

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**

**February 26, 2024
6:00 p.m.**

Join Zoom Webinar from your Computer:

Please click this URL to join:

<https://us02web.zoom.us/j/84344807998?pwd=RFIDekVsc2g2VkNxbE9uaXlsSU5BQT09>

Passcode: 356597

Or join by phone:

US: 1 309 205 3325

Webinar ID: 843 4480 7998

Passcode: 356597

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 Monday, February 26, 2024 at 6:00 p.m. at the South Hadley Library.

1: Chair to Call the Meeting to Order

2: Acceptance of the Minutes of the January 9, 2024 meeting.

3: Announcements and Open Forum (10 Minutes)

4: New Business:

- (a): Firearm Injury Prevention - Representative Dan Carey and Senator Jacob Oliveira
- (b): Master Plan – Review and Update
- (c): Director’s Report

5: Old Business

- (a) Review and Update per Conservation Commission – Pollinator Non-Binding Resolution and Property Care By-Law – Stephen Frantz, Rebekah Cornell
- (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: 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

January 9, 2024

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; Tamara Gheit, Health Department Assistant

- 1. The Board of Health Meeting was called to order at 6:06 p.m. by Chair McKiernan at the South Hadley Public Library.***

Tony Judge joined zoom
Jessica Collins joined zoom

- 2. Acceptance of the Minutes of the December 12, 2023 Meeting:**

Chair McKiernan introduced the minutes from the December 12th meeting and asked for a motion to approve the minutes. Karen Walsh Pio made the motion and Tony Judge seconded it. All members were in favor.

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

- 3. Announcements and Open Forum:**

None

- 4. New Business:**

- a) Firearm Injury Prevention- Representative Dan Carey and Senator Jacob Oliveria**

Representative Dan Carey was unable to attend the meeting but did forward a summary of the House Bill 4139 to Jessica Collins. Karen Walsh Pio noted Jake Oliveria stated they do not yet have a Senate Bill or a draft available.



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January 9, 2024

She mentions the Senate is expected to start from scratch and potentially have two different bills coming forward at the point that both Senate and House have organized information in writing. It was concluded by attending board members that this discussion is a premature one and was postponed until the next Board of Health meeting on February 13th. Christine McKiernan confirmed she will reach out to Dan Carey and Jacob Oliveria via email for additional information.

b) Review- Regulation of the South Hadley Board of Health -Prohibiting the Manufacturing, Sale, and Distribution of Synthetically Derived Cannabinoids and Kratom

Director Sharon Hart mentioned looking into banning the sale and distribution of synthetically derived cannabinoids and Kratom in the town of South Hadley. Although FDA has warned against the use of unapproved products for medical treatment, Kratom was being sold in the neighboring town of Belchertown. Hart put together and presented a regulation to ban the sales of Kratom and presented this to the Board Members to discuss if they want to move it forward.

Director Hart spoke with the Tobacco Grant Coordinator to look for these substances while conducting store inspections in the future. Stephen Frantz requested for Hart to gather information on any reported adverse effects. Christine McKernan stated she will reach out to the poison control who might have that information. Karen Walsh Pio suggested reaching out to the Bureau Substance Abuse Services (BSAS) that tracks all substances.

The decision was made to revisit this topic with more information in order to bring it to town council.

c) Director's Report

Director Hart mentioned staff is attending housing training on Tuesday the 22nd. She announces all grants are moving forward and the money from the Public Health Excellence Grant will be funding a new inspector position and nursing position for the Health Department. Director Hart emphasized the importance of bringing back “Unity in Community” and will be working together with Missy Couture Rimbold, Associate Assessor for the Town of South Hadley, Reverend Lori Souder from Center Church in South Hadley and Carol Constant, Director of Community Engagement at the Loomis Communities to network with individual faith-based organizations for an information sharing session.

Director Sharon Hart mentioned looking into grant money from the Public Health Excellence Grant to help Tapestry do harm reduction in South Hadley. Hart states opioid funds will be going towards conducting an information gathering survey that will be sent out to all of the town. It's a survey for all our communities to see which direction each town wants to go in.

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5. Old Business

a) **Update- Pollinator Non-Binding Resolution and Property Care By-Law-Sharon Hart and Stephen Frantz.**

A motion was made by Christine McKernan to amend the letter into a more formal format to be shared with the Conservation Commission to approve and then share with the Selectboard. Jessica Collins suggested amending the bylaw to put in exceptions of age, ability and desire to grow a pollinator garden. Once Stephen Frantz is done revising the letter, steps will be taken to move it forward to Town Meeting and Selectboard to rescind the bylaw and be clear on that we are asking on repealing or amending the current bylaw and not making a suggestion.

b) **Update- South Hadley Drug & Alcohol Prevention Coalition-Karen Walsh Pio**

Karen Walsh Pio provided an update on a series of guest speakers that have been invited to the current coalition meetings. She stated the focus has not only been on students but on staff, teachers and families in the community using mental health, food insecurity, safety and how those potentially impact the ability to learn. Karen Walsh Pio mentioned gathering information on how many kids are using drugs and at what grade level will be looked at using the South Hadley Prevention Needs Assessment with Caroline Johnson, who is the research and evaluation person at Spiffy Coalition, which is a part of CES (Collaborative for Educational Services) in Northampton. Karen Walsh Pio also mentions a presentation about coalition initiatives in the next meeting happening on January 10th at 6:60pm. The February meeting will fall on a Thursday due to Valentine's Day and the coalition is looking for a February meeting speaker.

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Set next Meeting Date- February 13, 2024 @ 6:00pm:

All present members were in consensus with the next meeting date being February 13th at 6pm at the library.

Adjourn the meeting:

Chair McKiernan mentioned she would accept a motion to adjourn the meeting. Tony Judge made the motion. Karen Walsh Pio seconded it and all members were in consensus.

The meeting was adjourned at 7:31pm.

Respectfully,
Tamara Gheit

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Meeting Minutes
January 9, 2024

ATTACHMENT A

RECORD LOCATION

BOH Meeting Minutes 1-9-2024	BOH File
Director’s Report	BOH File
Memorandum from Rebekah Cornell, Conservation Administrator/Planner Dated 10/6/23 Regarding General Bylaw 5179-4 Property Maintenance	BOH File
Letter from the Office of the Attorney General, Commonwealth of Massachusetts to Carlene Hamlin, Town Clerk, Re: S. Hadley Annual Town Meeting of May 9, 2015	BOH File
Regulation Prohibiting the Manufacturing, Sale, and Distribution of Synthetically Derived Cannabinoids and Kratom	BOH File



Jennifer Jernigan <jjernigan@southhadleyma.gov>

Re: Master Plan Annual Reporting--Board of Health

Christine McKiernan <cmckiernan@shadleyma.org>

Sun, Feb 18, 2024 at 4:15 PM

To: Nate Therien <natetherien@gmail.com>, Jennifer Jernigan <jjernigan@southhadleyma.gov>, Sharon Hart <shart@southhadleyma.gov>

Thank you Nate. Jen, can you put this on the agenda for our February meeting to review and update?

Chris

From: Nate Therien <natetherien@gmail.com>
Date: February 17, 2024 at 9:36:14 AM EST
To: Christine McKiernan <chrismckiernan88@gmail.com>
Cc: Sharon Hart <shart@southhadleyma.gov>, Michelle Theroux <mtheroux@berkshirehills.org>
Subject: Master Plan Annual Reporting--Board of Health

Dear Christine,

I am writing you on behalf of the Master Plan Implementation Committee (MPIC) in your role as chair of the Board of Health.

At our recent meeting with the Board, Michelle and I were impressed, as always, by all the good work the Board and Health Department are doing to advance the goals of the Master Plan.

MPIC is gearing up now to prepare the reports and suggestions we are required to submit this spring to the Town Administrator, the Planning Board, the Selectboard, and Town Meeting. We hope our reports and suggestions will help inform Town-wide discussions and decisions as the Town seeks to achieve the ambitious goals outlined in the Plan.

To this end, we are asking all committees and boards, including you and your colleagues, to set aside some time in the coming weeks to review work to date on Master Plan tasks as well as future plans; and that you use the attached excel sheet (under the column, "Status March 2024") to report back to us.

As last year, all status reports will be posted on the Town's website as a means of keeping the general public aware of work accomplished and underway on some of the specific tasks identified in the Master Plan and assigned in the Plan to specific committees and boards.

We include a separate "Comments" column for anything you want to signal to MPIC, including, for example, challenges the group has faced, resources required, collaborations you seek with others, tasks you have undertaken (or want to undertake) that serve Plan goals but are not currently listed among your own.

In order to meet our reporting deadlines, MPIC requests you submit your form by March 15. You should return it to me.

Michelle and/or I would be happy to attend a future meeting to help with this process—or to talk online or in person. Just let me know what would work best.

Thank you,

Nate



BOH3-2023.xlsx
40K

Health Department and Board of Health Action Items

Goal #	Goal Action	Primary Entity	Subunit(s)	NOTE: Priorities may have two time frames and they may start in the shorter time frame, but take longer to complete.	Priority	Status July 2022	Status Nov. 2022	Status March 2023	Status March 2024	Comments
G1-26	Identify and encourage conditions that attract and support Black, Indigenous, and People of Color population.	Primary Entity	Administration, All entities	Process for identifying issues concerning BIPOC population and for monitoring the experience of town services across all process for identifying challenges and addressing them. Change in town demographics.	ST/MT	NO INFORMATION PROVIDED	NO INFORMATION PROVIDED	Established Rental Registration, Established Health Equity Policy Framework		
G1-31	Foster town engagement with college/university personnel and consultants to provide special expertise.	Administration	Other entities as appropriate	Change in diversity of people participating in type and effectiveness of services provided.	ST, MT, LT			Established Glyphosate/Glufosinate Regulation		
G2-24	Monitor and safeguard water safety at point of delivery in all public buildings.	Administration	Health Department	Set standards. Monitor safety. Propose new regulations or appropriations as required.	ST			Ongoing: And established Glyphosate/Glufosinate Regulation		
G3-11	Review town regulations and regulatory authority concerning preserving and promoting public health.	Board of Health	Health Department, Commission on Disabilities				COD added 10-17-2022			
G3-14	Incorporate addressing climate change/efficiency into routine permitting and operations.	All Boards and Committees		Date new standards adopted. Changes to zoning or subdivision regulations impact on projects.	ST					
G3-24	Work with boards and committees to produce videos to welcome new members and give them a brief overview of responsibilities.	SHCTV	All boards and committees	Number of videos participating feedback from viewers.	ST					
G3-25	Encourage people of diverse backgrounds to run for board and/or apply for committees to ensure board representation of all residents in government functions.	All Boards		Number of candidates identified. Number of candidates elected. Change in demographics of candidates.	ST/MT					
G4-1	Create working groups of staff and committee and board members to meet regularly around common priorities to identify and work together toward shared objectives.	All boards, committees, and departments	Administration, Selectboard	Date working group created. Number of shared priorities identified. Number of group actions being pursued. Number of actions completed.	ST					The Board of Health would welcome procedures that improve its ability to provide input regarding decisions that are the primary responsibility of other entities but have the potential for major impacts on public health.
G4-4	Improve inter-departmental communications within the municipality and to the public.	Administration	All departments	Number and types of communications. Feedback from residents and business owners.	ST/MT					
G4-5	Provide professional development for all departments and committees as appropriate to improve skills in website content development and presentation.	Administration	All departments	Date provided. Number of participants.	ST/MT					
G4-8	Create a central resource directory on the Town website for all listing and linking to all current plans, reports and key data.	Administration	All boards, committees, and departments	Date resource created. Relevance of information provided. Use of information.	ST/MT					
G4-13	Prior to Town Meeting, review proposed bylaws as to clarity, consistency with other bylaws, and alignment with the goals of this Master Plan Update and make recommendations for action (recommend or not recommend) to the Selectboard and Town Meeting.	Bylaw Review	All other boards and committees	Date(s) bylaws reviewed. Number of committees and/or proposers consulted. Recommendations made. Votes by Town Meeting.	ST/MT					
G4-21	Procure portable road signs for emergency use.	Health Department	Emergency Management Director	Number of times used. Locations at which signs placed. Feedback.	ST					
G4-22	Post articles in area newspapers, town's website and social media.	All boards and committees		Number of articles posted. Number of responses or other feedback.	ST/MT					
G4-27	Work with boards, committees and departments to identify baseline data for impact, evolution and standard metrics, as appropriate.	Master Plan Implementation Committee	All boards, committees, and departments	Date baseline data identified. Schedule for collection of baseline data. Date(s) data collected.	MT					
G4-28	Work with board, committees and departments to monitor progress toward goals and metrics recommended in this Master Plan Update, as appropriate.	Master Plan Implementation Committee	All boards, committees, and departments	Identify schedule and process for monitoring feedback from boards etc. as to usefulness. Dates of progress updates to Selectboard, Planning Board, and Town Meeting.	MT/TT			Established Health Equity Policy Framework		
G4-29	Work with Town Administrator, Planning Board and Selectboard to determine whether there are additional reporting mechanisms that should be put in place, for example to flag an urgent issue.	Master Plan Implementation Committee	Administration, Planning Board, Selectboard, All Departments	Date additional reporting mechanisms identified. Number of reports. Feedback on effectiveness.	ST/MT					

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	December 2023	January 2024	
Complaints Received																			
housing complaint	13	5	12	11	15	10	6	10	4	5	3	2	5	10	1	6	7	6	
food complaints/questions	6	10	7	2	5	6	1	3	5	5	4	2	0	5	4	4	2	5	
COVID inquiry/reporting	2	1	1	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	
animal control	9	4	9	3	2	3	3	3	4	5	3	3	2	5	0	0	4	2	
dumpster permit	6	1	2	2	0	0	0	2	0	0	5	2	2	0	0	1	4	0	
hauler permit	1	1	1	0	0	1	0	1	1	1	3	1	1	0	0	0	1	0	
septic permit	1	2	5	3	3	2	0	6	7	7	2	3	2	1	0	0	3	1	
property care complaint	1	3	0	0	1	0	2	2	1	1	5	4	5	3	1	3	3	1	
miscellaneous	3	13	11	7	8	4	3	3	6	6	0	0	0	0	0	0	1	1	
Total	42	40	48	30	34	26	15	30	29	31	25	17	17	24	6	14	18	15	
Notices Issued																			
Housing orders	1	1	0	1	0	3	3	2	5	5	3	3	4	4	2	8	7	10	
condemnation	1	1	0	0	0	0	1	2	0	2	6	1	1	12	3	3	3	1	
property care notices	1	0	0	0	0	1	0	1	4	3	5	4	5	9	0	3	1	1	
compliance	2	1	3	1	0	5	2	4	1	0	4	2	2	2	2	5	1	1	
educational/best practice material	0	0	0	2	0	0	0	2	2	3	0	1	1	0	0	0	0	0	
dumpster violations	0	0	0	0	0	0	0	3	3	3	0	0	2	0	0	0	2	2	
Total	4	4	3	5	0	9	6	14	15	16	18	12	14	23	7	19	11	12	
Inspections Conducted																			
food inspections	4	1	6	0	0	7	9	13	17	14	3	2	3	6	1	4	2	2	
lodging/housing inspections	4	3	1	0	4	3	4	4	5	5	4	3	4	4	1	4	12	5	
site observations	2	2	0	0	0	0	2	4	5	7	2	1	2	2	0	8	2	3	
perc tests/septic installs						10	15	21	27	26	9	6	8	64	50	19	17	12	
Total	10	6	7	0	4	10	15	21	27	26	9	6	8	64	50	19	17	12	
Miscellaneous																			
records requests		6	9	18	9	1	1	2	3	1	1	2	0	3	3	1	2	9	
food plan reviews		1	1	1	1	2	1	1	1	2	2	0	0	0	0	0	1	1	
summer camp permits		0	0	0	0	0	1	1	3	2	0	2	0	0	2	9	6	8	
animal quarantines																			
septic plan reviews																			
title 5 reviews																			
pumpout record reviews																			
Total	7	10	19	11	3	3	4	7	5	3	4	1	1	3	8	13	9	22	



Jennifer Jernigan <jjernigan@southhadleyma.gov>

Fwd: For BOH Review - ATM Article

2 messages

Sharon Hart <shart@southhadleyma.gov>

Thu, Feb 8, 2024 at 2:38 PM

To: Christine McKiernan <[REDACTED]>, Stephen Frantz <sfrantz@shadleyma.org>, Stephen Frantz <[REDACTED]>, Tony Judge <tjudge@shadleyma.org>, Karen Walsh Pio <[REDACTED]>, Wpio <[REDACTED]>, Jessica Collins <jcollins@shadleyma.org>, Jennifer Jernigan <jjernigan@southhadleyma.gov>, Georgina Maende <gmaende@southhadleyma.gov>, Tamara Gheit <tgheit@southhadleyma.gov>

Sharon D. Hart,
Emergency Management Director,
Director of Public Health
116 Main Street, M2
South Hadley, MA 01075
cell (413) 315-7307
work (413) 538-5030 x 6184
fax (413) 538-5012
shart@southhadleyma.gov

----- Forwarded message -----

From: **Rebekah Cornell** <rcornell@southhadleyma.gov>
Date: Thu, Feb 8, 2024 at 2:37 PM
Subject: For BOH Review - ATM Article
To: Sharon Hart <shart@southhadleyma.gov>

Hi Sharon,

From the materials you previously forwarded me, I put together the attached draft packet for Town Meeting members. I'd like to ask the BOH to review the introduction memo and order of attachments to be included. At the Conservation Commission 2/7, a formal vote was taken to move forward with this joint effort to the annual town meeting. The DRAFT packet is attached - please ask the BOH to review at the meeting of 2/26. I included the memo in word format in case the BOH wants to make any changes on the fly. I will try to be in attendance at the meeting remotely. I believe the warrant deadline is in the beginning of March so we should keep this moving forward in a timely manner to meet ATM deadlines.

Thank you,

Rebekah L. Cornell
Conservation Administrator/Planner
Town of South Hadley
116 Main Street | South Hadley, MA 01075
(413) 538-5030 x6129
rcornell@southhadleyma.gov

2 attachments

- DRAFT - ATM 2024 Removal of Property Maintenance Bylaw to Promote a Pollinator Friendly Community.pdf**
716K
- 2.8.2024 Property Maintenance Bylaw.doc**
378K

Thu, Feb 8, 2024 at 6:01 PM

Christine McKiernan <cmckiernan@shadleyma.org>

To: Sharon Hart <shart@southhadleyma.gov>, rcornell@southhadleyma.gov, Jennifer Jernigan <jjernigan@southhadleyma.gov>

Cc: Stephen Frantz <sfrantz@shadleyma.org>, Stephen Frantz [REDACTED] Tony Judge [REDACTED] K WPio [REDACTED] Tony Judge <tjudge@shadleyma.org>, Karen Walsh [REDACTED] <[REDACTED]>, Jessica Collins <jcollins@shadleyma.org>, Jennifer Jernigan <jjernigan@southhadleyma.gov>, Georgina Maende <gmaende@southhadleyma.gov>, Tamara Gheit <tgheit@southhadleyma.gov>

Thank you Rebekah. This is on our agenda for Feb 26.
Chris

On Feb 8, 2024, at 2:40 PM, Sharon Hart <shart@southhadleyma.gov> wrote:

[Quoted text hidden]

*Do not print this email unless necessary

2 attachments

 **DRAFT - ATM 2024 Removal of Property Maintenance Bylaw to Promote a Pollinator Friendly Community.pdf**
716K

 **2.8.2024 Property Maintenance Bylaw.doc**
378K

MEMORANDUM

TO: Town Meeting Members
CC: Anne Capra, Director of Planning & Conservation
Sharon Hart, Public Health Director
FROM: Board of Health
Conservation Commission
DATE: February 8, 2024
RE: Removal of General Bylaw §179-4 Property maintenance

The Conservation Commission and Board of Health have worked jointly to propose a General Bylaw Amendment. The proposal is to remove §179-4 Property maintenance from the General Bylaw (Attachment A).

Bylaw §179-4 was adopted at Town Meeting on May 9, 2015. It was approved by the Attorney General with two comments (Attachment B). 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.

The Board of Health declared South Hadley a Pollinator Friendly Community by adopting a non-binding resolution "Resolution for the Protection of Pollinator Species and Enhancement of Pollinator Habitat" to promote pollinator health and habitat (Attachment C). This resolution encourages residents, rental properties and businesses to initiate pollinator-friendly practices and the town will set an example by using these practices on town owned property.

Planting pollinator supportive species encourages biodiversity and provides community resilience in a changing climate. Adopting this practice alongside organic or other low-toxic yard care practices greatly reduces illness and death among pollinator species. See Attachment D for additional background information from the Board of Health.

The Conservation Commission supports 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. Native grasses and flowers in a meadowed yard may grow beyond 6".

The Growing Wild initiative follows guidance from others such as Douglas Tallamy's Homegrown National Park, the state Department of Conservation and Recreation's Growing Wild Massachusetts, the Massachusetts Pollinator Network, and the Western Massachusetts Master Gardener Association. Bylaw §179-4 Property maintenance prohibits lawns being kept longer than six inches. Regulating the length of grass is in contradiction with the benefits Growing Wild is working to promote.

The Board of Health and Conservation Commissions ask you to consider the removal of this Bylaw to better promote being a Pollinator Friendly Community. Thank you for your consideration.

DRAFT

§ 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 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

Handwritten initials and date:
10:30
Art

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 Crail 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
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cc: Town Counsel Edward J. Ryan

Town of SOUTH HADLEY

Board of Health

Non-binding Resolution for the Protection of Pollinator Species and Enhancement of Pollinator Habitat

WHEREAS, bee species and other pollinators (butterflies, moths, flies, beetles, and wasps, hummingbirds, etc.) are a crucial component of a healthy ecosystem and a vital link in our food system, providing animal-mediated pollination responsible for over three quarters of the world's plant species, and for one out of every three bites of food that we eat; and

WHEREAS, pollinator populations are in sharp decline or are critically endangered due to human land mis-management practices that are causing ongoing habitat loss and fragmentation, the expansion of pesticide use by consumers and professionals (e.g., neonicotinoids, synthetic pyrethroids, chlorpyrifos, 2,4-Dichlorophenoxyacetic acid [2,4-D], glyphosate & various fungicides), the spread of pathogens and parasites, and the global climate crisis; and

WHEREAS, locally grown crops such as apples, blueberries, strawberries, squash and tomatoes depend on pollinators and thus are at risk; and

WHEREAS, extensive research has documented that neonicotinoids and other systemic pesticides have been shown to cause illness and death to bee species, butterflies, moths, other insect pollinators and beneficial insects; and

WHEREAS, guidelines for organic land management practices are available that allow residents, businesses, farms and towns to manage their land in non-toxic ways that increase pollinator forage and nest sites while decreasing maintenance costs;

WHEREAS, the monetary and social costs of maintaining pollinator-friendly landscapes can be less expensive than costs associated with maintaining toxic chemically-treated monocrop (i.e., grass) landscapes.

NOW, THEREFORE, BE IT RESOLVED by this Board of Health that the Town of South Hadley is hereby declared a Pollinator-Friendly Community

and that the town encourages the adoption of policies and practices that protect and support pollinator health by eliminating the use of toxic insecticides, herbicides and fungicides; and by discouraging the commercial sale of harmful lawn chemicals;

BE IT FURTHER RESOLVED that the Town of South Hadley (for all town-owned/operated property by employees and contractors) will set an example by adopting the pollinator friendly practices noted below and encouraging private & rental property owners, residents, business owners and institutions to adopt pollinator-friendly practices including:

- * Planting more pollinator-supporting forage on their property, emphasizing native plant species, and adopting organic lawn and non-toxic landscaping practices as specified by the Northeast Organic Farming Association (NOFA - Standards for Organic Land Care: Practices for the Design and Maintenance of Ecological Landscapes), the Organic Material Review Institute (OMRI), and Beyond Pesticides (Products Compatible with Organic Landscape Management) or another comparable low-toxic equivalent.
- * Avoiding the planting of flowering plants from plant nurseries and other commercial growers that are treated with systemic insecticides, and avoiding the use of seeds coated with systemic neonicotinoids or other toxic pesticides;
- * Avoiding the use of synthetic insecticides (including all toxic systemic insecticides), herbicides such as glyphosate and herbicide-fertilizer-fungicide mixtures (e.g., 2,4-D) on their property.
- * Combining an outdoor patio or deck with lawn-replacement habitat using a mosaic of wildflowers, herbs, vegetables, berries, shrubs and trees that supports biodiversity, including insect pollinators, birds and other wildlife. Note that short-cut grass is basically a desert for pollinator species; taller grass shades weed sprouts from sunlight and helps crowd them out. Obviously, some families need lawns for recreational purposes, young children and pets. If turf grass is needed, it can be managed with the above organic methods (note that the best mowing height can vary with turf grass species, the site and the climate).

- * Growing pollinator gardens, along with herbs, berries, vegetables, etc., meets another critical necessity, the universal human need, that is both physical and psychological, for outdoor time and connection with nature.

This Town of South Hadley “Protection of Pollinator Species..” plan reflects tenets of the “Growing Wild Massachusetts” initiative [effective 07/10/2023] of the Department of Conservation and Recreation (DCR), in partnership with the Massachusetts Department of Agricultural Resources (MDAR), that aims to promote and preserve pollinators throughout the Commonwealth. This local plan should be publicly promoted including posting signage and showing such areas to neighbors and others in the community to help spread the word on the importance of pollinator habitat.

Effective Date: This Non-binding Resolution shall take effect on the date of signing: Voted this _____ day of _____ 2024.

Board of Health Members:

Christine McKiernan, Chair

Jessica Collins, Vice Chair

Karen Walsh Pio, Clerk

Tony Judge

Stephen Frantz

PROTECTING AND PROMOTING POLLINATOR SPECIES

Various states have issued mandates to allow property owners and occupants to install and maintain managed natural landscaping to be installed and maintained on all parcels. An example is Minnesota's (January 2023) "Lawns to Legumes" program that offers grants and technical assistance to establish pollinator-friendly native plants on residential lawns. The program helps landowners replace grass with plants such as honeysuckle, clover, thistle, sunflowers and goldenrods that will provide valuable food and harborage resources for pollinators. In essence, pollinator protection work reverses the loss of biological diversity, fosters and protects endangered species and adds to the natural beauty of one's property.

In our state, the "Growing Wild Massachusetts" program, is a collaborative effort of the Department of Conservation and Recreation (DCR) and Department of Agricultural Resources (DAR). DCR promotes pollinator habitat on DCR properties across the State (including free kits with native plants for residents); DAR recognizes that agriculture relies on pollinators that need protection; and both agencies engage in educational activities that promote natural habitat. To be clear, developing pollinator habitats increases soil moisture, carbon sequestration, flood resilience, water quality and biodiversity.

The University of Massachusetts Amherst, Center for Agriculture, Food, and the Environment notes that a primary cause of pollinator decline is loss of pollinator floral resources as well as nesting sites; they recognize that pollinator exposure to neonicotinoids and other systemic pesticides are significantly problematic. Obviously, planting of pollinator-friendly flowering plants and trees are key to restoring all pollinator species.

While the particulars of the various codes and guidelines for pollinator protection can be detailed and complicated to navigate,

PROTECTING AND PROMOTING POLLINATOR SPECIES

the South Hadley Board of Health's non-binding "Resolution for the Protection of Pollinator Species and Enhancement of Pollinator Habitat" (initiated in 2022 - final version attached) essentially covers the aforementioned issues regarding pollinators, biodiversity, pesticide exposure and the climate crisis; and deserves to be adopted by the Town.

Of course, before initiating good guidelines or rules, local codes and ordinances should be reviewed to determine whether contradictory policies are already on the books. In our South Hadley case, we have a 2015 contradictory Town Bylaw 179-4 (Article 10) for lawn maintenance that essentially requires property owners to be "responsible to keep their property in a reasonable state of repair" and that "Grass 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." This bylaw does not account for the overall global loss of pollinator species due to: inadequate food and harborage (Bylaw 179-4 is actually the antithesis of pollinator protection); use of pesticides; and disease. Important legally, the bylaw provides no exceptions for those unable to conform (elderly, ill and/or handicapped individuals), or those individuals actively aware of the climate crisis and its negative impact on pollinators.

It has been noted by the Conservation Commission, since this bylaw was adopted at Town Meeting (2015), it should require a Town Meeting vote to remove it. However, while it was approved by then MA Attorney General Maura Healy, it has been pointed out that the bylaw is questionable at best because it lacks definition of terms, is unfair to elderly and/or disabled residents and it risks arbitrary or inconsistent enforcement (see attached AG review). Terms that remain unclear include "reasonable state", "excessive", "other debris or litter" which may be

PROTECTING AND PROMOTING POLLINATOR SPECIES

challenged in court as impermissively vague. A law that “requires people to necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.”

In light of a potential courtroom quagmire, environmental issues and enforcement difficulties with Bylaw 179-4 (Article 10), it has been suggested by the Conservation Commission to simply eliminate it; the Board of Health agrees with the value of rescinding the bylaw. Specifically, the Board of Health joins the Conservation Commission in requesting the Town Meeting to kindly eliminate/rescind Bylaw 179. We do favor the adoption of the Board of Health’s “Non-Binding Resolution for the Protection of Pollinator Species and Enhancement of Pollinator Habitat”. The *resolution* is basically voluntary and can be widely promoted to encourage resident participation in pollinator landscaping and beautification of personal properties. This *resolution also* includes activities of the Town that foster pollinator species on its properties town-wide and would support ongoing state and national trends on the same issue.

— January 9, 2024 —

Dr. Stephen C. Frantz
Member - Board of Health
Town of South Hadley