

# TOWN OF GILL

M A S S A C H U S E T T S



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## SELECTBOARD MEETING MINUTES

*March 14, 2011*

Call to Order: The meeting was called to order at 4:30pm.

Present: John Ward, Randy Crochier and Ann Banash, Selectboard members; Ray Purington, Administrative Assistant.

Others Present: David Detmold, Mick LaClaire, Arthur Cohen

DEP & Landfill Permitting: Arthur Cohen, Gill's representative to the Franklin County Solid Waste Management District, met with the Board to advise them of changes to the Mass. Dept. of Environmental Protection's policies and procedures for site assignment and permitting of solid waste facilities, including landfills, transfer stations, and composting facilities. These changes, which were enacted through an 11<sup>th</sup> hour insertion by DEP into the FY11 state budget, shift permitting and oversight from the DEP to local Boards of Health. Mr. Cohen summarized points raised in a March 8<sup>th</sup> letter from the Leverett Selectboard to State Auditor Suzanne Bump.

Mr. Cohen expressed concern that these changes will force minimally staffed towns to take on more responsibility and liability, and that the cost for a town to properly permit a site will be much more than the permit fee allowed by state regulations. He called the changes "outrageous and unacceptable", and would like to organize a letter and phone call campaign to DEP Commissioner Kenneth Kimmell (617-292-5500, 1 Winter Street, Boston, MA 02108). He noted that Representative Steve Kulik is aware of the issue, and is attempting to organize a legislative effort to undo the changes. The Board agreed to write a letter opposing the new responsibilities, and will also address the matter to Rep. Denise Andrews when she holds office hours in Gill on March 28<sup>th</sup>.

The Board thanked Mr. Cohen for alerting them to this issue. Mr. Cohen left the meeting at 5:00pm. Steve Damon joined the meeting at 4:50pm.

Highway Department Updates: Mick LaClaire, Highway Superintendent, reported to the Board about a March 7<sup>th</sup> washout of Chappell Drive. Heavy rains flooded and removed a section of the gravel road roughly 40 feet long and 4 feet deep. The damage happened because there was more water (rain and snow melt) than the four culverts could handle. Repairs to the road, including 190 yards of gravel, plus equipment time, totaled \$6,670. There was consensus from the Board to use Chapter 90 funds for this, if possible.

The rainstorm also damaged numerous gravel shoulders along roads throughout town, and those have been/will be repaired. A field near the Flagg farm on Main Road will require some work this spring in order to recreate a drainage swale between the field and the edge of the road. A section of guardrail near the large culvert under Main Road (just before Upingil) will be removed in order to provide access for the Highway Department to open drainage channels during wintertime rains and snow melt.

Mick noted that he will be using the FRCOG bid process again this year for highway products, including gravel, blacktop, oil & stone, and diesel fuel. He is concerned about cost increases in these products, and the impact on the FY12 budget. He also noted that there is roughly 490 feet of guardrail to be replaced on Cove View Lane, and he hopes to use Chapter 90 funds for that project. The Board thanked Mick for the update and praised the entire Highway Department for their fine work this winter. Mick left the meeting at 5:30pm.

Agricultural Commission Update: Steve Damon, Chair of the Gill Agricultural Commission and Franklin County representative to the Mass. Association of Agricultural Commissions, informed the Board of the upcoming MAAC annual meeting, and shared with them a new flyer promoting Gill's three maple sugarhouses. He also presented the Board with a large-scale map of open space land in Gill that was prepared by the Mass. Dept. of Agricultural Resources. Lastly, Steve noted that he has been writing monthly articles for the Montague Reporter that feature Gill farms. The Board thanked the Ag Commission for their hard work, and thanked Steve for his update and the snacks he brought. Steve left the meeting at 5:40pm

Approval of Minutes: Ann made a motion, seconded by Randy, to approve the minutes from 2/28. The vote was unanimous in the affirmative.

Sewer Commitment: The Board, acting as Sewer Commissioners, signed a commitment to the Tax Collector for quarterly sewer bills totaling \$13,050.52 for a bill date of March 15<sup>th</sup>.

Gill Town Forest Task Force: Ray presented a request from the Conservation Commission to establish a Town Forest Task Force that will assist the ConCom with managing the 160-acre town-owned conservation area on Bascom, Hoe Shop, and Dole Roads. Sample projects may include: marking property boundaries and installing signage; drafting recreation and forest stewardship plans; laying out, marking, and clearing trails; gathering community input on desired and suggested uses for the property; and drafting applications for grants and other funding opportunities. Membership would be limited to Gill residents, one of whom must be a member of the Gill Conservation Commission. Appointments would be made annually by the Selectboard upon recommendations from the Conservation Commission, for terms of up to one year that expire on June 30<sup>th</sup>. Ann made a motion, seconded by Randy, to establish the Town Forest Task Force as described. The vote was unanimous in the affirmative.

Gill Newsletter: The Board noted that Joe Elliott has stepped down as Editor of the Gill Newsletter after many years. The Board voiced their appreciation for Joe's hard work and dedication, and signed a letter thanking him. Pam Shoemaker will be the new Editor.

Municipal Conference: It was noted that Senator Rosenberg's annual Municipal Conference will be on April 9<sup>th</sup>. Randy and Ray both indicated they will attend.

Single Voting Precinct: Lynda Hodsdon Mayo, Town Clerk, joined the meeting at 5:50pm. She asked the Board to vote that the Town continue to have a single precinct for the purposes of elections and voting. This determination is needed as part of the statewide legislative redistricting due to the 2010 US Census. Randy made a motion, seconded by Ann, that the Town of Gill remain a single precinct town. The vote was unanimous in the affirmative. Lynda left the meeting.

Eagle Scout Bleachers Project: The Board signed a resolution in recognition of John Gundelfinger and his Eagle Scout project of refurbishing the baseball field bleachers at the Gill Elementary School.

6:00pm David Detmold left the meeting.

Warrant: The Board reviewed and signed FY11 Warrant #19.

Adjournment: The meeting adjourned at 6:25 p.m.

*Minutes respectfully submitted by Ray Purington, Administrative Assistant.*

  
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Randy Crocher, Selectboard Clerk



**TOWN OF LEVERETT**  
**Massachusetts 01054**

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March 8, 2011

The Honorable Suzanne Bump  
Auditor of the Commonwealth  
State House, Room 230  
Boston, MA 02133

RE: M.G. L. Chapter 111 §150A

Dear Auditor Bump,

The Town of Leverett hereby requests the Division of Local Mandates (DLM) make a determination of the fiscal impact of statutory changes to M.G.L. Chapter 111 §150A. We are making this request pursuant to M.G. L. Chapter 29 §27C.

M.G.L. Chapter 111 §150A was amended by the legislature through a budget amendment in fiscal year 2010. This chapter and section refers to site assignment and permitting for solid waste facilities in the Commonwealth. Two parts of this statute were amended.

The first change eliminates the Massachusetts Department of Environmental Protection's (DEP) role in analyzing data for the site of a proposed solid waste facility. Site suitability criteria can be found in 310 CMR 16.40(3). DEP staff was responsible for conducting a professional review and assessment of the data. According to DEP, the staff conducting the data review were engineers, geologists, and air quality and water quality professionals. DEP staff was then responsible, by statute, for writing a site suitability report. The site suitability report was provided to the local Board of Health by DEP for use during the formal hearing and deliberation process. DEP will no longer provide a site suitability report. The amended statute places responsibility for assuring the site meets the site suitability criteria on the local Board of Health.

An estimate of the amount of time that DEP spent reviewing data and writing a site suitability report is 20-40 hours per site for a site without "complications." A more complicated site might take DEP's professional staff three times that amount or 120 hours. The Town of Leverett's Board of Health does not have a health agent or professional staff knowledgeable in evaluating data associated with the site suitability criteria. The Town would be required to hire professional consultants to complete the work that was previously conducted by DEP staff. Engineering consultants regularly charge \$150 per hour. The Town assumes that the consultants would not be able to conduct the review and write the site suitability report in less than 40 hours at a cost to the town of \$6,000. In a more complicated review requiring 120 hours, the Town would face a cost of \$17,000.

Appendix A of 310 CMR 16.00 sets the maximum technical fee that a Board of Health may assess a proponent of a site assignment application. For example, the maximum technical fee for a 50 ton per day transfer station is \$7,468 (adjusted by the BCPI). Because the technical fee is set by regulation, the Town is not able to adjust the amount charged for the site suitability review. This amount now must address the costs for the site suitability criteria assessment and for the formal hearing and deliberation conducted by the Board of Health. In addition to the consultant costs for assessing the site suitability criteria, this amount will have to cover expenses associated with town legal counsel, advertising for the hearing, recording the hearing, and drafting the findings. It is inconceivable that \$7,468 will completely cover the expenses associated with this entire process. In a more complicated review as noted above, the Town of Leverett estimates that the Commonwealth has created an unfunded mandate costing a minimum of \$10,000.

The second change in Chapter 111 §150A eliminates the Massachusetts DEP's role in permitting solid waste facilities accepting less than 50 tons per day of solid waste or up to 10 tons per day of organic waste. These are considered "small handling facilities." DEP staff was responsible for accepting permit applications for these facilities, reviewing them for completeness, and making a determination to allow or deny the permit. DEP also set permit conditions and was responsible for compliance and enforcement of those permit conditions. DEP was also responsible for enforcing the facility standards set out in 310 CMR 19.00. The amended statute places responsibility on the local Board of Health for permitting, compliance, and enforcement of this size solid waste facility.

DEP staff had the professional aptitude and experience to review permit applications, set permit conditions, and enforce all regulations. According to DEP, a complex permit might take 80 hours to write. In a complex permit situation, however, the entire process could take two months. The Town of Leverett's Board of Health does not have any professional staff. The members of the board have no expertise in solid waste management facilities, permits, designs, operations, maintenance, or compliance. In order to protect Leverett's natural environment and mitigate impacts on the community, the Board of Health would need to hire a professional consultant to review the proposed facility and recommend permit conditions. Using an estimate of 100 hours for a complex permit process at \$150 per hour, the consulting cost would be \$15,000. Added to this cost is the town personnel costs for involvement by the building inspector and Department of Public Works Superintendent plus costs for legal counsel. The current DEP construction permit fee for a small handling facility is \$1,690 (permit application BWP SW19). The current DEP operating permit fee for a small handling facility is \$805 (permit application BWP SW 20). The Leverett Board of Health can only set "reasonable" fees. In this scenario, it is unlikely that the Town would be able to charge a \$15,000+ permit fee without legal action against the Town. It is clear that the Commonwealth has put the Town of Leverett in a position in which it is unable to reasonably collect the costs associated with this statute amendment.

In addition, as of July 1, 2010 (the effective date of the amendments) no municipality in the Commonwealth would have a solid waste facility permit fee established to cover these unfunded expenses. The entire cost would be new to the town and borne by the town without recourse.

In the event that the permitted facility violates its permit conditions, causes nuisance conditions, or creates environmental pollution that results in the need for legal counsel and legal action, the Town of Leverett will bear those unfunded costs entirely without the ability to recoup them. Prior to the statute amendment, all permitting, compliance, and enforcement costs were borne by state departments and personnel.

In all, the amendments made to M.G. L. Chapter 111 §150A creates a series of financial costs to the Town of Leverett that we believe are unfunded mandates. We respectfully request that the Division of Local Mandates research this issue and make a timely determination as to the merits presented herein.

If you have any questions, please do not hesitate to contact Marjorie McGinnis, Administrator, at 413-548-9699.

Sincerely,

Leverett Selectboard:

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Richard P. Brazeau

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Peter d'Errico

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Julie Shively

The purpose of the Task Force is to assist the Gill Conservation Commission with managing the town-owned conservation area on Bascom, Hoe Shop, and Dole Roads. Projects may include:

- marking property boundaries and installing signage
- drafting recreation and forest stewardship plans
- laying out, marking, and clearing trails
- gathering community input on desired and suggested uses for the property
- drafting applications for grants and other funding opportunities

This is a representative list; other projects may evolve through the work of the Task Force and in consultation with the Conservation Commission.

Membership shall consist of Gill residents, one of whom must be a member of the Gill Conservation Commission.

Appointments are made annually by the Selectboard upon recommendations from the Conservation Commission. Terms are for up to one year and expire on June 30<sup>th</sup>.