

BRAINTREE BOARD OF HEALTH

MINUTES

May 17, 2018

IN ATTENDANCE: Dr. Arthur Bregoli, Chairman
Dr. Philip Nedelman, Vice-Chairman
Laurie Melchionda, Clerk

ALSO PRESENT: Marybeth McGrath, Director of ML & I

Dr. Bregoli called the meeting to order at 7:00 pm.

MINUTES:

Motion By: Mrs. Melchionda to approve the meeting minutes of April 12, 2018.
Second By: Dr. Bregoli

NEW BUSINESS:

- 1) Braintree Transfer Station-Request to Continue the Current Holiday Operations Schedule
Present: Jeff Kunz, DPW Solid Waste/ Recycling Coordinator

Ms. McGrath advised the Board that Jeff Kunz, DPW Solid Waste/Recycling Coordinator is before the Board this evening to represent the Town, but also to speak on behalf of Covanta to request the extension of the holiday hours approved by the Board about a year and a half ago, requesting to be able to operate on Martin Luther King holiday, President's Day holiday, Patriots Day holiday and Columbus Day holiday. The Board voted previously to approve this request, and it was approved for a two-year trial basis. The program has been very successful on these holidays, and has not interrupted or caused any nuisance problems for the Town. They are coming back before the Board to request an indefinite extension for operation on the four holidays.

Mr. Kunz advised that the operation of the Covanta facility on the four requested holidays has been very successful, and has not interfered with any activities that have been going on in the town. The operation on these four holidays benefits the town financially to have the facility opened and supports the customer base. So, in reviewing this with Covanta, they suggested a five year extension with an additional five year option. They have no objection to an indefinite extension approval.

Ms. McGrath suggested placing a condition on the proposed indefinite approval, that if a problem

occurs at the Transfer Station regarding operation on these holidays, that the approval will be revisited by the Board of Health.

Motion By: Dr. Nedelman to approve the request for the four operating holidays indefinitely, unless there are concerns which require revisiting this subject matter.
Second By: Mrs. Melchionda
Unanimously Voted

2) Request for Variance for Lifeguard Provision:

a. Reservoir Crossing-614 Pond Street

Present: Larry Adwin, Property Manager and Certified Pool Operator

Ms. McGrath advised the Board that this is the annual request for the lifeguard provision. She advised that within the Board's packet is a summarized daily bather log report from the 2017 pool season. Ms. McGrath advised the Board of the location of the outdoor pool attached to the main condominium building, and that the only access into the pool enclosure is through the main building.

Mr. Adwin advised that access to the pool is with a swipe-card system. The resident must use the swipe-card by means of the access door which is located in the fitness center to gain access into the pool enclosure.

Ms. McGrath advised that Reservoir Crossing will have lifeguards on weekends and holidays from May 2018- September 2018. Based upon the bather history and low bather usage during the week, as demonstrated in the 2017 bather log, they are requesting a variance of the lifeguard provision during the week.

Mr. Adwin also advised that all of the residents have an outside deck as part of their condominium unit, but there is no room to lay out on the deck, so many residents go to the pool enclosure simply to lay out in the sun and do not use the pool. So, the bather log activity shows the numbers of people in the pool enclosure, not necessarily how went into the pool.

Motion By: Mrs. Melchionda to approve the variance request by the establishment, as outlined.
Second By: Dr. Nedelman
Unanimously Voted

3) Request for Keeping of Animals:

a. Crystal Echelle-44 Rome Drive (6 chickens)

Present: Crystal Echelle (Property owner and applicant)

Ms. McGrath advised the Board that Ms. Echelle is requesting for the keeping of six chickens on her property located at 44 Rome Drive. Rome Drive can be accessed from Pond Street to King Hill Road to Fabiano Drive to Rome Drive. Ms. McGrath advised that to the rear of 44 Rome Drive is a very large vacant piece of Town-owned conservation land, and to the left of the property is a vacant piece of land owned by the Town of Braintree Water & Sewer Department.

There are two additional abutters to this property. Ms. Echelle has sent notification to all of the direct abutters, including the Town. Ms. McGrath has made verification of the notifications.

Ms. Echelle advised the Board that the purpose of having the chickens is for fresh eggs and compost for gardening, and a good learning experience for her children.

Ms. McGrath advised that the chicken coop is twenty five feet from each corner of the property line in the rear of the back yard.

Ms. Echelle advised the Board that her home on this property is a split level ranch with an in-law accommodation. Her mother lives in the in-law accommodation, and her mother and family share a common laundry room.

Ms. McGrath advised that Ms. Echelle is requesting a permit for the keeping of six chickens that will be housed within the chicken coop. The manure will be used for compost in the garden. There will be no roosters.

Motion By: Dr. Nedelman to approve the request for keeping of 6 chickens at 44 Rome Drive.
Second By: Mrs. Melchionda
Unanimously Voted

b. Carol Reynolds-108 Cedar Street (6 chickens)

Present: Carol Reynolds and her husband, Property Owners and applicant
David Mahoney, abutting neighbor at 50 Pleasant Street

Ms. McGrath advised the Board that this request came as a result of a complaint. Ms. Reynolds has had chickens, and presently has one chicken.

Ms. Reynolds advised that she had six chickens and now has one chicken.

Ms. McGrath advised the Board that the department was not aware that there were chickens on the property, and received a complaint, investigated it and found out that there was one chicken at present and a very large chicken coop. Ms. McGrath advised that the coop is right up against the brick wall on the property which directly abuts Pleasant Street.

Ms. Reynolds advised that the Foley's, who are abutter's had chickens on their property seven years ago. Ms. Reynolds likes the chickens, the chickens were not fenced in, she lets them walk about her property. She advised that she did not realize that a permit was necessary because the Foley's never mentioned a permit or having a fence or a containment. She advised that she believes a neighbor by Archbishop Williams has chickens, and they had some escaping chicken problems and she talked with them. So, she had a construction company build a very well constructed 10' x 20' chicken coop. She needs to get a permit because she now understands that she was supposed to have done in the first place, and she wants to add and have a few more chickens up to six. Chickens are social animals and need other chickens as companions, and for also body warmth when in the coop area. Ms. Reynolds described the chicken coop construction and that the chicken wire around the coop is buried into the ground for security. She plans to get the chickens from Hanson Grain in Hanson, which she gets all of her chickens supplies and vaccinations from.

Ms. Reynolds advised the Board that her problem was that she did let the chickens roam freely. She has a four foot chainlink fence, and should put up a six foot fence that has the spikes. She should not have let them out of the house she built. She has a tree fall on her house and previous coop that was damaged, allowing the chickens to roam freely. She feels that having built the new coop that is fenced in, and additional fencing should resolve the issue. She advised that she is very sorry for the problems with the Mahoney's. They are very nice neighbors, she has nice neighbors and lives in a very nice town. She would like to rectify the situation with Mr. Mahoney, sit down with him and do whatever is decided is necessary. She will cut back the number of chickens requested, put up a larger fence. If the chickens were to get out again, then she is done.

Ms. McGrath reviewed the documentation regarding this agenda item, including a letter of complaint from the direct abutters, Katherine and David Mahoney-50 Pleasant Street, expressing significant concerns about the chickens running loose, and also as a result of housing the chickens at 108 Cedar, a concern about rodent activity.

Ms. McGrath advised that she has several concerns about the request, namely that the chicken coop is literally directly on the property line. There is not setback from the stone wall and the Pleasant Street sidewalk is adjacent to the stone wall. It is very large chicken coop. It is not moveable, but rather stationary because of its size.

Ms. Reynolds provided the Board pictures of the chicken coop, and its location in relation to the stone wall, the property line and her home. She advised that chickens need a lot of room to run around. She advised people and children come by and look in to see the chickens.

Ms. McGrath advised that she agrees with Ms. Reynolds that she mentioned the neighbor's, the Foley's had chickens at one time, which the department did not know about. They do not have chickens now.

Mrs. Melchionda asked what the setback requirement is for the coop.

Ms. McGrath advised that there is not setback requirement, but the Board has used a standard of a minimum of 10' from a property line, if not more.

David Mahoney advised that he is directly next door to Ms. Reynolds at 50 Pleasant Street. He advised that his family and the Reynolds get along very well and have for over twenty years. The Reynolds are great neighbors, nice people, and he and his family like them very much. The Reynolds got chickens about a year ago that would run in his yard. It was funny at first. He grew up in Quincy where no one had chickens. You only ate chicken, so at first it was kind of a novelty. His wife hated the chickens and is afraid of them. The chickens would be in his yard almost daily, and he would talk with Ms. Reynolds about securing the chickens so they did not go on his property. The chickens would dig up his mulch all over the driveway, and then climb up on his porch. His wife would call him stating that she could not get in the house because the chickens were on the porch. He again spoke to Ms. Reynolds about the chickens. This is going on for a year. If Ms. Reynolds had asked his permission to keep chickens a year ago, not knowing anything about them, he probably would have said sure, he has no objection to it as it was six chickens and are on the Reynolds property. They had six chickens, five of them are dead. Four died from lead poisoning and one was killed by a hawk.

Ms. Reynolds advised that she has had chickens for six years, not one year.

Mr. Mahoney asked Ms. Reynolds if she has then had unpermitted chickens for six years.

Ms. Reynolds said yes. She advised the Foley's had chickens seven years ago, and she asked them what was needed to get chickens. She advised they said they got them from Hanson Grain and did not have to do anything. She advised that the Foley's chickens were loose also.

Mr. Mahoney advised that the Foley's got rid of the chickens because they had rats.

Ms. Reynolds advised that the Foley's did not have rats because of the chickens. She advised the Board that she did have a rodent problem this spring and she has engaged a pest control company to provide service. The pest control company said the rodent activity is from bird food, not the chicken food pellets.

Mr. Mahoney advised that the rats are right next to the chicken coop.

Ms. Mahoney advised yes they are because a tree fell on her house causing a big uprooted stump. She called numerous tree companies on October 30th. It destroyed the chicken house, and the chickens had nowhere to live. Most neighbors start feeding birds when winter comes, although the Mahoney's do not. By March 2018, that is when she saw the rats. The day she saw them, she called the pest control company, who came and caught some rats in traps. They placed black poison boxes out. She stuffed all holes that she could see with pelleted dry ice. They are gone. Pest control now comes weekly.

Mr. Mahoney advised that he has spoken to her pest control company service person about the traps and rodent activity.

Ms. Reynolds says that there is no more rodent problem.

Mr. Mahoney advised that he does not want chickens in his yard, and he does not want rats in his yard.

Ms. Reynolds advised that she agrees with him. She will put up a larger 6' wooden fence, which she should have done before.

Ms. McGrath advised the Board that there are two issues here. First, the regulations require that the chickens not be allowed to run loose. So, we have a client that has admitted to having chickens for over six years without the benefit of a permit. It came to the department by way of a complaint. This is the first time that the department is hearing about chickens at either the Foley's or Reynold's residences. The complaint was investigated. It was a valid complaint and Ms. Reynolds is attempting to get a permit for the chickens. There are two problems here. One is that Ms. Reynolds has admitted to letting the chickens run loose, not only on Mr. Mahoney's property, but also other people's property, which is prohibited. Secondly, we have a neighbor that is expressing a very big concern about rodent activity. Ms. Reynolds agrees that there has been a rodent problem on her property that has required the pest control company to come out on a routine basis. So, those are factors that absolutely have to be considered, as to whether or not this permit is issued.

Dr. Nedelman asked Mr. Mahoney what would make him happy.

Mr. Mahoney advised no more chickens.

Dr. Nedelman said zero chickens on Mr. Mahoney's property. He asked Mr. Mahoney if he does not want Ms. Reynolds to have chickens. If she were to put up a barrier to prevent the chickens from getting onto his property, would he be satisfied.

Mr. Mahoney advised no because he has a history of the chickens running around and going onto his property. He did not realize that it had been six years.

Ms. Reynolds advised that due to the damage resulting from the tree being uprooted and damaging the house and chicken house, her insurance company asked that nothing be repaired until the claim was settled. She advised it was settled in March, and everything has been fixed.

The chicken house has been finished and they will be housed in there and they won't get out. She will put up a 6' fence, so they cannot fly over.

Mr. Mahoney advised that he does not want any chickens.

Ms. McGrath advised the Board that they do have an abutter who is sternly objecting to the issuance of a permit, based on his experience and his wife's experience of the chickens running loose and rodent activity. Ms. Reynolds has admitted to both.

Dr. Nedelman asked Mr. Mahoney that he is saying basically that he does not want chickens in any way, shape or form next door.

Mr. Mahoney advised that given the experience they have had with chickens running all over his property, on the porch so his wife cannot get into the house, and two dozen rats observed running around his property the other day. No, he does not want chickens.

Dr. Nedelman asked Mr. Mahoney, what if these conditions were corrected. The chickens could not get on his property and the rats were gone would he have an objection then.

Mr. Mahoney advised yes because of the history.

Dr. Bregoli advised that when the Board approves a permit, there are certain regulations or stipulations that must be followed. They cannot run free and if they do, then a call is made to the department and issue investigated.

Ms. McGrath advised that if an individual has a permit and are in violation of that permit, the department would go out and investigate and if found to be a valid complaint, then the permit holder comes back before the Board for review. Ms. McGrath reminded the Board that the previous month, she brought a permit violation before the Board for another property with chickens which were running loose throughout the neighborhood and the Board revoked the permit.

Dr. Nedelman advised that the Board is trying to appease both parties, and the question is what if Ms. Reynolds put up a fence and took care of the pest problem, would a trial of three months be satisfactory.

Mr. Mahoney advised no. He objects.

Ms. Reynolds advised that if there is a problem then the Board of Health will shut her down immediately. She is not an irresponsible person. She works at the Dana Faber Cancer Institute and she does a good job, and will not have the chickens running around.

Mr. Mahoney advised that he is not disputing Ms. Reynolds good character. She is just not a good steward of chickens. Four of them died from lead poisoning, one of them was killed by a hawk.

Ms. McGrath advised Ms. Reynolds that she is before the Board to request a permit for chickens that she has had for six years and did not have a permit. She understands that Ms. Reynolds did not know about the permit requirement. But, there is a neighbor that has clear objections, and Ms. Reynolds has confirmed that Mr. Mahoney's claims are true and correct. The chickens were running loose and there is a rodent problem.

Ms. Reynolds advised that the pest control company is gone. She has a report from the pest control company, who is coming forever.

Ms. McGrath advised that you normally do not need a pest control company to come forever if there wasn't a problem with rodents.

Ms. Reynolds advised that there was a problem initially, and that is why they are going to come every month for a year.

Dr. Nedelman advised that if Ms. Reynolds was here for the first time asking for a permit, and a neighbor objected, the Board would probably not approve it. She has an established population and the neighbor is objecting. He does not want chickens next door regardless of whether they are kept in the pen or not.

Ms. Reynolds advised that she guesses that Mr. Mahoney will then get what he wants. She can apply again in the future and he will say the same thing. She can keep applying, and he can keep coming. She thinks that she should be given a chance. The chicken house is built. She is getting an estimate for a 6' fence from Armstrong fence.

Ms. McGrath again advised that there is a history of letting the chickens run loose and rodent activity, which the Board must consider regarding the issuance of this permit.

Dr. Nedelman asked Mr. Mahoney if he will agree to any amount of time after the fence is up and guarantees the chickens will not go onto his property and the rats are gone. Will he agree to a trial period of three months.

Mr. Mahoney advised no. She has already had one.

Dr. Bregoli advised that we cannot look at the past.

Ms. Melchionda advised that she has never been in a situation where someone has asked for something and just because an abutter says we don't want it.

Ms. McGrath advised that the Board has an abutter that has proven a clear history of a nuisance of the chickens running loose and rodent activity. The applicant has admitted that those two factors existed and may still exist. That is a bit different than the Board has heard before.

Ms. Reynolds advised that the chickens that died of lead poisoning was because she had the exterior of her house repainted and when the old paint was scrapped off, the chips went onto the ground. The chickens naturally peck at the ground and were ingesting the paint chips. She worked with her veterinarian on helping the chickens recover, which wasn't successful.

The Board, Ms. Reynolds and Mr. Mahoney continued the discussion of the request for the keeping of the chickens.

Ms. McGrath advised that the Reynolds' and Mahoneys' homes and properties are beautiful. The neighborhood is lovely. The properties are large properties.

Ms. Melchionda advised that she feels badly that this situation is occurring because she knows that the Reynolds' and Mahoneys' have been friends and neighbors for many years.

Dr. Bregoli spoke about the perspectives of both Ms. Reynolds and Mr. Mahoney regarding the permit for the keeping of chickens request.

The Board, Ms. Reynolds and Mr. Mahoney continued the discussion of the request for the keeping of the chickens, and the Board considered possible options regarding this request.

Ms. Melchionda proposed removing the chicken until everything is cleaned up in the yard, the fence is put up, move the chicken coop 10' from the property line, no rodents or evidence of rodent activity, and the department inspects the properties. One chicken can then come back for a trial. If there are problems with rodents, wildlife or the chicken is getting loose again, then the chicken will not be allowed.

Ms. Melchionda can see the passion that Ms. Reynolds has for the chickens, but also would not want rodents in her back yard either. She does not think that any neighbor that houses a chicken in the proper way the Board requires, that should not happen. If it does, then they should not have chickens. Ms. Melchionda would respect if all of that was done, to give Ms. Reynolds the benefit, knowing that she has to obey the regulations that are here, and respecting what every neighbor deserves to have which is a clean neighborhood and not have rodents and chickens in there yard. If that is not done, then there will be no permit given for chickens.

Mr. Mahoney advised that if she wanted to keep the one chicken, put up a stockade fence and meet all of the requirements proposed by Ms. Melchionda, he will not object.

Ms. McGrath requested that pest control also be performed at 108 Cedar Street and 50 Pleasant Street by Ms. Reynolds through her pest control company to address any rodent issues. Mr. Mahoney did not object to pest control being performed by the pest control company through Ms. Reynolds on his property.

Motion By: Mrs. Melchionda to remove the chicken until everything is cleaned up in the yard, a 6' fence is installed in the rear and side yards of the property, the chicken coop is moved 10' from the property line closer to the house, the pest control company provides service to 108 Cedar Street and 50 Pleasant Street to assure there is no issue with rodents, and there is no issue with wildlife. An inspection is performed by the department to ensure compliance of the conditions.

Ms. McGrath will bring this matter back before the Board on June 14, 2018 with an update, and the Board can make a determination if the one chicken can come back to the property and the permit be issued.

Second By: Dr. Nedelman
Unanimously Voted

INFORMATIONAL:

4) Norfolk County Mosquito Control District-Notification of Late Evening Aerosol Application

Ms. McGrath advised the Board of the upcoming NCMCD Late Evening Aersol Application which will begin in late May 2018 and continue through September 2018. The spraying is conducted weekly in Braintree on Thursday evenings between dusk and midnight. It is performed by use of a truck mounted sprayer that drives on a designated street route that is created weekly by no later than the Wednesday before the following Thursday spraying. The route is posted on the NCMCD website the day before spraying will occur.

Motion By: Mrs. Melchionda to adjourn the meeting at 8:10 pm.
Second By: Dr. Nedelman