

J. Raymond Miyares
Thomas J. Harrington

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September 16, 2010

Keith A. Bergman
Town Administrator
P.O. Box 1305
37 Shattuck Street
Littleton, MA 01460

Dear Keith:

You asked whether the Board of Selectmen have the authority to implement a pay-as-you-throw (“PAYT”) system for solid waste disposal at the Littleton Transfer Station without specific Town Meeting approval. The answer is yes. At the May 7, 2001 Annual Town Meeting, the Town amended the Town Code to add Chapter 181, which specifically grants to the Board of Selectmen the “power and duty to establish rules, regulations and fees necessary for the operation of the Littleton Transfer Station.” (emphasis added) Specifically, § 181-2 states:

The Board of Selectmen, prior to the establishment or amendment of these rules, regulations and fees, shall hold a public hearing to receive comment from the general public and will solicit and incorporate into these rules, regulations and fees, where appropriate, the input of the Littleton Board of Health, pursuant to their statutory authority under MGL c. 111, § 150A and B, and that of the Highway Superintendent, relative to his/her authority as the official responsible for the operation of the Transfer Station.

On September 21, 2009, the Board of Selectmen voted to establish a steering committee to evaluate options for solid waste disposal. The committee included members from the Board of Health and the Highway Superintendent, as required by § 181-2, as well as several citizens-at-large.

On May 25, 2010, the Board of Selectmen heard the report of the steering committee, which recommended a change in the fee structure for waste disposal to a PAYT model. The Board of Selectmen scheduled a public hearing on the solid waste disposal options for July 12, 2010, as is required by §181-2 of the Town Code. On June 21, 2010, the Board of Selectmen voted to support the PAYT option for solid waste disposal, and reaffirmed their intention to hold a public hearing on the matter on July 12, 2010.

Miyares and Harrington LLP

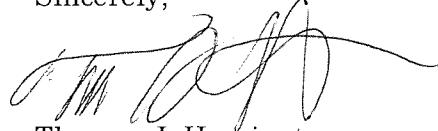
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Finally, on July 12, 2010, the Board of Selectmen conducted a public hearing to amend the Transfer Station Regulations to include PAYT. The Board of Selectmen had already received input from the Board of Health and Highway Superintendent via the steering committee. After hearing public comment on the matter, the Board voted to add the PAYT model to the Transfer Station Regulations and Fees, effective October 1, 2010. Specifically, the amendments add guidelines for the PAYT system to the sections of the regulations dealing with Operations and Enforcement. The regulations also require a fee for any solid waste disposed of at the Town Transfer Station. Users will purchase special colored "fee based" trash bags at local stores. These bags are one time use only, and any user who disposes of solid waste in a bag other than one of the fee-based bags will be subject to an illegal disposal fine of \$100. The Board of Selectmen also amended the Fee Schedule to include prices for the fee-based bags: 33 gallon bags for \$2 each; 15 gallon bags for \$1 each; and 8.5 gallon bags for \$.75 each.

In my opinion, the Selectmen have complied with the letter of §181-2 of the Town Code in the process they used to amend the Transfer Station Regulations.

Please let me know if you have any other questions.

Sincerely,



Thomas J. Harrington