Bylaw as a joint effort to create a stronger message about promoting pollinator habitats. This proposal would need continued outreach efforts within the community and to Town Meeting members before the 2024 Annual Town Meeting. The Commission would be open to holding additional lectures, issuing press releases, and continuing the conversation with friends in neighbors in the community. The Commission is of the opinion that collaborating this outreach with the Board of Health will have a stronger message than if either entity presented the proposal individual.

Thank you for your consideration.



THE COMMONWEALTH OF MASSACHUSETTS
 OFFICE OF THE ATTORNEY GENERAL
 CENTRAL MASSACHUSETTS DIVISION
 10 MECHANIC STREET, SUITE 301
 WORCESTER, MA 01608

MAURA HEALEY
 ATTORNEY GENERAL

(508) 792-7600
 (508) 795-1991 fax
 www.mass.gov/ago

August 7, 2015

Received
 Town of South Hadley

Carlene C. Hamlin, Town Clerk
 Town of South Hadley
 116 Main Street
 South Hadley, MA 01075

AUG 10 2015
 Town Clerk
WJH 10:30

**RE: South Hadley Annual Town Meeting of May 9, 2015 - Case # 7529
 Warrant Article # 9 (Zoning)
 Warrant Articles # 10, 11, 12, 13 and 14 (General)**

Dear Ms. Hamlin:

Articles 9, 10, 11, 12, 13 and 14 - We approve Articles 9, 10, 11, 12, 13 and 14 from the May 9, 2015 South Hadley Annual Town Meeting. Our comments regarding Articles 10 and 13 are provided below.

Article 10 - Article 10 adds to the Town's general by-laws a new subsection 1007.3, "Property Care" which provides:

All property owners will be responsible to keep their property in a reasonable state of repair. Grass will be kept no higher than six (6) inches, leaves, excessive grass clippings will be removed, composted or otherwise disposed of, damaged branches will be addressed and other debris or litter will be eliminated from the property. Violation of this by-law may result in a fine of \$100 per day, enforcement authority of this bylaw, South Hadley Police Department or South Hadley Health Department.

A. Attorney General's Standard of Review

During the course of our review, we received several oppositions urging us to disapprove the by-law, citing, among other reasons, that the by-law is unfair to the elderly or disabled residents of the Town; the fine is excessive and unreasonable; and the by-law risks arbitrary or inconsistent enforcement. We appreciate these letters as they have aided our review of the by-law. However, as discussed below in more detail, under our standard of review, we must approve Article 10.

Pursuant to G.L. c. 40, § 32, the Attorney General has a limited power of disapproval of town by-laws with every “presumption made in favor of the validity of municipal by-laws.” Amherst v. Attorney General, 398 Mass. 793, 796 (1986). In order to disapprove any portion of a proposed by-law, the Attorney General must cite an inconsistency between the by-law and the Constitution or laws of the Commonwealth. Id. When reviewing by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General’s standard of review is equivalent to that of a court performing a facial review. Because the adoption of a by-law by the voters at Town Meeting is both the exercise of the Town’s police power and a legislative act, the vote carries a “strong presumption of validity.” See Durand v. IDC Bellingham, LLC, 440 Mass. 45, 51 (2003). If the reasonableness of a by-law is fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained, Id. quoting Crall v. City of Leominster, 362 Mass. 95, 101 (1972)).

B. Comments on Specific Provisions in Subsection 1007.3

1. Undefined terms

The by-law requires that property owners keep their property in a “reasonable state” of repair, that “excessive” grass clippings be removed, and that “other debris or litter” be eliminated. However, none of these terms are defined. Although we approve Subsection 1007.3 based upon our limited standard of review of town by-laws, the by-law may be challenged in court as impermissibly vague. A law that requires that people “of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.” Connally v. General Constr. Co., 269 U.S. 385 (1926). “[P]erhaps the most meaningful aspect of the vagueness doctrine is not actual notice, but the other principle element of the doctrine - the requirement that the legislature establish minimal guidelines to govern law enforcement.” Smith v. Goguen, 415 U.S. 566, 574 (1974). Legislative bodies must “set reasonably clear guidelines for law enforcement officials and triers of fact in order to prevent arbitrary and discriminatory enforcement.” Id. at 573. The Town may wish to amend the by-law at a future Town Meeting to insert definitions for these terms in order to avoid a void for vagueness challenge. The Town should consult with Town Counsel on this issue.

2. Notice and Hearing

We also note that the by-law does not provide an exemption for those people that may be unable to care for their property due to age, disability, sickness or absence. The by-law is also silent as to any notice or opportunity for a hearing if someone one is found to be in violation of the by-law. The Town should discuss these issues with Town Counsel.

Article 13 - Article 13 amends the general by-laws, Section 302.2, “Delivery of Warrants,” to:

allow electronic transmission of warrants, revision, updates and necessary material to an electronic email address to each Town Meeting member.

The vote on Article 13 does not state where in Section 302.2 the amended text will be added. In addition, the vote on Article 13 did not appear to delete any portion of the existing Section 302.2, which provides:

Attested copies of warrants for all Town Meetings shall, at least seven (7) days before the Annual Town Meeting and fourteen (14) days before a Special Town Meeting, be (i) mailed by first class mail, postage prepaid, to each Voting Member (as hereafter defined) at his or her residence as set forth in the office of the Town Clerk, and (ii) directed to a constable or a police officer of the Town for posting in at least one public location in each precinct. The Town Clerk shall also request any provider of local cable television access to provide notice of any Annual or Special Town Meeting. Nothing herein shall preclude the Selectboard from employing any additional methods of communicating the contents of the warrant.

The Town may wish to consult with Town Counsel regarding the proper construction of the new text in light of the existing text in Section 302.2, and consider a future clarifying amendment if needed.

Finally, the new text in Section 302.2 cannot be used as a substitute for the warrant posting requirements in G.L. c. 39, § 10. The Town should consult with Town Counsel to ensure it is complying with the statutory requirements.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

MAURA HEALEY
ATTORNEY GENERAL

Margaret J. Hurley

by: Margaret J. Hurley, Assistant Attorney General
Chief, Municipal Law Unit
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cc: Town Counsel Edward J. Ryan