

Board of Health

Meeting Minutes

May 31, 2018 – 7:15 P.M.

Ashland Town Hall, 101 Main Street, Ashland, MA

Board of Selectmen Meeting Room

*Ronald Etskovitz, Chairman*  
*Jon A. Fetherston, Vice Chairman*  
*Mark Oram, Agent/Director*

*Koduvayur Narayana, Clerk*  
*Chris Daniele, Member*  
*Diane Mortensen, Member*

**Members Present:**

Ronald Etskovitz, Jon Fetherston, Chris Daniele, Diane Mortensen and Koduvayur Narayana

**Others Present:**

Mark Oram, Health Agent/Director  
Laura Clifford, Administrative Secretary  
Stephen Morgan, Resident

**Call Meeting to Order**

Mr. Etskovitz called the meeting to order at 7:17 PM and stated that the meeting was being recorded by WACA-TV.

**Citizen's Participation**

Stephen Morgan discussed his desire to have meeting documents posted to the Town's website with the agenda. Mr. Etskovitz noted a late change to the date of the meeting and that time did not allow.

**Review of Board of Health Policies and Procedures**

Mr. Narayana believes the Policies and Procedures need some fine tuning and clarity to some issues. Mr. Narayana said he would like some time to work on this and will bring back his ideas to a future meeting. Mr. Daniele inquired as to the process in updating the Policies and Procedures. Mr. Fetherston noted that that Town Counsel would review any proposed changes, as they had previously. Ms. Mortensen noted it would be preferable for all five Members to sign a revised policy document, whereas only three Members had signed the current document. Ms. Mortensen suggested any proposed changes be sent through Laura prior to the meeting so that Members have a chance to review before we discuss it at a meeting.

**Re-organization of Board**

Ms. Mortensen made a motion to nominate Mr. Etskovitz as Chair, noting that because it was a difficult year during Mr. Etskovitz' term as Chair, she would like him to have an opportunity to continue, if there is a unanimous vote of the Board (as required by the Board's Policies and Procedures). Mr. Narayana seconded the motion. Mr. Etskovitz noted that he wanted to nominate Mr. Fetherston, because of his experience and background knowledge. Mr. Daniele supported both nominations, and agreed that Mr. Fetherston has a wealth of experience. Mr. Etskovitz reiterated that he is honored but feels Mr. Fetherston is more experienced. Mr. Etskovitz made a motion to nominate Mr. Fetherston as Chair; Mr. Daniele seconded the motion. The motion was approved 5-0. Mr. Fetherston complimented Mr. Etskovitz on his composure as Chair during many difficult meetings, and is thankful to have him as a Member of the Board.

Mr. Daniele made a motion to nominate Ms. Mortensen as Vice Chair. Mr. Etskovitz seconded the motion. The motion was approved 5-0.

Mr. Fetherston made a motion to nominate Mr. Daniele as Clerk. Mr. Narayana seconded the motion. The motion was approved 5-0.

**Review and consider Open Meeting Law Complaint dated 5/1/18, filed by Judith Margulies regarding notice of 4/3/18 meeting**

Ms. Mortensen stated that as someone who has been observing the Board of Health meetings, she does not feel comfortable discussing the legal Responses with the complainant during the meeting, adding that the Board is not obligated to do so. Mr. Etskovitz noted that in the past, the Board has allowed a complainant to speak, although he does not disagree with Ms. Mortensen's statement. Mr. Daniele feels strongly in having Citizen's Participation on the agenda and believes this should be the time allotted for citizens to speak. The Board agreed to make this a guiding principle and hopes there will not be any Open Meeting Law complaints to contend with. Mr. Morgan attempted to speak; Mr. Fetherston stated we are not taking public comments at this time but will allow him to speak at a later time this evening.

Mr. Etskovitz stated that after reading the Response from Attorney Feodoroff, he believes the content is correct. Ms. Mortensen noted she will be abstaining from voting as she was not a Member at the time of the meeting specified in the complaint. Mr. Daniele made a motion to accept, with the amendment of the date, the Response from Counsel on the complaint received on May 1<sup>st</sup> from Judith Margulies as written. Mr. Etskovitz seconded the motion. The Board agreed the Response should be dated to tomorrow's date, June 1, 2018. The motion was approved 4-0-1 (Mortensen abstained).

**Review and consider Open Meeting Law Complaint dated 4/29/18, filed by Stephen Morgan regarding 4/3/18 Minutes**

The Board noted a typographical error on the draft Response regarding the Complaint date of 2017, which should state 2018. The Board agreed the Response should also be dated June 1, 2018. Mr. Narayana discussed whether a Decision has been rendered regarding the same issue with another complainant and if the findings on that matter should be considered. Mr. Etskovitz made a motion to accept the Response from Town Counsel regarding the alleged violation date of 4/3/18 by Steve Morgan with the date changes. Mr. Daniele seconded the motion. Mr. Morgan inquired as to whether he will have an opportunity to speak; Mr. Fetherston stated after all the votes are completed, he will be allowed a short time to address the Board. The motion was approved 3-0-2 (Mortensen, Narayana abstained).

**Review and consider Open Meeting Law Complaint dated 4/29/18, filed by Stephen Morgan regarding ongoing posting of minutes**

Mr. Etskovitz made a motion to agree with Town Counsel regarding the violation. Mr. Narayana seconded the motion but had a slight correction, removing "accordingly" and adding "per applicable law". Mr. Narayana noted that minutes for the meeting in question will be posted within two weeks. Mr. Oram noted that the Region 4A Meeting was cancelled due to the weather, Ms. Mortensen noted that this meeting should not have been posted under the Board of Health. The motion was approved 4-0-1 (Mortensen abstained).

Stephen Morgan stated that he has resolved complaints through discussions with the Board in the past; adding that the AG's office instructs the Board to participate in substantive discussion in an effort to resolve the complaint. Mr. Morgan noted he will be filing additional Open Meeting Law complaints as a result of what happened this evening. Ms. Mortensen asked Mr. Morgan to respect that the volunteer Board Members have busy schedules and they trust legal counsel to draft a factual response that the Board can approve and move quickly through the process. Mr. Fetherston asked that Mr. Morgan rescind his comment regarding filing another Open Meeting Law complaint, Mr. Etskovitz noted that the Board does not get substantive discussion either, or an opportunity to fix the issue before Mr. Morgan's filing of an Open Meeting Law complaint. Mr. Daniele added that filing an Open Meeting Law complaint should be the last resort. Mr. Morgan inquired as to the manner in which Board Members received and reviewed Town Counsel's Response and believes it was improper communication and a violation of the Open Meeting Law and will file a public records request for emails.

**Future Meeting Dates**

Mr. Fetherston reviewed the items for the next Board of Health meeting. Mr. Narayana noted he may be taking a summer appointment which could tie up Tuesdays in July. Mr. Fetherston asked that Members take

the next couple of weeks to come up with a project to work on and the Board can prioritize. Mr. Fetherston briefly discussed the Plastic Bag Ban. Mr. Narayana would like to continue the discussion on the food program software. Mr. Fetherston said we should be ready to work with the schools prior to schools' fall opening on juuling and vaping.

**Adjourn**

Mr. Fetherston made a motion to adjourn. Mr. Etskovitz seconded the motion. The motion was approved 5-0.

The meeting adjourned at 8:39 PM.

ASHLAND BOARD OF HEALTH  
DOCUMENTS REVIEWED AT THE 5/31/2018 MEETING  
(All items stored in the Board of Health files unless otherwise noted)

1. May 31, 2018 Meeting Agenda
2. Draft Response to Open Meeting Law Complaint dated 5/1/18, filed by Judith Margulies regarding notice of 4/3/18 meeting
3. Draft Response to Open Meeting Law Complaint dated 4/29/18, filed by Stephen Morgan regarding 4/3/18 Minutes
4. Draft Response to Open Meeting Law Complaint dated 4/29/18, filed by Stephen Morgan regarding ongoing posting of minutes