

The Special Meeting of the Board of Health convened at 10:00 a.m. at the Town Hall Annex.

In attendance were:

**Present:** William M. Harkins, Chairman                      Matthew J. Armendo, Director  
Maurice E. May, Vice-Chairman  
Philip M. Weinberg, Secretary

## **OTHER BUSINESS**

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1. Landfill Engineer. Tighe & Bond has been the Consultant Engineer. Another competing bid from Campbell Environmental for less was received and Mr. Campbell feels that he could apply for a reduction in monitoring fees for the Town saving some expenses. Campbell's proposal is \$2,500 less than Tighe & Bond's proposals. Members compared sampling fees for the 7 monitoring wells and water tests required. **MOTION** by Maury May to accept the Campbell Environmental proposal. Seconded by Mr. Weinberg. Unanimous.
2. Signature for bills. After discussion, members agreed to allow the Director to sign all bills except payroll. Members asked to see the paperwork that was processed. **MOTION** by Mr. May to authorize the Director to sign the bills with exception of payroll. Seconded by Mr. Weinberg. Unanimous.
3. Budget Follow Up. Mr. Armendo stated that at the meeting with the Board of Selectmen, the Select Board supported the ACO in the BOH budget. There is a need to modify the by law to change the reporting of the ACO from the BOS to the BOH at town meeting. Mr. Armendo will plan to meet with the ACO to make sure that the job duties are covered. The part-time clerk will fall under the purview of the BOH. Discussion ensued over the distribution of space in the Nurse's office. Mr. May asked to show the progression of fees to FinCom and would work on the spreadsheet.
4. Discuss denitrification follow up with BOS-Schedule Appointment. Mr. Weinberg stated that there was a meeting conflict at the last meeting due to the BOH and the BOS meeting at the same time. He would like to give the BOS an opportunity to comment on the denitrification regulation since they could not attend. Mr. Weinberg suggested asking the BOS if they would like to have an opportunity to comment. Mr. Armendo noted that there has not been a lot of new construction this past year.

## **Topics not reasonably anticipated forty-eight (48) hours in advance of this meeting.**

1. Proposed Tenant Farm Reg. Discussion-Recent Comments AgCom. Raymond Raposa, Chair of the AgCom was present. Members received comments from Tom Barrett, also an AgCom member who happened to be out of town. Members discussed the regulation extensively. Mr. Raposa said he had consulted with MDAR and provided the AgCom's comments: there was discussion on observation of the facility rather than making a determination on the animals' condition. There was discussion about manure management without chemical application but agreement to consult with MDAR for some other way to control the fly population. Mr. Weinberg will be attending the AgCom meeting this same evening to discuss further.
2. Items not anticipated for posting on this agenda:

Mr. May suggested providing a brochure of what is recyclable at the transfer station. Mr. Armendo stated that there is a list of what is recycled and what isn't recyclable. Mr. May suggested

providing a brochure that can be printed in-house that can be distributed to people who use the transfer station.

Ms. Tanya Ryden asked about the hard plastics and if that can be recycled. Mr. Armendo will look into any programs. **MOTION** by Mr. May to support a small transfer station brochure. There was no second. Mr. Harkins stated this should be listed on the next meeting as it was not on this agenda.

The next working meeting will take place on February 13 at 10 am.

Based on the tenant farm discussion this evening and plans to discuss at the AgCom meeting later; members would like that placed on the Monday agenda. Mr. Harkins suggested this be vetted through the state. Mr. Weinberg stated that the regulations do not need to as all regulations especially this one follows the tenants of state regulations which were referenced.

Mr. Alden asked about the prosecutions about the 2016 violations. Ms. Gee stated that she is following it closely and that there is a court date on the 17<sup>th</sup>. There is one case that asked to be dismissed and the judge denied it. It's a long process.

Mr. Alden asked how do the Animal Inspectors (AI) know what flies look like. Mr. Harkins stated that the Animal Inspectors had mandatory training and any issues are reported to the state for investigation. Mr. Harkins stated that the AIs are trained to survey. Mr. Raposa stated that the AIs are inspecting to let the state know where the animals are in case of disease outbreaks. Mr. Alden asked why the Board is looking to do more than is required. Mr. Armendo stated that the AI is primarily concerned with rabies control. If there is a keeping of animals regulation, the Town would be doing more to oversee animal conditions in town.

**MOTION** by Mr. Weinberg to adjourn at 11:29 a.m. Seconded by Mr. May. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:02 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** William M. Harkins, Chairman  
Maurice E. May, Vice-Chairman  
Philip M. Weinberg, Secretary

Matthew J. Armendo, Director

### **PUBLIC HEALTH NURSE**

The Town Nurse, Linda Pierce reported that she would be providing a health broadcast the first meeting of each month. Tonight she spoke about HPV and cervical cancer: the symptoms and other indications from the virus. She urged residents who wanted more information to contact her during office hours.

Mr. Armendo noted for the listening audience that there was one confirmed case of a rabid raccoon. He stated that there is more information and a fact sheet on the Town website. He advised people to not feed the wild life and to keep a safe distance.

### **MINUTES**

1. Dec. 17, 2018 reg. **MOTION** by Mr. May to table to the next meeting. Seconded by Mr. Weinberg. Unanimous.
2. Jan. 9, 2019 spl. **MOTION** by Mr. May to approve with corrections to scrivener's errors. Seconded by Mr. Weinberg. Unanimous.

### **SIGNATURE'S NEEDED**

1. Payroll 12/30/2018-1/12/2019. Signatures rendered.

### **OTHER BUSINESS**

1. Monthly Pump Reports. Noted.
2. Article Approvals. Noted. (Not available for this meeting)

### **OUTGOING**

Noted.

### **DIRECTOR'S REPORT**

1. Written Report. Noted.
2. Oral Report
  - a. Tenant Farm Regulations.
    - i. AgCom review from 1/9/19.

Mr. Weinberg attended the AgCom meeting and he noted the specific changes were related to the definition of tenant farmer that has 2 components: if you have two farmers on one plot and the other is one farmer on one plot 5 acres or more. There was discussion about if a permit was necessary for a sole operator.

If there are any two operators on any plot this would apply. There was discussion over runoff and a definition was added that did not relate to just stormwater. The next topic was manure management and use of chemicals. The word insecticide was changed to "product". Because a manure management is required, Mr. Weinberg suggested it be simplified and that products used for this be approved by MDAR. Mr. Weinberg brought up a condition that the hearing procedure be overkill and he proposed the regulation be modified to add language to Section E for Public Hearing. The variance provision still requires public hearings but he added that the board would have the authority to reduce that requirement.

Ray Raposa, Chair of the AgCom was present stated that he appreciate the work Mr. Weinberg has put into this. He stated that the tenant farm is based on monetary gain. He could not find any chemicals to put on a manure pile to cover that issue. He also noted that there are some grant funds to address some issues and he is working on it.

Lee Tripp stated she is concerned about off-site manure storage. She would like the Board to explain why the Board does not. Mr. Harkins stated that this would fall under the manure management and is part of the tenant farm regulation. He thought that if the manure is transported outside of the tenant farm, the manure would fall under the BOH if it became a nuisance and reported to the BOH in order to take action. Mr. Harkins stated that the tenant farm regulation includes manure tracking. Discussion ensued. Mr. Weinberg will review. The concern was that the receiver of the manure would not know how to manage it. Ms. Ryden asked if the BOH would have the authority to regulate fertilizers. Mr. Weinberg did not know. Mr. Raposa suggested the run off and fertilizer use could be referred to the ConCom.

Members asked to see a final copy to include any further language for manure management. Mr. Armendo stated that with regard to livestock welfare, the BOH is not an expert on livestock. Mr. Weinberg stated as a minimum, there needs to be a shelter and an adequate supply of water. He conjectured that if someone came in for a permit that had no water on the site, it would be up to the BOH to ask how water would be provided.

Mr. Weinberg will prepare the final revised draft for the next meeting.

The final tenant farm regulation is to be put on the agenda for the next meeting.

Mr. May asked for the transfer station brochure to be placed on that agenda.

- b. Update.
  - i. Follow up 248 Sanford Road - is now in compliance. Town Counsel informed the court. This action is complete.
  - ii. Next working meeting date: January 24th and February 13, both at 10:00 AM.
  - iii. Finance Committee Meeting update.  
Working on a more detailed revenue projection for the committee. Meeting on 2/5/19.
- c. Nurses Office.
  - i. Partitions arrived awaiting for them to be set up and office divided.
- d. Budget(s)
  - i. Fy 20 Budget Update.

- Submitted to Tim King- went before the Selectman on 1/7/19 - Selectman did not have any comments on the budget submitted to them and approved to send it to the Finance Committee.
- e. Transfer Station.
  - i. Truck update attached to the Director's written report. Truck may be available sometime next week. The old truck will be placed on Municibid.
  - ii. Operations are running very well, no issues to report.

### **SEPTIC PLAN REVIEWS**

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1. 222 State Road (M-3/L-144G) Sousa Family LLC, Commercial, 330gpd, Upgrade. The sieve analysis was received late today and the numbers are off; a variance would be required for a sieve analysis and therefore this plan is tabled.
2. Poplar Street (M-61/L-17AK/SL-48) Bristol Pacific Homes, 4-Bedroom NC. **MOTION** by Mr. May to approve. Seconded by Mr. Weinberg. Unanimous.
3. Old Harbor Road (M-86/18A) William Hibbad, 4-Bedroom NC. **MOTION** by Mr. Weinberg to approve subject to review and approval of a stormwater plan. Seconded by Mr. May. Unanimous.
4. 80 Charlotte White Road (M-53/L-16C) Michael Barros Et Al, 3-Bedroom Repair. **MOTION** by Mr. May to approve the repair conditional on a 3-bedroom deed restriction. Seconded by Mr. Weinberg. Unanimous.
5. Main Road (M-68/L-7/ANR Lot 2) ELJ Inc., 4-Bedroom NC. **MOTION** by Mr. Weinberg to approve conditional on review and approval of a stormwater plan. Seconded by Mr. May. Unanimous.
6. Bergeron Lane (M-61/L-1B/SL-3) Robert & Beverly Desrosier, 2-Bedroom NC. Mr. Armendo will reach out to this applicant because according to Title-V, a 3-bedroom system is required as a minimum.

### **APPOINTMENTS**

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#### **6:30pm – Waiver Hearing: Foresight Eng. for 39 Osborn Street, Karen Casado.**

Failed system. The proposed repair requires a variance of 80 feet setback from site well to leaching field vs. 100 feet.

Mr. Weinberg asked the engineer to consider a denitrification system. Mr. Michaelis stated that there is an apartment in the basement but that bedroom was not counted in these calculations. The home is truly a 4-bedroom but the basement is being used as a bedroom, however the basement does not meet Title-V requirements of a bedroom. Because it is such a small lot, the members wanted to see a better system. Another suggestion was to have a treatment plan for the well or a new well. Mr. Michaelis suggested addressing the well and watching the levels over the 3 years. Members did not want to vote on something that would render the well un-potable. The failed system is currently in the water table.

**MOTION** by Mr. Weinberg to approve the variance conditional on a de-nitrification system being placed on the well prior to constructing the system, a hold harmless agreement and three years well testing. Seconded by Mr. May. Unanimous.

**6:35pm – Waiver Hearing: S&K Eng. for 324 Robert Street, Patricia Ladino.**

Repair for failed system. Variance requested is for 3 foot instead of 4 foot separation to ground water.

There is an existing deed restriction for 2 bedrooms prepared.

**MOTION** by Mr. May to approve the 1 foot waiver to 4 foot ground water separation conditional on a 2-bedroom deed restriction. Seconded by Mr. Weinberg. Unanimous.

**6:40pm – Waiver Hearing: Foresight Eng. for 11 Second Street, Jerrilyn Ricci.**

The Preseby is the only system for using a 2-foot separation and they are not using one. There is no sieve analyss. None of the perc data matches the actual areas. The engineer will return with appropriate information.

**6:45pm – Discussion: Carissa Wills-DeMello for Residential Kitchen Water Analysis Approval- (More than 6 Months but Less Than a Year Old)**

Ms. Wills-DeMello is requesting a variance for the well test that was done sooner than the date required. At 418-F Drift Road, the water testing was done but at this time the nitrates are very high. Mr. Belanger will work with Ms. Wills-DeMello on the results of the well testing.

**MOTION** by Mr. May to accept the test results dated 6/2/18. Seconded by Mr. Weinberg. Unanimous.

**Topics not reasonably anticipated forty-eight (48) hours in advance of this meeting.**

None.

**MOTION** by Mr. May to adjourn at 7:50 p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Special Meeting of the Board of Health convened at 10:00 a.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** William M. Harkins, Chairman  
Maurice E. May, Vice-Chairman  
Philip M. Weinberg, Secretary  
Matthew Armendo, Director

Mr. Harkins took the appointments out of sequence.

## **APPOINTMENTS**

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### **10:00AM-Update: Kleinfelder/Pare for Integrated Water Management Plan Update.**

Present were Andrew Goldberg from Kleinfelder and David Potter for Pare Corp. The DEP funding is in and they are beginning work again.

How to improve the data collection method. He has been looking at folk literature data and all the studies that have come out for water quality. He has also looked at tabular data which is spread sheets, spacial data, GIS. He looked at tabular data and he distributed informal notes with a listing of what data sets have been received. Mr. Boldberg is hoping to fill in any gaps and asked if there are any organizations he should be reaching out to for this data to help improve their understanding of what water fall data there is from surface water, well water and land use data.

Mr. Harkins noted that some information on testing of the East Branch was forwarded to him. Recent testing revealed that there were certain areas needing attention in the west branch; additional testing is planned for the east branch this spring. The testing recently done along Dunham's brook was determined to be bird related. Discussion ensued over various levels.

Mr. Goldberg stated that it is important for his research to know what are the hot spots for the Board of Health. Mr. May recapped the MEP report. His conclusion was residential septic systems vs. farms as was once suspected. Mr. Golberg stated the importance is to understand current day data unlike the data he recently received from the AgCom that was already 8 years old. Mr. Weinberg asked for feed back from Mr. Goldberg as to if the data was wrong and that everyone is looking in the wrong area.

Mr. Harkins stated he does not agree with what has been done because he said that the studies have been for testing in the river whereas he feels there should be testing for human markers. Mr. Weinberg stated that the testing by Jan recently, where it was concluded that it was due to birds, did not make sense to him that 25% of the nitrates is from birds. All other studies have not reached this type of conclusion. He asked Mr. Goldberg what his conclusion is. Data collection is not part of the scope of his part but it could be a recommendation. Mr. Potter noted that they need to arrive at a realistic metric. Mr. Armendo asked if they are going to relook at water testing data they already gathered. Mr. Armendo stated they do not know where the problem is coming from with respect to wells. Discussion ensued. Mr. Goldberg noted that GIS data is helpful and that some of the data did not transfer properly but he will reach out to Jen to clarify.

He thanked the Board for their time.

**PLAN REVIEWS**

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1. 222 State Road (M-3/L-144G) Sousa Family LLC, Commercial Upgrade, 330 gpd with a Sieve Analysis in Lieu of a Percolation Test. As of the last meeting, the sieve analysis had not been submitted yet, which has since been received. This location is where the car lot is and they were going to use the system previously there. The sieve analysis resulted in 1 inch in 6 minutes. **MOTION** by Mr. Weinberg to accept the sieve analysis and approve of the plan. Seconded by Mr. May. There is no variance requested and therefore a hold harmless is not called for here. Unanimous.
2. Bergeron Lane (M-61/L-1B/SL-3) Robert & Beverly Desrosiers, 2-Bedroom NC with a Deed Restriction Requirement (2 bedrooms only-requested by owners). The plan indicates that the flow is 220 gallon per day. **MOTION** by Mr. May to approve of the plan with a deed restriction for a 2-bedroom system. Seconded by Mr. Weinberg. Unanimous. Mr. Weinberg thought that this would be a good opportunity to notify the Building Department of the restriction.

**OTHER BUSINESS**

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1. Articles-Deadline 2/1/19. Mr. Harkins stated these would need to be submitted for the warrant. Mr. Weinberg had a comment regarding the vaccine article. He also noted that any financial article would have to go to FinCom for comment. Members discussed the articles and attending a Personnel Board meeting to discuss the changes in the ACO. Mr. Armendo noted that Mr. King would be taking it to the Personnel Board.
2. Fred Ponte's Cemetery Work. Mr. Ponte digs for the Cemetery Department. On his day off, he is paid by that department. When he is scheduled to work for the BOH, he is paid out of the BOH. Mr. Armendo stated that going forward, Mr. Ponte would have to punch out and re-punch in under the Cemetery Department. Mr. Armendo will speak to Mr. King to have the Cemetery Department replenish the BOH for the wages paid by this department. The Cemetery Department personnel do not have hoisting licenses. Members were agreeable to Mr. Armendo speaking to Mr. King. Mr. Ponte will punch out and back in effective immediately.
3. Transfer Station Pamphlet. The pamphlet is accurate and up to date and will be produced and printed for distribution.
4. Landfill Monitoring Update. Mr. Armendo stated that Mr. Armendo met George Campbell at the site and all is up to date as far as monitoring. Mr. Weinberg asked if there has been any meeting with Amaresco, the solar provider. They noted it was Eversource that marked out where the poles will be placed. Mr. Armendo asked about the poles permeating the barrier of the landfill. It was explained that there is a correct way to insert a sealed sleeve and it is done all the time.
5. Tenant Farm-Final Draft. Mr. Weinberg stated that there are two editorial items that needed attention and reviewed them. The final draft is ready. AgCom has not provided their final review. At the last meeting, Mr. Raposa had some concerns. Mr. Weinberg stated that the language that was contentious was tenant farm and the number of acres and the issue of manure management. Mr. Weinberg stated that manure management includes remove of manure and related wastes. Members agreed to place it on the next agenda to give an opportunity to comment. Discussion



ensued over format. They discussed the effective date as March 1<sup>st</sup> allowing time to advertise the notification before and after. Discussion ensued and additional editing was done. Ms. Lambert noted that people are starting to bring their animals to the farms and so she suggested that the regulation be effective fairly soon.

**Topics not reasonably anticipated forty-eight (48) hours in advance of this meeting.**

None.

**MOTION** by Mr. May to adjourn at 12:02p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:02 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** William M. Harkins, Chairman  
Maurice E. May, Vice-Chairman  
Philip M. Weinberg, Secretary  
Matthew J. Armendo, Director

### **MINUTES**

1. Dec. 17, 2018 reg. (tabled from 1/14/19 meeting). **MOTION** by Mr. May to approve. Seconded by Mr. Weinberg. Unanimous.
2. Jan. 14, 2019 reg. **MOTION** by Mr. May to approve. Seconded by Mr. Weinberg. Unanimous.

### **SIGNATURE'S NEEDED**

1. Payroll 1/13/2019-1/26/2019. Not available for meeting.
2. Jan. 09, 2019 Minutes (corrected). Signatures rendered.
3. Tenant Farm Regulation. See below. Signatures rendered.

### **OTHER BUSINESS**

1. Monthly Pump Reports. Noted.
2. Transfer Station Potential Sticker Fee Increase. Members discussed tipping fees because of increasing costs. Last July, fees for the transfer station punch cards increased. Mr. May stated the increased revenue from the punch card increase was estimated at \$40k. The vehicle sticker fee increase of \$5 more was estimated to increase revenues by approximately \$7K. Mr. Armendo will look into the figures and the item will be placed on the next agenda.
3. Tenant Farm Regulation Discussion and Effective Date. Mr. Weinberg reviewed the changes. Members discussed the application forms and fee schedule. The fees would need to be advertised before and after the public hearing. Discussion was about commercial vs. non-commercial activities. Fees will be discussed at the next working meeting. **MOTION** by Mr. Weinberg to approve the regulation as presented effective March 1, 2019. Seconded by Mr. May. Unanimous.

### **OUTGOING**

Noted. Mr. May asked about the enforcement concerning the dumpsters and reviewed various letters.

### **DIRECTOR'S REPORT**

1. Written Report. No further questions from the Board.
2. Oral Report  
Tenant Farm Regulations: Regulation was approved and effective March 1, 2019. Fees and Application will be discussed at the next work meeting.
  - a. Update
    1. Next working meeting date: February 13, 2019 @ 10:00am. This is now changed to February 20, 2019 at 10am.
    2. Finance Committee Meeting is February 12th 2019 at 7pm.

3. Working on a more detailed revenue projections for the committee for the meeting on 2/12/19.
4. Town Meeting Articles are ready for submission.
- c. Nurses Office
  1. Partitions set up working with electrician to set up additional outlets, working with IT on data and phone locations, working with maintenance on desk and file cabinet locations.
- d. Budgets
  1. FY'20 Budget Update
    - In process of requesting additional monies for FY 19, preparing a report to the Town Administrator. Instead of requesting additional funds, a transfer from unused funds in articles will be made.
- e. Transfer Station
  1. Truck update – Received DMV paperwork and tax documents. The truck arrived today. Decals will be ordered.
  2. Operations are running very well, no issues to report.

Mr. Weinberg asked about Noquochoke Village. Mr. Armendo stated that the Town is waiting notification from DEP that all requirements have been met.

### **SEPTIC PLAN REVIEWS**

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1. 112 Old Harbor Road (M-86/L-23F) Lyn Helman, 3-Bedroom NC. Mr. Potter stated that the original design was too close to the leaching field because of the stone wall. The stone wall is now gone. Mr. Potter had designed roof drains. There was an existing foundation and was built too close to proposed leaching field. Mr. Potter had to redesign the leach field. This is new construction that was previously approved prior to the enforcement of the stormwater regulation and the owner will retain the graveled driveway as a permeable surface eliminating the need roof drains. Ms. Ryden asked what the safety mechanism for this situation? Mr. Harkins stated should the applicant pave their driveway, they would need to go through the Building Department and that would trigger BOH review. **MOTION** by Mr. Weinberg to not require a storm water plan. Second by Mr. May. Unanimous. **MOTION** by Mr. Weinberg to approve the plan conditional on ConCom review. Second by Mr. May. Unanimous.

Ms. Gee asked when the StormWater regulation went into effect. The members stated it was in 2013 and the Board was made aware of this a year ago when the TMDLs were published and have been enforcing it since. Discussion ensued.

2. 603 Main Road (M-70/L-29) Barbara Szaro, 3-Bedroom Repair. **MOTION** by Mr. May to approve subject to ConCom approval. Second by Mr. Weinberg. Unanimous.

### **APPOINTMENTS**

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#### **6:30pm – Waiver Hearing: Mark Rodrigues for 33 Beeden Road, U.S. Bank National**

Failed system. A poly barrier is planned.

Variances requested:

- Setback distance from SAS to property line of Beeden Road 8 feet vs 10 feet; and
- Setback distance from SAS and cellar wall 7 feet vs. 20 feet.

Mr. May questioned why the system was not situated further back in the yard. Mr. Rodrigues stated that there was not enough room to maintain well setbacks if that were to happen.

**MOTION** by Mr. Weinberg to approve conditional on a 3-bedroom deed restriction, a hold harmless agreement and conditional on ConCom approval. Seconded by Mr. May. Unanimous.

**6:35pm – Discussion: Len Potter for 80 Charlotte White Road, 3-Bedroom Deed Restriction.**

Mr. Potter discussed the number of bedrooms requiring a deed restriction for all variances coming forward. He was unaware of the plan but understands what the Board is looking at for repairs and new construction.

**Topics not reasonably anticipated forty-eight (48) hours in advance of this meeting.**  
None.

**MOTION** by Mr. May to adjourn at 7:02 p.m. Seconded by Mr. Weinberg. Unanimous.

The Regular Meeting of the Board of Health convened at 6:02 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** William M. Harkins, Chairman  
Maurice E. May, Vice-Chairman  
Philip M. Weinberg, Secretary

Matthew J. Armendo, Director

### **PHN-LINDA PIERCE, RN**

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February Topic: HEART DISEASE

The Town Nurse, Linda Pierce, gave a talk to the listening audience about heart disease and offered materials to whom ever is interested. Anyone interested can stop by the nurse's office from 8am to 12pm, Monday through Friday.

### **MINUTES**

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1. Jan. 24, 2018 spcl. **MOTION** by Mr. May to approve. Seconded by Mr. Weinberg. Unanimous.
2. Jan. 28, 2019 reg. Tabled to the next meeting.

### **SIGNATURE'S NEEDED**

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1. Payroll 1/27/2019 - 2/09/2019. Signatures rendered.

### **CORRESPONDENCE**

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1. Nance Carroll/re: Request for a 1-Yr Extension for Horseneck Road (M-76/L-69A) New Construction Disposal System Construction Permit. This plan was approved in 2016. Mr. Armendo stated that it was subject to a stormwater permit. **MOTION** by Mr. May to extend the septic design for one year and also to require a stormwater application. Seconded by Mr. Weinberg. Unanimous.

### **OTHER BUSINESS**

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1. Monthly Pump Reports. Mr. Armendo did not find anything noteworthy. He did say that the reports are dated November and December and will reach out to the pumping companies to have the reports submitted on a timely basis.
2. T-5 Insp. Report-23 Third St.-High Nitrates. Mr. Armendo stated that the Board is to make a determination that the system is in failure because the nitrates are at 5 ppm and above per Title-V. Most of the wells have elevated nitrates. **MOTION** by Mr. May that the system is not in failure based on the inspection report dated February 4, 2019. Seconded by Mr. Weinberg. Unanimous.
3. T-5 Insp Report-12 Crane St.-High Nitrates. Mr. Harkins read tests for surrounding wells and any tests on file. The property was purchased at auction and no testing was done at the time. A home inspection revealed nitrates were listed at 26 and there is no hard copy of the report. The plans were designed in 2006 and there is a deed restriction of 3-bedrooms. Given the nitrates in

surrounding wells, the Board needs to verify the number of bedrooms and look into several properties that may require a de-nitrification system. Mr. Harkins stated that this property would need to be rectified followed by having abutting wells conduct a water test. There needs to be a new Title-V inspection because prior testing was done incorrectly. Members discussed the plans and inspection dates to match but will rely on SITEC to provide accurate information. The Board requested that Timothy Borden come before the Board to explain his plan.

4. Noquochoke Village Discussion. Community Builders have requested the BOH sign off on their occupancy permit. They have not completed the requirements for approval from DEP. The concrete tank, illegally installed, is an issue and must be proven appropriate. The unauthorized tank is currently being reviewed in the DEP Boston office. Mr. Harkins read the DEP letter into the record, which stated the tank was not approved and therefore cannot be approved until this situation is resolved. Mr. May asked if there were a 2nd issue regarding the use of the well and asked if DEP has signed off on the well. Mr. Harkins was not aware of the water tanks being approved. Mr. Armendo stated that the Building Department has multiple issues as well. The Board will not sign any occupancy permit until all is in compliance. Mr. Armendo will follow-up with DEP for a response. The Board took no action.

## **OUTGOING**

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Noted.

## **DIRECTOR'S REPORT**

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1. Written Report. No further questions from the Board. Tomorrow at 7pm, Mr. Harkins and Mr. Armendo will be before the Finance Committee.

The members discussed the preliminary information of 24 freestanding individual units that are planned on Main Road just south of the Annex. The applicant has not submitted formal plans but wanted to know if a de-nitrification system was needed. Mr. Armendo stated that he could not comment without a set of plans. Members discussed the lack of expedited permit mechanism.

2. Oral Report
  - a. ACO Employment Agreement. Noted.
  - b. Special meeting Feb. 20, 2019. Noted.
  - c. Personnel Board Meeting Update. All changes were approved for the Personnel By-law. Mr. Weinberg asked to leave room on the working meeting agenda to allow members to list items they would like to discuss. He asked Mr. Armendo what his priorities are for the next 6 months. Mr. May asked to put the topic of stormwater on the next agenda for discussion. Mr. Armendo noted discussion on de-nitrification systems for sub-sized lots.
  - d. Nurse Office Space Update. The space in the nurse's office will be for the Recreation Director and the ACO. The ZBA clerk will remain at the Town hall - this will free up space for a clerk.
  - e. Transfer Station New Truck. The plates are pending.
  - f. Transfer Station Potential Sticker Fee Increase. Mr. Armendo will provide a recap of revenue from a year ago and Mr. May will meet with him to go over the information he had put together previously.

**SEPTIC PLAN REVIEWS**

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1. Main Road (M-68/L-7/ANR-2) ELJ, Inc., 4-Bedroom NC, BioDiffuser 1620BD High Capacity Chamber. **MOTION** by Mr. Weinberg to approve. Seconded by Mr. May. Unanimous.
2. Main Road (M-68/L-13A) J.S. Enterprise, 3-Bedroom NC, Flow Diffuser Bed. Mr. Armendo stated that the plan is using a 2-foot separation and this is not allowed for new construction. He also questioned groundwater after the agent did a site visit. They did submit a stormwater plan as well. There is no DEP approval letter submitted. Tabled to the next meeting.
3. Maya Way (M-68/L-3/L-10) Maya Way Development, 5-Bedroom NC, Stone Bed. This plan was approved by ConCom. **MOTION** by Mr. Weinberg to approve subject to and review of a stormwater plan. Seconded by Mr. May. Unanimous.
4. Magnolia Lane (M-61/L-17AJ/SL-47) Bristol Pacific Homes, 4-Bedroom NC, Standard Infiltration. **MOTION** by Mr. Weinberg to approve. Seconded by Mr. May. Unanimous.
5. 50 Pratt Avenue (M-53/L-25W) James Zembo, 3-Bedroom Repair, Quick 4 Standard Infiltrator. **MOTION** by Mr. Weinberg to approve subject to ConCom review. Seconded by Mr. May. Unanimous.

**APPOINTMENTS**

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**6:30pm – Public Hearing: Hiller Disposal - Application for Garbage Hauler Permit.**

Trevor Doehler was before the Board. He provided his proof of insurance. There were no other questions. **MOTION** by Mr. May to approve the application. Seconded by Mr. Weinberg. Unanimous.

**Topics not reasonably anticipated forty-eight (48) hours in advance of this meeting.**  
None.

**MOTION** by Mr. May to adjourn at 7:34 p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Special Meeting of the Board of Health convened at 10:00 a.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** William M. Harkins, Chairman  
Philip M. Weinberg, Secretary  
Maurice E. May, Vice-Chairman  
Matthew J. Armendo, Director

## **DISCUSSION**

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1. Tenant Farm Application. Mr. Weinberg stated that he reviewed the application so that the requirements match what the regulation mentions and what is required. The manure management plan is required to be described in detail, for example. Mr. Armendo asked about the difference between the applicant and the plot farmer. Mr. Weinberg explained that the applicant may want to delineate the plots but not yet have the tenant. Discussion ensued over the owner being responsible for filing and possibly requiring a separate application for the tenant farmer because the owner will not have all the animal details that the farmer would. Members discussed there being a master plan on file with the owner's land information and subsequently an application would be submitted by the tenant farmer. The members worked on streamlining the accountability. Fees were discussed as well and the conclusion was to include as much as possible on the application form.
2. Transfer Station Sticker Fee. Mr. May stated that he prepared a report but it was based on revenues. He suggested that the sticker fee be raised by \$5. The puNch cards were raised last year by \$10. The figures are supposed to be a calculation of the number of cards and stickers sold. The cost of recycling is going up. Mr. May suggested looking at other local metal recyclers. Mr. Armendo will look into this. Mr. Armendo cautioned raising the prices yearly and suggested analyzing raising the fee by \$10 for a longer duration. Mr. Harkins stated that other communities should be looked at for fees. He believes that Westport is the least expensive and it should be looked at. He also stated this should be looked at in fiscal year 2021. Mr. Armendo noted that there will be an increase of users in the spring before the end of the fiscal year. Mr. Armendo will look at comparing Westport with other communities.
3. Director's Priorities. Mr. Armendo put a list together and noted that it would not be prudent to take on more at this time until staffing is addressed. He stated that the nurse's exam room is functional now. He noted one agent is on vacation, the second agent is out on medical leave and that leaves Mr. Ponte and Mr. Armendo to cover. Mr. Harkins asked the Town Administrator to allow advertising for a part-time agent. He discussed combining the part-time agent position with the part-time agent position of the agent who is out on medical leave, should he not return to work. Mr. Armendo would like to have the other agent on leave trained for Chapter II issues. He also discussed what kind of candidate would be the better choice. The keeping of animals regulation was discussed and members agreed to wait for the Town meeting to pass the reorganization. Mr. Armendo discussed the Community Septic Betterment program and has been discussed with the Treasurer – this is a priority but depends on the Treasurer's action. The retaining wall at the landfill was discussed and Mr. Armendo suggested installation of a guardrail. Members want to move forward on this and use outside contractors to be able to get the work completed. Mr. Armendo is looking to obtain a metal kiosk for needle dropoff. He said that the town needs to be more active in emergency preparedness and the Nurse will attend training for this. Mr. Armendo stated that he is looking to determine how much methane is released and there is someone interested in purchasing it. Mr. Harkins would like to invite George Campbell into the next work session.



4. New Jr./Sr. High School septic plans. Mr. Armendo met with Frances Hughes, project manager for the new school. The Board has been asked to approve the plans marked as not for construction and that by not signing off on the plans, it is holding up the project and the money is not being released for the project. Mr. Armendo stated there are no details on the plan regarding the septic and he does not feel that the plans should be signed off. Mr. Harkins asked if there was something the Board could provide to help them moved ahead. Mr. Armendo will look over what is yet to be submitted and then invite the proponents in to the next meeting. Mr. Harkins requested that what is submitted must satisfy the requirements of the Board of Health and would like an explanation why it is structured in this way.
5. Bedroom count/deed restriction policy. Mr. Harkins stated that this is directly related to nitrogen and water quality, added Mr. Weinberg. Members discussed small lots that have serious issues. Mr. Weinberg stated that the planner can use the Assessor's map and lot info to match up the size of the parcel and the number of bedrooms to monitor the size relation to bedrooms through GIS mapping. Mr. Harkins asked to come up with a policy regarding a small lot and a request to increase bedrooms. The Board is looking at these types of lots for the purpose of requiring deed restrictions on the parcel. Discussion ensued over denitrification systems installed to increase the number of bedrooms. They discussed failed systems being required to connect to sewer lines, if available. Mr. Weinberg stated that looking at the maximum feasible compliance will be the subject for discussion. Members want to be notified by the Assessor's office each time there is a change in bedroom status. The members want a policy draft and agreed to eventually notify residents that may be effected through out town. Discussion ensued. Mr. Weinberg suggested discussing the stormwater regulation at a future meeting.
6. Office update. Previously discussed.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE.**

None.

**MOTION** by Mr. Weinberg to adjourn at 12:07 p.m. Seconded by Mr. Harkins. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:01 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** William M. Harkins, Chairman  
Philip M. Weinberg, Secretary

Matthew J. Armendo, Director

**Absent:** Maurice E. May, Vice-Chairman

### **MINUTES**

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1. Jan. 28, 2019 reg. (Tabled from 2/11/19 meeting). Tabled for a full Board. Mr. Weinberg questioned the date of 2013 as to when the storm water regulations went into effect
2. Feb. 11, 2018 reg. **MOTION** by Mr. Weinberg to approve. Seconded by Mr. Harkins. The vote was two in favor. Mr. May was absent.

### **SIGNATURE'S NEEDED**

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1. Payroll 2/10/2019 - 2/23/2019. Signatures rendered.

### **OTHER BUSINESS**

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1. Monthly Pump Reports. Noted.
2. Betterment Grant Program-Update. **MOTION** by Mr. Weinberg to use the approximate \$19K remaining funds for loans and if additional funding is needed it will come from the new allocation. Seconded by Mr. Harkins. The vote was two in favor. Mr. May was absent.

### **OUTGOING**

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Noted.

### **DIRECTOR'S REPORT**

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1. Written Report. Noted. Mr. Weinberg had a question regarding the application and recommended changes that concerned duplication of information and the specification of plot plans especially in the case where there are more than 2 tenant farm lots. Mr. Harkins agreed.
2. Verbal Report
  - Tenant Farm Regulations - as discussed above.
    - Fees/Application
  - Update
    - Next working meeting date, March 20, 2019 - 10:00am. Noted.
    - Finance Committee Meeting, 2/26/19. Noted.
    - Office is short staffed: 1 agent on vacation until 3/4/19, 1 agent out indefinitely on medical. Noted
    - Ad to be run for a new part-time agent.

- Utilizing Fred Ponte for Title-V Inspections when his Transfer Station duties allows for it.
- All other inspections being completed by Director.
- Nurses Office; All new spaces are now occupied.
- Transfer Station:
  - Truck update – Registration and plates are in, truck is now in service.
  - Old truck is being utilized by the Highway Dept.
  - Operations is running very well, no issues to report.

### **SEPTIC PLAN REVIEWS**

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1. **15 Drift Road (M-51/L-29) Ian Tripp, 4-Bedroom Repair, Quick 4 Infiltrator.** The Board would like more information and Mr. Armendo will reach out to the engineer. Ms. Ryden asked how far it is from the river. Mr. Harkins stated that the house lies on the west site of Drift Road on the hill and is approximately 300 feet from the river.

Tabled to the next meeting pending input from the engineer.

2. **666 River Road (M-89/L-130C) Michael Yogman, Upgrade 4-B to 6-Bedrooms, Standard Quick 4 Infiltrator.** Members reviewed the plan and noted that there are no known wetlands in a 100-foot area. Ms. Ryden asked if the Board would ask the applicant to consider a voluntary denitrification system as it would appear there are no financial constraints moving to a 6-bedroom system and it would prevent more nitrates from entering the soils. Mr. Harkins asked the Director to ask the applicant. **MOTION** by Mr. Weinberg to approve the upgrade. Seconded by Mr. Harkins. The vote was 2 in favor. Mr. May was absent.

### **Topics not reasonably anticipated forty-eight (48) hours in advance of this meeting**

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None, but audience members present addressed the Board:

Jon Alden asked about the Craft Cannabis Co-op, the siting and a title-v system. Mr. Weinberg stated that a system will be necessary as there will be a public water supply. The manufacturing end has not been clarified. He also noted that it is unclear who would have jurisdiction. Mr. Alden asked about odor control. Mr. Weinberg said this is covered in the draft by-law to include a 500 setback for any cultivation; for indoor cultivation, odor would be easier to control.

Cynthia Anderson was present and she asked if the Board could address the storm water runoff and her concern is that it will not be addressed and get pushed off. She said that she has not been able to find a plan in review. She said the drainage is causing many problems to her property and other neighbors and she is being tossed from department to department. She said there is no filtered system. Mr. Harkins stated he believes that there may be an article addressing some of her concerns. Some discussion ensued, but the members referred Ms. Anderson to the Board of Selectmen as he was not aware of the process. Mr. Harkins stated that the Board of Health would take some action if the septic system is being washed over and contaminants are breaking through. The school building committee has had plans reviewed by the Planning Board for the drainage. Mr. Harkins stated that any runoff would need to be contained regarding the new construction. Mrs. Anderson described the current historical conditions and what she has been through and asked for support and to be heard.

**APPOINTMENTS**

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None.

**MOTION** by Mr. Weinberg to adjourn at 6:50 p.m. Seconded by Mr. Harkins. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Special Meeting of the Board of Health convened at 10:05 a.m. at the Town Hall Annex.

**Present:** William M. Harkins, Chairman                      Matthew J. Armendo, Director  
Philip Weinberg, Secretary  
Maurice E. May, Vice-Chairman

## **SEPTIC PLAN REVIEWS**

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### **1. 15 Drift Road (M-51/L-29) Ian Tripp, 4-Bedroom Repair, Quick 4 Infiltrator.**

The Board tabled this from February 25, 2019 pending input from the engineer. Discussion by the members regarding this system. The water testing has not returned yet.

**MOTION** by Mr. May to approve conditional on ConCom approval. Second by Mr. Harkins. The vote was two in favor with Mr. Weinberg opposed. Mr. Harkins would like to see additional water testing. Mr. Potter will provide test results.

Ms. Ryden suggested that the Board of Health enact a regulation for new construction that is more restrictive than Title-V.

Mr. Jon Alden asked about nitrogen in the ground and there not being any analysis of it. Mr. Weinberg asked about a deed restriction. Mr. Armendo stated that to be consistent, there should be one.

**MOTION** by Mr. Weinberg to require a deed restriction for four-bedrooms. Second by Mr. May. Unanimous.

### **2. Denitrification Discussion.**

Mr. Harkins stated that this is the opening discussion to begin looking at a policy followed by public hearings. He noted that DEP is expecting the local Boards to enforce and bring systems into compliance with Title-V. Member's discussion covered various aspects.

## **TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

### **1. Discussion of Keeping of Animals at Upcoming AgCom Meeting**

The members discussed the permitting vs. registration of animals. They discussed the need to define if this should be a license or a permit; inspections and hearings. A consideration is the size of the animal – either small or large. Mr. May thought it may be premature to look at this as the restructuring is dependant of the Town meeting and suggested Mr. Weinberg seek input from AgCom. Mr. Harkins stated that the Board of Health will be looking at keeping of animals in one form or another. The members also reviewed what was going to be discussed with FinCom. The members wanted to advertise this week so that they can start interviewing candidates now for a July 1 start date. It is important that the job is advertised as a start date of July 1. Mr. Harkins did not want any more coming in so as not to put more burdensome because of the reduction in workforce for the time being.

Mr. Armendo noted despite the constant instances where the Chair commits to moving forward with the keeping of animals after the reorganization, the people who feel this is important want to hear what the BOH will do. The public wants to hear what the BOH is going to do. Mr. Maury said that it takes time to develop this. The level of commitment has not waived.

Ms. Ryden stated that the perception is that the BOH is not going to make a commitment. Mr. Armendo stated that he made sure to make it clear at the Selectman's meeting yesterday. Mr. Harkins said that if the funding doesn't come through for the reorganization, the BOH will still do something with what resources are available.

Mr. Alden asked about installation of a septic system and the lack of statistical data that supports the theory that all nitrogen flow to the river. He asked if there is a test. Mr. Harkins explained that the test is through water test.

**MOTION** by Mr. May to adjourn at 12:20 p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:01 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** William M. Harkins, Chairman  
Philip M. Weinberg, Secretary  
Maurice E. May, Vice-Chairman  
Matthew J. Armendo, Director

### **PUBLIC HEALTH MONTHLY PRESENTATION**

**Linda Pierce, RN was present to discuss Colorectal Cancer.**

March is Colorectal Cancer Month and regular screening leads to early diagnosis as there are no symptoms. Ms. Pierce gave some statistics and welcomed residents to stop in to discuss with her.

### **MINUTES**

1. Jan. 28, 2019 reg. (tabled from 2/25/19 meeting). **MOTION** by Mr. May to approve. Seconded by Mr. Weinberg. Unanimous.
2. Feb. 20, 2019 spl. **MOTION** by Mr. May to approve as amended. Seconded by Mr. Weinberg. Unanimous.
3. Feb. 25, 2019 reg. **MOTION** by M. Weinberg to approve. Seconded by Mr. Harkins. The vote was two in favor. Mr. May abstained because he was absent.

### **SIGNATURE'S NEEDED**

Payroll 2/24/2019 - 3/09/2019. Signatures rendered.

### **OTHER BUSINESS**

1. Monthly Pump Reports. Noted.
2. Tenant Farm Application and Instructions-Final Version. Mr. May asked that the permit year be specific May 1 through April 30.
3. Special Meeting Minutes for 12/05/18-Recording Lost-Need Board's Input to Develop Minutes for this session. Mr. May asked the members to help reconstruct the meeting minutes for a recording that was lost. He referred to the agenda, which included two items.
4. Maximum Feasible Compliance Discussion/Bedroom Deed Restriction Policy. Mr. Weinberg drafted a policy intended to implement the regulatory provisions for Title-V and guidance that MassDep has adopted to obtain maximum feasible compliance with the same design flow or added design flow. He stated that there have been numerous designs where the system is not sufficient to support the requirements to Title-V. He noted there is a restriction because there is potential of the effluent to be pulled into the drinking water well and nitrogen in water is dangerous for children and pregnant women because nitrogen prevents oxygen absorption. To provide a type of guidance for the design limit of the existing system, a deed restriction for commercial and residential properties for design flow would be recorded. The second part would require a denitrification system to be installed. He has proposed this policy based on these factors. He added a series of criteria and asked the members to provide input on the presumption that a denitrification system is not needed that the applicant can utilize such as hydrology, the proximity of the system to nitrogen

impaired waters and the feasible cost of the system. He noted that at the time of sale of a property, it would be more favorable to have a system financed through that mechanism. The draft is at the point for public comment. **MOTION** by Mr. Weinberg that this draft policy dated 3-8-19 be placed on the website and invite public comments and to take it up at the first meeting in April. Seconded by Mr. May. Unanimous.

## **OUTGOING**

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Noted.

## **DIRECTOR'S REPORT**

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1. Written Report. Noted.
2. Verbal Report
  1. Update
    - Next working meeting date, March 19, 2019 - 10:00am – to be confirmed.
    - Office is short staffed, 1 agent out indefinitely on medical. Noted.
    - Ad for a new part-time agent has been placed on Indeed.com, Town website and local cable channel. It will also be placed in the upcoming Shorelines (3/14/19). If a candidate is found before July 1, there would be funding that could be shifted to cover that time.
    - We are coming up on Equine and Piggery renewals and will be utilizing Fred Ponte & John Swartz to conduct the site inspections before permits are issued. Noted.
  2. Nurses Office
    - New spaces are proven extremely disruptive for the Nurse; there is a lot of noise and activity in that space now. Mr. Armendo stated that he anticipates that things will settle down.
  3. Transfer Station
    - Transfer Station was closed Saturday 3/2/19 due to snow storm
    - Operations is running very well, no issues to report
  4. Keeping of Animals/Registry
    - Phil to attend the 3/13/19 Ag Comm Meeting to start discussions. The process is beginning now so that it is ready for July 1. The outcome is also dependent on Town meeting. Ms. Jeffries asked for a copy of the draft. Mr. Armendo stated that they have a working document that is not official yet because it is a rough draft that has not been pulled together. Mr. Weinberg also stated that he is planning to discuss with AgCom and that he would defer until he's had the opportunity to meet with them and the board members for their input.

## **SEPTIC PLAN REVIEWS**

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1. Drift Road, (M-58/L-185/SL-1) Valerie Hawes, 3-Bedroom NC, Stone Bed System. **MOTION** by Mr. May to approve conditional on ConCom approval. Second by Mr. Weinberg. Unanimous.
2. 39-E American Legion Hwy. (M-61/L-2G) Tim Twomey, 2-Bedroom Repair, Stone Bed System. The square footage of the lot is not noted. Mr. Harkins suggested that there be a deed restriction unless it is proved that there is sufficient land. Mr. Weinberg asked, if historically, the system was on the abutting property. He seems to think that the property lines are bigger than what is being portrayed.



**APPOINTMENTS**

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**6:30pm - Waiver Hearing: Alan Ewing for 40 Oakland Avenue, Clark Development, 2-B Cultec Contactor 100 Unit Septic System.**

The lot is 3 acres but Bread & Cheese Brook and associated wetlands are on the parcel. There is an existing 2-bedroom house in rehab with a failed septic tank and leaching pit. The proposed system is farther away from the home as shown on the plan. The old systems would be pumped out and filled with sand. The plan is to install 9-Cultec100 units, which would be enough to accommodate the proposed system. The leaching field is 50 feet from the wetlands, which meets Title V.

Variance requested is for the two wells

- Set back to site well, 55 feet vs. 100 feet.
- Set back to abutter's well, 60 feet vs. 100 feet.

The abutter was notified and is present: Edwin Arsenault of 28 Almeida Ave.

The engineer asked to test for lead, which was supposed to be done.

Mr. Harkins stated that this has not been to ConCom yet but suggested moving the leaching field up north away from the two wells. The engineer did not know if that move would be far enough away from other abutting wells.

Mr. Arsenault stated that he is concerned because he has a shallow well. Mr. Harkins stated that the new system is an improvement to what is there. The existing is in the water table. The proposed would take it out of the water table. Mr. Harkins would like to see that it be moved closer to Route 6. Mr. Armendo stated that the wells would need to be researched and setbacks be met. Mr. Weinberg felt it was worth looking into.

**6:40pm – Variance Hearing: Nitsch Eng. for Old County Road, New School Septic System.**

Mr. Armendo arranged for the Board to review the plan Thursday at 10 am. He will post the meeting.

**MOTION** by Mr. May to adjourn at 7:22 p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Special Meeting of the Board of Health convened at 10:00 a.m. at the Town Hall Annex.

**Present:** William M. Harkins, Chairman                      Matthew J. Armendo, Director  
Philip M. Weinberg, Secretary  
Maurice E. May, Vice-Chairman

## **SEPTIC PLAN REVIEWS**

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39-E American Legion Hwy., Repair Plan.

There were questions on this property at the last meeting. There was a deed restriction on this property recorded with the Registry of Deeds in 2002. All the questions from the last meeting were addressed. There appeared to be a discrepancy between the lot's square footage, which was one figure in the deed and another from the GIS data. Mr. Weinberg suggested that for lots under half an acre, an estimate for a de-nite system should be submitted. He also asked to clarify the existing well and the proposed well and if there is downgrading of the septic system. Mr. Swartz had signed off on this plan. Mr. Armendo noted that a lot size of 14,900 sq. ft. was on an application from February.

## **OTHER BUSINESS**

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### **1. Community Septic Betterment Loan Program.**

Mr. Weinberg had submitted copies that were not circulated. He read this into the record. He stated that he researched further reducing the interest rates to residents needing a denitrification systems. He noted that while paying 2% and charging 4%, the Town nets \$100k over the term of the loans to the residents unless a resident pays off the loan. The Town is not charged for the first 2 years and once loan repayments begin, these funds are deposited and earned interest. In the spread sheet, he calculated a \$10K beyond the charge for a denitrification system making them more economically feasible in the community septic program. He said that the figures are based on actual loan payback schedules. There should be some way the Board can reduce the cost of the loan. The fees are charged to the applicants and no fees are paid by the Town. Mr. Weinberg noted that if they reduced the interest rate, the 100K would diminish. Mr. Harkins was not opposed to a reduction of a percent or two for a denitrification system. Nelia and Nicole's salary come from the interest paid to the Town and this would need to be considered.

**MOTION** by Mr. May to reduce the interest from 5% to 4% and from 4% to 3% for denitrification systems. There was no second. Mr. Harkins wanted to know more information. Mr. Weinberg felt that there is a need to look at this further. Mr. Harkins asked that this topic to be place on the agenda in 4 weeks.

### **2. New School Proposed Septic System-Update**

Mr. Armendo stated that he, Mr. Harkins and Mr. Swartz met with the Planner and project manager to look over the plan. The School Building Committee has asked us to provisionally approve the concept of the septic design so that it can go to DEP. The denitrification system was approved by the Planning Board through site plan approval. Because it is a PILOT, it is subject to DEP site specific approval. Discussion ensued.

**MOTION** by Mr. Weinberg to address a letter to DEP including the limitation of 10 mg per liter flow. Seconded by Mr. May. Unanimous. Mr. Armendo will draft the letter to submit with the plans. Discussion ensued over the type of system and developing technologies.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING.**

None.

**MOTION** by Mr. May to adjourn at 11:15 a.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** William M. Harkins, Chairman  
Maurice E. May, Vice-Chairman

Matthew J. Armendo, Director

**Absent:** Philip M. Weinberg, Secretary

### **MINUTES**

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1. Mar. 11, 2019 reg. **MOTION** by Mr. May to approve. Seconded by Mr. Harkins. Unanimous.
2. Mar. 05, 2019 spcl. Tabled to the next meeting
3. Mar. 19, 2019 spcl. **MOTION** by Mr. May to approve. Seconded by Mr. Harkins. Unanimous.

### **SIGNATURES NEEDED**

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1. Payroll 3/10/2019 - 3/23/2019. Paperwork was not available for signatures to be rendered.

### **OTHER BUSINESS**

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1. Monthly Pump Reports. Noted.
2. Transfer Station Schedule - Easter Sunday. **MOTION** by Mr. May to close the Transfer Station on Easter Sunday. Seconded by Mr. Harkins. Unanimous.

### **OUTGOING**

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Noted.

### **DIRECTOR REPORTS**

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1. Written Report. Noted.
2. Verbal Report:  
Tenant Farm Regulations:
  - Application is finalized, started the outreach through selectman meeting, newspaper, website
  - Is there going to be a fee starting May 1 for anyone that has not applied?
  - Discussion on timing for noticing and effective dates. Mr. Armendo suggested this be put on the next agenda so Mr. Weinberg could participate.

#### Updates:

- Next working meeting date April 3, 2019 at 10 am.
- Office is short staffed, one agent out indefinitely on medical - no date for his return at this point.
- Ad for a new part-time agent has been placed on Indeed.com. Some responses have been received.
- ACO has been authorized to seek an additional two on-call ACO/AI employees - Mr. Armendo suggested he be involved with the hiring process based on the positions potentially falling under the department after a reorganization. Members agreed.
- Equine and piggery renewals are coming up and Fred Ponte & John Swartz will be utilized to conduct site inspections.

Transfer Station:

- Operation is running very well, no issues to report.

Keeping of Animals/Registry:

- Mr. Weinberg to attend the 3/13/19 AgCom Meeting to begin discussions.

**SEPTIC PLAN REVIEWS**

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1. Fisher Road (M-40/L-30B) Jason Pereira, 4-bedroom, Stone Bed SAS, NC. **MOTION** by Mr. May to approve the septic and stormwater plans. Seconded by Mr. Harkins. Unanimous.
2. Drift Road (M-58/L-184/SL-1) Valerie Hawes, 3-Bedroom, Stone Bed SAS, NC. **MOTION** by Mr. May to approve the septic and stormwater plans conditional on ConCom approval. Seconded by Mr. Harkins. Unanimous.
3. Drift Road (M-58/L-184/SL-3) Valerie Hawes, 3-Bedroom, Stone Bed SAS, NC. **MOTION** by Mr. May to approve the septic and stormwater plans conditional on ConCom approval. Seconded by Mr. Harkins. Unanimous.
4. Sodom Road (M-59/L-5/SL-1) McGovern Properties, 8-Bedroom Infiltrator Quick 4 Chamber Bed SAS, NC. This is a duplex on a 5-acre lot. **MOTION** by Mr. May to approve the septic plan conditional on ConCom approval. Seconded by Mr. Harkins. Unanimous. Constance Gee asked what the system was. Mr. Harkins explained it is a Title-V approved system.
5. 4 Masson Street (M-7/L-389-390) Pauline Cassell, 3-Bedroom ARC 36 LP Chambers Bed SAS, Repair. **MOTION** by Mr. May to approve the septic plan conditional on ConCom approval. Seconded by Mr. Harkins. Unanimous.
6. 39-E American Legion Hwy. (M-61/L-2G) Tim Twomey, 2-Bedroom Stone Bed SAS, Repair. **MOTION** by Mr. May to deny the repair because the Board requires a denitrification system that is not what was on the submitted plan. Seconded by Mr. Harkins. Unanimous.

**APPOINTMENTS**

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**6:30pm – Waiver Hearing: Wendy Henderson, 1982 Main Road, Well Replacement to be less than 100 feet.**

Ms. Henderson was before the Board for this property.

Variance requested for setback of proposed site well to existing SAS, 75 feet vs. 100 feet. The abutter at 1978 Main Road will be installing their own septic system as this was once a shared system and by doing so it will reduce the flow to the trench. Mr. Armendo stated that this is the best that can be engineered based on the conditions.

**MOTION** by Mr. May to approve the variance as requested. Seconded by Mr. Harkins. Unanimous.

**6:40pm – Waiver Hearing: Mark Rodrigues for 98 Sodom Road, Lynn Gauthier.**

No one was present for this hearing. Tabled to a future date to be determined.

**6:50pm – Discussion: East Beach Improvement Assoc., Roger Riendeau-System Inspections.**

Roger Riendeau and Kevin Kurt from the East Beach Association were present. The room was full of other lot owners who were present to discuss the new requirement of having a Title-V inspection.

They were concerned that they need an inspection to be in good standing in order to receive their permit for a 6-month recreational trailer on East Beach. There are many properties with no record of there ever having had an inspection and in December 2018 a wash over on East Beach may have compromised some of the exiting systems either septic or tight tanks.

Mr. Kurt stated that he noted that the December 22, 2018 washout was no worse than any prior year. Mr. Harkins stated that over time, some may move or expose pipes, or expose over-grade.

Mr. Riendeau stated that the units are installed all at the same height, slightly above grade by design. He also stated that they have been asked to keep the tanks full over the winter to keep them from floating up.

Mr. Armendo stated he has seen some tight tanks that have been compromised and only 3 SAS out of 23 have inspections on file. With wash overs, the system is probably compromised. With regards to the tight tanks, there are 34 known and only 5 that have inspection reports in the file and are several years old.

Mr. Riendeau stated that they have gotten their permits in the past based on inspections.

Mr. Harkins stated that the Board is not blaming anyone nor targeting anyone in particular but noted that this is important and needs to be done especially since there are very little inspections on file.

Mr. Riendeau is saying that the request is creating a hardship. He said he is willing to work with the Board of Health in a way that allows them to get their permits and but will work on the inspections apart of that.

Kenneth Mello, the attorney representing the East Beach Association was present. He asked the Board to consider an abeyance this year with the intention of working towards inspections but not to hold up permitting.

Mr. Armendo said that there are some tanks that may not have been effected but there is no way to know which ones they are with out a licensed Title-V inspection.

The attorney stated that he spoke with an engineer familiar with the tanks who said that the wash overs are unlikely to create any issues. He asked the Board to put this aside this year and allow the owners to meet with Mr. Armendo to conduct inspections in the meantime.

Mr. Harkins asked if the residents are willing to sign a waiver. He opined that the Board may be able to give some time to allow for licensed inspections but deferred the owners to deal directly with Mr. Armendo. The attorney stated that the owners are happy to inspect tanks visually to see which might need attention.

Once again., the attorney asked to hold off on the trailer permit requirement this year and allow Mr. Armendo to address this issue over the following year instead of requiring the owners to do this to get their permits. The owners are conscientious about their systems and certainly don't want to be swimming in their own sewage. He added that the Board should require Title-V inspections for all homes in a wash over area all over town. The attorney suggesting meeting and making a list and to rescind the request letter this year.

Mr. Harkins stated that he will discuss with Mr. Armendo and try to come up with a solution that is mutually beneficial for all. Mr. Armendo stated that he is not interested in holding up the trailer permits as long as there is a Title-V inspection scheduled. Mr. Harkins stated that there are a number of questions that need answers and the Board will work with the residents.

Attorney Mr. Mello stated that the Board knows that they only have the right to request an inspection with cause and asked the same apply to everyone in town. Mr. Armendo, stated that per Title-V, section nine allows the BOH to request an inspection. The attorney said that there has to be a reason for inspection and unless the BOH identifies something specific, he asked this be held in abeyance until next year. Mr. Armendo stated that he appreciates the residents wanting to work with the Board but would like to address this in the short term not next year.

Mr. Riendeau said that the engineers have said the tanks need to remain filled so the tanks will not come out of the ground over the winter and so the request to pump them does not make sense. Mr. Harkins stated that the regulations state that the tank is supposed to be pumped and weighted.

Attorney Mello stated that if the Board can rescind this letter, this would allow them to still do what the Board wants and would allow the owners obtain their permits. Mr. Armendo stated that if the Board allows this, the owners would have to make plans in the short term.

Anthony Vivenzio of 134 East Beach Road stated that there is a significant cost for an inspection from \$350-\$700 for each of the 34 tanks and for some people this is a hardship as they are on a fixed income. He asked the Board to consider the impacts on the owners. He asked if the tanks are full at the start of season why can't these be topped off and inspected; is the optimum time for an inspection and not a great expense compared to the alternative of pumping out and filling. Mr. Riendeau asked the Board where are the owners going to get the extra water since no one has a well? Mr. Vivenzio stated that his lot has been over washed every year since installed in 2012 and every spring, the tank being full is pumped out. Mr. Armendo noted that the installation was 7 years ago without an inspection in all this time. Mr. Vivenzio asked if the Board would accept responsibility for tanks that pop out because they are not full. Mr. Harkins stated that if designed per Title-V, there is no pop out and the Town will not take responsibility for improperly installed tanks.

Mr. Riendeau stated that after hurricane Bob, there was discussion on how to deal with the tanks and at the time the owners were not only allowed to replace the tanks but were told that they are to remain full as a way to weight them down.

Donald Robinson, owner of lots 33 & 106, has been there 22 years and has never had a wash over and his tank was installed 20 years ago. The tank was checked 7 years ago by the Town agent. Mr. Armendo stated that the inspection needs to be done by a licensed inspector.

Discussion ensued.

Janet Gavarra of 114 East Beach Road (Lot 54) stated that after hurricane Bob there was a meeting to discuss the tanks and leaving them full over the winter. Mr. Harkins stated that inspection must be performed by a certified Title -V inspector. She said in 1991, the tanks were certified back then and Jim Walsh had come out and looked at the tanks and said the pumper will know if the tank is ok. In 1991, most tight tanks were replaced.

Roger Gillet of 54 East Beach Road asked if everyone passes inspection and there's another wash over, will they need to have another inspection? Mr. Harkins stated that it depends if there are visible signs of damage. Mr. Armendo stated that the last inspection for this property was in 2014. Mr. Harkins stated that it is possible if there was a recent inspection and that there was no visible signs of damage it is possible another inspection may or may not be required.

Janet Gavarra said that if she has records, why doesn't the town have these. Mr. Armendo said the records she has is not the same as a record of a Title-V inspection, but there are other records on file.

Mr. Harkins asked that the proponents leave their contact numbers with the recording clerk.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE.**

Mr. Armendo noted that there will need to be an update to the stormwater regulation. There is no specification nor criteria for expedited permitting and it should be included.

Constance Gee asked about stormwater. She asked how long has this been enforced. Mr. Harkins stated that since Mr. Armendo came on and the Board has been looking closer at the stormwater plans. She asked what is her recourse as she is being effected negatively by a nearby new home with no stormwater plan. Mr. Armendo stated that there are exemptions from the regulation and it would depend on the plan submitted if there was an exemption at the time. Mr. Harkins asked Mr. Armendo to take a look at the nuisance aspect and if it is applicable. Ms. Gee asked for some assurance for damages to her basement made by this particular property she is referring to. Mr. Armendo will look at the details.

**MOTION** by Mr. Weinberg to adjourn at 7:49 p.m. Seconded by Mr. Harkins. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk



Present: William M. Harkins, Chairman  
Maurice E. May, Vice-Chair  
Philip M. Weinberg, Secretary

Matthew J. Armendo, Director

### **SEPTIC PLAN REVIEW**

**Waiver Hearing: 98 Sodom Road – Lynn Gauthier.** The hearing was tabled after the engineer failed to appear.

### **OTHER BUSINESS**

**Discussion: East Beach Title 5 Inspections.** The Board held discussions with the East Beach Improvement Association about proposed Title 5 inspections of soil absorption systems (SAS) and tight tanks following the wash over of East Beach Road during the storm of December 22, 2018. Representing the Association were Kevin Curt, President, and Ken Mello, Attorney.

**Mr. Mello.** The Association understands that the Board must establish a benchmark of septic systems along East Beach Road. The question they have is one of timing and suggest inspections by a certain date, perhaps in 2020 or 2021. The Association also understands that certain systems need inspections. However, it makes the following requests: (1) that any regulation on beachfront property should apply to all properties in town; (2) that the Health Director or Agent conduct visual inspection of any system owned by a member of the Association; (3) that any Title 5 inspection should only follow a visual inspection by Director/Agent; and (4) order that the letter dated February 13, 2019 be amended.

**Mr. Armendo.** He has concerns about the SASs that we could not identify. He also has concerns about the wash over of tight tanks, some more than others. The concern is that some SASs and tight tanks do not meet Title 5 requirements. Also, we did not check tight-tank alarms and need to look into this. We have a list of systems that need inspections immediately. We should amend the letter of February 13, 2019 rather than rescind it.

**Mr. Harkins.** He says that two years is too long a time frame to complete all of the required inspections.

**Mr. May.** He proposes four things: (1) rescind letter of February 13, 2019; (2) require 23 cited systems for immediate inspection, including seven SASs and 16 tight tanks; (3) that Association members volunteer information on their septic systems; and (4) that all required inspections take place within 18 months (about the end of the 2020 season).

**Mr. Weinberg.** He asks about the Association and suggests the Board enter into a conceptual agreement with it on what we want to jointly achieve. He suggests separating the issues of trailer permits from inspections. He also wants to have the seven SAS inspections now, with the tight tank inspections at a later date due to their complexity.

**Kevin Curt.** Agrees that maybe two years is a little excessive. He says there are some sites that we can't get to the SAS's immediately. He also suggests tight-tank inspections take place at end of a season, so that a tank relatively full of effluent can be topped off with water for testing. For example, if a tank is 75% full at season's end add 25% water to test the tank.

Further discussion ensued. Mr. Mello wants to focus on wash over damage. Mr. Harkins says he prefers to amend 2/13/19 letter rather than rescind it with requirements outlined. Mr. Armendo says everybody in Town is required by Title 5 to have a functional system. Mr. Curt is concerned about the future and what the BOH may require in the future. Mr. Weinberg discusses process and wants to move quickly to an agreement. Mr. Curt says Bob Fields, the Association's engineer, can help. Mr. Harkins thinks we need to expedite things and notify the Board of Selectmen that there is a change coming so they can go ahead with the trailer-permitting process. Mr. Mello is concerned with fracturing the Association. Mr. Weinberg asks about a timeline and suggests 45 days to inspect SASs.

A plan was agreed upon that Mr. Weinberg, Mr. Armendo, and Mr. Mello will draft a proposed agreement for consideration at the next Board of Health meeting on April 8, 2019.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING.**

**39E American Legion Highway Discussion – Sean Leach, Sitec.** The original plan was for a four-bedroom house on Sawdy Pond, but that was reduced to two bedrooms. However, an earlier deal fell apart, the property became a short sale, and a new buyer hopes to settle on April 5, 2019; in addition, financing requires resolution of the fact that the Board is requiring a de-nitrification septic system due to the small size of the lot (about 10,000 sf). Mr. Leach argues that this create a big problem because there is not a lot of room and a denite system takes up more space and entails a re-design that would require a slew of variances. Considerable discussion ensued. Mr. Weinberg noted that phosphorus, not nitrogen, is the main concern for a fresh-water pond like Sawdy. Mr. May pointed out that the small size of the lot drove the BOH decision on requiring denite system, but if a denite system would cost more than 10% of the assessed value of the property, then it may not be required. Mr. Weinberg asked what variances would be needed; Mr. Leach said setbacks from house, setbacks from the well, and setbacks from the blower system.

**MOTION** by Mr. Weinberg to approve plan as is without a denite system, but requiring (1) well testing every other year for five years (and if results indicate nitrogen above 5 ppm that a nitrogen- treatment system be placed on the wellhead); (2) a new two-bedroom deed restriction; and (3) a hold harmless agreement. The motion was seconded by Mr. May and passed unanimously.

**MOTION** by Mr. May to schedule next working meeting on April 17, 2019 at 10 am. Ameresco wants to make a landfill presentation at the meeting. Seconded by Mr. Weinberg and passed unanimously.

**MOTION** by Mr. May to adjourn at 12:53 pm, seconded by Mr. Weinberg, and passed unanimously.

Submitted by Maurice E. May, Vice-Chair

The Regular Meeting of the Board of Health convened at 6:03 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** William M. Harkins, Chairman  
Maurice E. May, Vice-Chairman  
Philip M. Weinberg, Secretary  
Matthew J. Armendo, Director

### **MINUTES**

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1. March 05, 2019 spcl. (tabled from previous meeting) **MOTION** by Mr. Weinberg to approve. Seconded by Mr. May. Unanimous.
2. March 25, 2019 reg. **MOTION** by Mr. Weinberg to approve. Seconded by Mr. Harkins. The vote was two in favor with Mr. Weinberg abstaining because he was absent.
3. Dec. 05, 2018 spcl. **MOTION** by Mr. Weinberg to approve. Seconded by Mr. Harkins. The vote was two in favor with Mr. Weinberg abstaining because he had not read it yet.

### **SIGNATURE'S NEEDED**

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1. Payroll: 3/24/2019 - 4/06/2019
2. March 11, 2018 Minutes
3. March 19, 2019 Minutes

Signatures rendered for the items listed in 1-3.

### **CORRESPONDENCE**

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1. Richard & MaryLouise Evan/**re:** Septic Repair Extension Request for 181 Charlotte White Road. **MOTION** by Mr. May to extend the request for another 6 months as the last extension. Seconded by Mr. Weinberg. Unanimous.
2. Joseph Harrington/**re:** Request to Continue to Share the Tight Tank Between his two (2) Lots. **MOTION** by Mr. May to approve the request this season due to time constraints but to review the policy to either enforce or revise it for next year. Seconded by Mr. Weinberg. Unanimous.

### **OTHER BUSINESS**

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1. Monthly Pump Reports. Noted.
2. Tier 3 Variance Extension Approval: East Beach, C&W Beach, Spindle Rock Beach, Yacht Club & Town Beach. **MOTION** by Mr. Weinberg to approve the variance extension. Seconded by Mr. May. Unanimous.
3. Revise Vote-5 Consecutive Years of Testing for 39-E American Legion Hwy. **MOTION** by Mr. Weinberg to allow five (5) consecutive years of well testing starting on the 2nd year. Seconded by Mr. May. Unanimous.

**OUTGOING**

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Noted.

**DIRECTOR**

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1. Written Report. **MOTION** by Mr. May to accept the Director's written Report. Seconded by Mr. Weinberg. Unanimous.
2. Verbal Report.
  - FY'19 Budget. Mr. Armendo stated that they have reworked the budget and at this time, there is no deficit as was originally computed. Mr. May explained the various line items that were reworked, reduced or eliminated and will be going before the Finance Committee.
    - Personnel deficit solved - worked with Town Administrator to remedy the \$817.35 deficit.
    - Expense overage is a result of an increase in advertising, postage, travel, seminars & training and supplies for Nurse, Director and Agents.
    - What was thought to be an excess of \$19,000, was going to be re-purposed from the remaining balance after the purchase of the new roll-off truck. However, there was \$12,631.36 moved from the ATM Article in 2017 for the remaining balance of the backhoe purchase. It is not known why it was not moved to the truck article - see supporting documentation. This will only leave the department approximately \$6,500 to re-purpose into the expenses, we will need \$9,000. After speaking with the TA, he will make a request to move the remaining funds from another source.
  - Update
    - Ray Belanger is back to work.
    - We are coming up on Equine and Piggery renewals - John Swartz and Fred Ponte will be conducting these inspections. The budget will only support the use of Mr. Ponte for a total of 26 hours. If any sites are left outstanding, the Director will conduct the remaining inspections with John S.
    - Next working meeting date: 4/17/19 @ 10:00am.
  - Transfer Station
    - Operations is running very well, no issues to report.

**SEPTIC PLAN REVIEWS**

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1. 316 Cornell Road (M-85/L-13) Irene Moniz, 3-Bedroom Repair, Quick 4 Standard Infiltrator Bed. **MOTION** by Mr. May to approve subject to ConCom approval. Second by Mr. Weinberg. Unanimous.
2. 14 Adamsville Road (M-80/L-11/ANR-1) Christopher & Lauren Peixoto, 3-Bedroom NC, Stone Bed. **MOTION** by Mr. Weinberg to approve subject to ConCom approval. Second by Mr. May. Unanimous.

3. Charlotte White Road (M-67/L-8&8A/SL-1) Ron Oliveira, 4-Bedroom NC, Stone Bed. Storm water is integrated into the plan. Mr. Armendo will contact the engineer to ask about the close proximity of the bordering vegetative wetlands.
4. Charlotte White Road (M-67/L-8&8A/SL-2) Ron Oliveira, 4-Bedroom NC, Stone Bed. **MOTION** by Mr. Weinberg to approve subject to ConCom approval. Second by Mr. May. Unanimous.

## **APPOINTMENTS**

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### **6:30pm – Waiver Hearing: Mark Rodridgues for 98 Sodom Road, Lynn Gauthier.**

Variance requested is for vertical separation of 3.02 feet vs. 4 feet separation to ground water.

**MOTION** by Mr. May to approve the septic repair variance conditional on a Hold Harmless agreement and conditional on ConCom approval. Seconded by Mr. Weinberg. Unanimous.

### **7:00pm – Discussion: Proposed Policy for Maximum Feasible Compliance.**

Mr. Weinberg stated that DEP has a policy. The BOH policy is based on the presumption that if the number of bedrooms exceed the nitrogen loading limits, the applicant is required to install a denitrification system. Under maximum feasible compliance, the responsibility is on the applicant.

The policy would be a way to implement the existing DEP policy and how the Board will exercise their discretion. There have not been any written comments received. Mr. Armendo stated that because of the substandard sized lots, it is important to have this in place. This policy was distributed to local engineers for comment.

Bob Silva, of Septic Preservation Services sees this problem and questions come up frequently. He stated that the difference in cost to the installer for a total installation was \$2,700. Long term, it makes sense to install a denitrification system.

Len Potter did not agree that \$2,700 over a conventional system is ridiculous. It is more like \$13K more than a standard system for a denitrification system. He said it is not that simple.

Tanya Ryden supported the policy and urged the Board to vote it into use tonight. It restores health as a priority and restores the local ecosystem.

Mr. May did not want to approve it without looking through it one last time.

Mr. Harkins stated it is not necessarily a denitrification policy but a way to deal with small sites.

Mr. Potter stated that the Board may receive challenges. Mr. Weinberg stated that there are provisions in Title-V to allow meeting a system upgrade or repair and that the local Board are operating in compliance at their discretion. Mr. Potter stated that the local Board of Health could

not exceed Title-V. Mr. Weinberg stated that they are not exceeding DEP guidance. Mr. Potter noted that it is only guidance.

Mr. Silva stated that once a well is contaminated, it is too late therefore testing wells is too late. It would take 20 years to resolve.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

**East Beach Discussion**

Attorney Mello asked the Board to amend their letter in terms of the timetable. He stated that the Director spent a few cold and windy days walking along East Beach Road looking at what is the status. In some cases, certain systems need immediate attention.

Attorney Mello requested allowing those properties that do not appear to pose immediate risk to be allowed to delay testing to next year. He asked these systems be allowed to be inspected before the next season. Mr. Mello stated that it is also entirely up to the individuals to comply as he is speaking for the Association, not for all the individuals. Mr. Harkins stated that if there are eventual major storms, that will change the situation once again. The Board will be looking at these as well.

Mr. May stated that there are 13 tight tanks that need attention and need to be tested no later than March 1, 2020.

Mr. Weinberg stated that the Board has the responsibility to let the Board of Selectmen know if there are any issues or if there are none. He does not feel that the Board can, at this point, because of all the issues being discussed. He suggested inspections to determine if there are any cracks and if there were any visible, these would need a pressure test. Mr. Weinberg is reluctant to tell the Board of Selectmen it is ok to issue the permit. He suggested that the inspection be done now before the trailers are placed on the site or the trailer must be completely self-contained.

Mr. Kurt stated that there are a total of 8 SASs and that 22 & 26 East Beach (Ventura) removed their SAS after hurricane Irene leaving 6 SASs. Mr. Kurt asked that the Board allow the process go forward. The Board was firm that the SASs need to be inspected first.

For the 13 tight tanks, the owners need to have a crack test or pressure test no later than October 1, 2019. The Attorney suggested one of the Board of Health agents could begin the inspections. Mr. Harkins is not comfortable having one of the agents do the inspections; it must be an independent licensed inspector.

**MOTION** by Mr. May that the BOH rescind the testing order of February 2019 while requiring immediate inspection or proof on 8 SAS systems and 13 tight tanks. There was no second to Mr. May's motion.

Mr. Weinberg does not agree with rescinding the letter. Mr. Harkins also disagreed with a rescission but in favor of a revision. Mr. Weinberg suggested the revision include an option for self-containment and determine when the testing needs to be done by.

**MOTION** by Mr. Weinberg for Mr. Armendo to draft a letter to each of the owners or renters on SAS systems to have them inspected by the end of this month or at a time prior to bringing their trailer on the lot. For tight tanks, there should be an inspection for cracks under the same conditions or commit to self-contained trailer. For the others, the BOH will communicate to them that the BOH will be recommending that permits be issued but the BOH is recommending all testing be complete on or before March 1, 2020 to include alarm testing. Mr. May did not second the motion. Mr. Harkins seconded the motion. The vote was 2 in favor. Mr. May abstained.

Mr. Mello asked that properties that are in good condition be issued their permits. Mr. Armendo stated that the BOS would get the Board of Health's recommendations.

Mr. Mello asked for a copy of the letter and a list of whom they are addressed to.

SASs must have an inspection or be self-contained. Tight tanks are subject to a visual inspection with details.

Mr. Kurt asked if the Board would accept a visual inspection by the pump-out company. Mr. Armendo stated this is unorthodox and that it is up to the Board. Mr. Harkins stated that it must be an inspection by a licensed inspector.

**MOTION** by Mr. Weinberg to adjourn at 8:01 p.m. Seconded by Mr. Harkins. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

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Present: Maurice E. May, Acting Chair/Vice-Chair  
Philip M. Weinberg, Secretary/Chair  
Tanja Ryden, Secretary  
Matthew J. Armendo, Director

The meeting was opened by the Acting Chair at 10:00 am.

### **RE-ORGANIZE**

The Board voted the following positions:

- **New Chair – Philip Weinberg.** Ms. Ryden made a motion to elect Mr. Weinberg Chair and Mr. May seconded the motion, which passed unanimously.
- **Vice Chair – split term.** Our new Chair discussed both institutional and personal aspects of the Vice-Chair position and noted there was no by laws restricting our actions. Since both Mr. May and Ms. Ryden both expressed interest in the Vice Chair position, the Chair sought a compromise. He therefore moved that Mr. May be made Vice Chair until June 30, 2019, with Ms. Ryden becoming Vice Chair on July 1, 2019 for the balance of the elected year. The motion was seconded by Mr. May and passed unanimously.
- **Secretary – also split term.** The Chair moved that Ms. Ryden be made Secretary until June 30, 2019 with Mr. May becoming Secretary on July 1, 2019 for the balance of the elected year. The motion was seconded by Mr. May and passed unanimously.

### **PRESENTATION**

**Ameresco – Solar Project at Transfer Station – Project Manager Mike Williamson and Consultant Melinda Ferullo.** Ameresco plans to build and maintain a 600 KW photovoltaic solar site on the top of the old landfill at the Transfer Station. With construction imminent, Ameresco wants to discuss future operations on site and gave us a document called “Operations and Maintenance of the Photovoltaic Solar Power Plants.” Our Director was concerned about landscaping and made clear the Town remains responsible for grass on the slopes. Mr. Williamson noted Ameresco’s concern about security and the need for 24x7 access in emergencies. Discussion ensued about locking Transfer Station gates. Mr. May, noting Ameresco’s preference for combination locks, proposed one such lock be maintained by the Town for both BOH and Ameresco employees. There was agreement between the BOH and Ameresco and no vote was deemed necessary. Mr. Williamson discussed the operations of the project: it is a 600 KW facility with 800 MWH of annual output being sold to Eversource. He also said the project pays the Town annual rent of \$16,000. Mr. May thanked Ameresco for bringing the project to Westport and noted that, with large renewable energy projects defeated, the Southcoast should step up with solar projects as our New England grid moves toward a renewable energy future.

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**Public comments.** Ms. Slade is concerned about solar project near cemeteries and says historic sites must be preserved. Ms. Gee complained about Mr. May's vocabulary.

### **OTHER BUSINESS**

**Maximum Feasible Compliance policy.** A BOH policy has been evolving for months. Mr. May has edits mostly with punctuation, but one substantive addition placing the 10% of assessment rule in a footnote. Mr. Weinberg has composed an information checklist for consultants to complete, which lists main issues, such as number of bedrooms, system and water-quality information, surface water data, etc. Ms. Gee asks about incremental denite cost estimates, citing one inexpensive \$2,700 system. Discussion ensued about septic system costs, with our Director warning about confusing self-imposed costs with basic-system costs. Ms. Slade asks if an added bedroom is possible with a denite system on a small lot; the answer is yes, under Title 5. The Chair says the policy will be on the next meeting agenda for discussion and requests engineer input on down-gradient water flow.

**FY 2019 Budget Update.** Our Director notes he went before the Finance Committee on April 11, 2019, accompanied by the BOH Principal Clerk Nancy Paquet, BOH Acting Chair Maurice May, and newly elected BOH member Tanja Ryden. All outstanding issues were easily settled regarding the FY 2020 budget, and though FinCom lacked quorum (only 4/9 present), those present agreed with the outcome.

**Discussion of Annual Town Meeting (ATM) presentations.** First, the change in reporting of the Animal Control Officer from Board of Selectmen to BOH. Second, our various budgets – BOH, TS, ACO – the Keeping of Animals impact, and budget transfer relating to the front-end loader/roll-off truck issue. Our Director has concern that our Town Administrator is increasing compensation of ACOs for remainder of FY 2019, but that this increase might not be in FY 2020 budget. Finally, the Tobacco issue: our Director requests our State tobacco rep (Marilyn Edge) provide talking points for our use; and our Chair requests our Director put together talking points on *all* ATM issues dealing with BOH.

**Draft Priorities for near term.** Our new Chair wants to prioritize various outstanding issues going forward. First is stormwater. Our Director wants DEP to explain its handbook to us. Our Chair wanted to articulate an expedited permitting policy. Our Vice Chair proposes two-fold approach: (1) fix our own stormwater reg, and (2) coordinate three stormwater regs. Second, our Director discusses potential retirement of two agents, which would have both work-flow & budgetary implications. Third, Ms. Ryden has an interest in grant writing and hazardous waste. Fourth, Mr. May wants budget, recycling, and Community Septic finances. All discussed Keeping of Animals (KOA) issues, such as minimum space standards, types of animals, rooster noise, and large animals/properties vs. small animals/properties. Ms. Ryden wants to draft KOA outline. Our Director raises several issues, such as tenant farm shelter and water testing for equine wells. Mr. May ask our new Chair, what should we put into KOA? Mr. Weinberg answers: Tenant reg for sure, but not pig & equine regs. Discussion of shelters ensued. Mr. May reports very rustic shelters and believes KOA should emphasize shelters. Ms. Ryden wants to give inspectors discretion. Mr. Weinberg has manure management concerns: Are we going to require specific plans or rely on standards? Director favors using standards, but with unsanitary

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conditions, we could require a plan. More discussion on how to discuss KOA at ATM with budget discussion offering segue. Final issue discussed: audience comment procedure (e.g., sign-up sheet).

**Next BOH working meeting.** It is scheduled for May 2, 2019 at 9:00 am.

**Invoking the 48-hour rule.** Ms. Ryden noted WRWA's upcoming electronic recycling on April 24, 2019. She moved to allow installation of a WRWA sign at the Transfer Station advertising the event; motion was seconded by Mr. May and passed unanimously.

**MOTION** by Mr. May to adjourn at 12:15 pm, seconded by Ms. Ryden, and passed unanimously.

Submitted by Maurice E. May, Vice-Chair

The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** Philip M. Weinberg, Chairman  
Maurice E. May, Vice-Chairman  
Tanja Ryden, Secretary  
Matthew J. Armendo, Director

### **PUBLIC HEALTH NURSE PRESENTATION**

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Linda Pierce, RN:

- World Health Month
- Sexual Assault

Ms. Pierce spoke about what these situations mean. As a sexual assault Nurse examiner, she encouraged the public to seek additional information either through the local hospitals, police department and through her. She mentioned with summer months, there are more social gatherings and for people to be aware of their drinks as things can be placed in them. Ms. Gee asked if the guidance counsellors at school were trained in recognizing this in students. Ms. Pierce encouraged all ages to be aware of their surroundings. She offered to be a resource as well for anyone needing assistance.

### **MINUTES**

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1. April 03, 2019 spl. **MOTION** by Mr. May to approve the meeting. Seconded by Mr. Weinberg. The vote was 2 in favor. Ms. Ryden abstained because she was not a member at that time.
2. April 08, 2018 reg. **MOTION** by Mr. May to approve the meeting. Seconded by Mr. Weinberg. The vote was 2 in favor. Ms. Ryden abstained because she was not a member at that time.

### **SIGNATURE'S NEEDED**

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1. Payroll 4/07/2019 - 4/20/2019 – signatures rendered.
2. Beach Testing Agreements – signatures rendered.

### **OTHER BUSINESS**

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1. Monthly Pump Reports. Mr. May noted that there are errors by Fairhaven Honey Wagon with regards to tight tanks and septic systems.
2. Discussion-BOH Re-Organization. Mr. Weinberg stated that they newly formed Board met in their special meeting and voted Ms. Ryden the Secretary until July 1<sup>st</sup> after which she would take on the Vice-Chair position. Mr. May will remain the Vice Chair until July 1<sup>st</sup> and then take on the Secretary position.
3. Discussion-Maximum Feasible Compliance. Mr. Weinberg stated that the policy was discussed at the last 2-3 meetings and with final edits are ready for a vote of acceptance and enactment. Mr. May stated that this has been worked on for the last year as a policy that would limit the number of bedrooms.

**MOTION** by Mr. May to accept and enact effective May 1, 2019. Second by Ms. Ryden. Discussion ensued.

Ken Fortier from Civil Engineering Concepts was in favor, as Title-V requires 1 bedroom per 10,000 square feet. His concern however, is the language in the Hold Harmless Agreement with the language “of not further expansion permitted”. He feels that a porch or garage or bumping out of the living room, for example, would not be permitted. He asked if the foot print enlargement or bedroom increase was the intent. Mr. Weinberg read the policy, which is specific to the DEP regulation and the number of bedrooms. Mr. Fortier stated that the document recorded against the deed is vague and does not specify bedrooms: it is the intention that he is asking clarification for. Mr. Weinberg asked if he wanted to look at the DEP requirements for the number of bedrooms and to see if it is reflected in the deed restriction.

Mr. Fortier also asked if projects previously approved but not completed would be looked at with regards to a deed restriction on a previously approved project. Mr. May stated that his question is a moot point and that the Board has been working on this for months. Mr. Weinberg stated that the BOH is not going to go back on previously approved plans. The policy would apply to plans received going forward as of May 1, 2019. Title-V requires that the Board should have already been doing this, but the Board will begin requiring the deed restriction going forward.

Mr. Fortier stated that he has a plan that met all the requirements a year ago and questioned, now to be asked for a deed restriction. He was under the impression from staff that a deed restriction would now be required for a previously approved repair plan.

Mr. Weinberg noted that from what he recalls, the number of bedrooms were added to over time and were not known by the Board. The lot had an existing number of bedrooms and was the maximum on that lot size: another bedroom would take it over the maximum feasible compliance. That deed-restriction is the practice to allow notice to any future buyer that it was not possible to build more bedrooms.

Mr. Armendo stated that for a 43K sq. ft. lot meeting all requirements –a denitrification system would allow for a 5<sup>th</sup> bedroom. Mr. Weinberg stated it would be helpful to talk this through and clarify that. There is nothing that prevents a subsequent deed restriction from being modified in the future, Mr. Weinberg noted. Discussion ensued over the mechanisms of compliance that would need to be included.

The vote was all in favor.

4. Discussion-Information Checklist for Nitrogen Sensitive Lots. Members discussed the adding a check box for applicant so that it is clear who is applying. **MOTION** by Ms. Ryden to adopt checklist subject to edits discussed. Seconded by Mr. May. Unanimous.

## **OUTGOING**

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Noted.

## **DIRECTOR**

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1. Written Report. Noted.

## 2. Verbal Report

**Update**

- East Beach inspections have been started for tight tanks and sas systems - awaiting inspection reports to come in for evaluation.
- Piggery inspections are underway and anticipate being complete by 4/26/19. Noted. Mr. Weinberg asked if anyone has applied under tenant farm. Mr. Armendo asked if a letter should be sent to all the farms or another option would be to ask the Animal Control Officer/Animal Inspector for the known 6-12 farms' contact information and send just them the letter. Mr. Weinberg thought that a place to start would be to discuss with the ACO and to also reach out to the AgCom. Mr. Armendo should have a draft letter tomorrow for Mr. Weinberg to review.
- Equine inspections will commence the week of 4/29/19.
- Transfer Station: Per the Town Administrator, Tim King: he is the chief procurement officer who stated that the BOH should hire an engineer to design a safety plan and it can be drawn from the Article already approved. This would be the way to address the retaining wall repair.

**Transfer Station**

- Operations are running well, no issues to report.

**SEPTIC PLAN REVIEWS**

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**14 Senechal Drive (M-3/L-148D&30A) Michael Moreira, 3-Bedroom Repair, Presby System.**

The system automatically provides a 2 foot separation but the per rate calls for 5 foot separation and in calculations, the system can be designed with a 3 foot separation. After discussion, **MOTION** by Ms. Ryden to continue to next meeting. Second by Mr. May. Unanimous.

**BUILDING REVIEW**

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1. 147 West Beach Road (M-76A/L-147) Keith Johnson & Reisa Sperling, Rebuild house, 2-bedroom, no bedroom increase and lot size is 13,500 sf. Mr. Weinberg stated the situation is a compliant cesspool that has not failed (per Title-V). **MOTION** by Mr. May to continue the approval process to the next meeting for additional information from the engineer. Second by Ms. Ryden. Unanimous.

**PUBLIC HEARING**

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**6:20pm – Garbage Hauler Application for RD Recycling**

Ryan DeMello was before the Board as a first time hauler. His application is complete and provided the worker's compensation as required and other documentation for auto insurance. Mr. Armendo stated all the paperwork was filled out and advertised properly. Ms. Ryden asked him what his intention was. He stated that it is more commercial for as needed services such as cleaning construction or basements.

**MOTION** by Ms. Ryden to approve. Seconded by Mr. May. Unanimous.

**APPOINTMENTS**

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**6:40pm – Waiver Hearing: Foresight Eng. for 11 Second Street, Jerrilyn Ricci.**

Darrin McCauluff stated that a sieve analysis was performed.

The seven variances requested are

1. A reduction of the setback of the proposed bottomless sand filter from an existing well (76/24) from 100' to 59' per 310 CMR Section 15.405(l)(g).
2. A reduction of the setback of the proposed bottomless sand filter from an existing well (76/26) from 100' to 62' per 310 CMR Section 15.405(l)(g).
3. A reduction of the setback of the proposed bottomless sand filter from an existing well (76/27) from 100' to 77' per 310 CMR Section 15.405(l)(g).
4. A reduction of the setback of the proposed bottomless sand filter from an existing well (76/4 I) from 100' to 97' per 310 CMR Section 15.405(l)(g).
5. A reduction of the setback of the proposed bottomless sand filter from an existing well (Locus) from 100' to 65' per 310 CMR Section 15.405(l)(g).
6. To allow the use of a sieve analysis in lieu of a percolation test due to saturated conditions at time of testing per 310 CMR Section 15.405(l)(i).
7. A reduction of the 12" separation of the tank inlets and outlets from the groundwater table per 310 CMR Section 15.405(l)(i) and the installation of rubber gasket boots with stainless steel clamps on all inlets and outlets.

**MOTION** by Mr. May to approve the variances as listed on the plan dated 3/23/19 and the letter dated February 4, 2019 subject to ConCom approval. Seconded by Mr. May. Unanimous.

**6:50pm – Discussion: Ryan Wagner for Weatherlow Farm-Functions Related to Septic System Capacity.**

Matthew Ryan Wagner owner of Weatherlow farms was present before the Board.

Some of this discussion has to do with the change of use of the farm store by adding two tables and a couch outdoors and 2-3 tables for 4 people, inside. This use was not planned at the time of the septic system design. He stated they have been tracking the use of the septic system and they are compliant, including the use of in the store and in addition to concurrent events in the barn. He feels the conservative flow rate is what was previously approved by the Board can cover both. The store would be fast food - not being prepared to be exclusively consumed there.

Mr. Weinberg stated that the issue in his mind is about the 2 operations going on simultaneously and had reservations. Although there is flow information, and T-V is clear that each component is designed to meet the activities. Discussion ensued. Mr. May asked for a summary in writing for what Mr. Wagner is intending so that he is clear and Board can be as well.

Mr. Weinberg stated that his position is that the Barn has a design flow of 1590 and now adding 420 with from the store is over the limit. Mr. Weinberg stated he is looking for a control where by that flow is controlled by the number in the event hall. He asked Mr. Wagner to come back in an ironclad way that this would work and to agree to some way to verify on the activities there if happening or not rather than number of guests. He stated that he does not think additional port-a-potties would be required and added that the Board would need to have agents check out the activities.

Mr. May asked Mr. Wagner to put some words together in a proposal the Board could consider.

Ms. Ryden asked about the narrative and if this was just for the deck at the farm store. Was there a 100-person capacity in the barn where other restrictions are triggered. She noted the number 75 is not clear. Mr. Wagner said that there is not enough description with the graph he submitted. She asked if events happening in the barn would be at a lower cap than when the farm stand is open.

Mr. Weinberg thought that the basing the designing flow at the cap of 100 seats in the barn would be difficult to enforce the less than 100 limits.

Mr. Weinberg does not want to spend a lot of BOH resourced to make sure he is compliant.

Mr. Armendo asked if he was taking off the table his proposal to the Board of Selectmen, which included the lawn area. Mr. Wagner stated that the lawn area is just for the barn events at the suggestion of the police to be able to contain the alcohol to one area.

Ms. Ryden asked about the final number not triggering catering and knowing in advance. Ms. Ryden suggested having an engineer actually figure out the design flow.

Mr. Weinberg suggested that Mr. Wagner meet with Mr. Armendo.

Mr. May asked to discuss the plan at a work session and to get clarification from DEP. Mr. May says that there is a certain flow for the barn and the store and makes it unique and the BOH should ask for some insight from DEP.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING.**

None.

Members moved unanimously by roll call vote to convene into Executive Session at 8pm in the BOH offices and to adjourn the regular session at the conclusion of Executive Session pursuant to the provisions of MGL c 30A, section 21(a): Chair declares an open meeting will have a detrimental effect to discuss litigation concerning the Medeiros Farm.

Submitted by Lucy R. Tabit, Recording Clerk

**Present:** Philip M. Weinberg, Chair  
Maurice E. May, Vice-Chair  
Tanja Ryden, Secretary (left at 10:32 am)

Matthew J. Armendo, Director

Also attending: Donna Lambert, Animal Control Officer (ACO).

The Working Meeting of the Board of Health convened at 9:03 am.

### **SEPTIC PLAN REVIEW**

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- **14 Senechal Drive – continuance.** The main question on this 3-bedroom repair of its septic system plan concerned the use of a Presby system---was it general or remedial? Mr. Armendo discussed a revised approval letter. Revisions were moved by Mr. Weinberg, seconded by Ms. Ryden, and passed unanimously.

### **OTHER BUSINESS**

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- **Deed Restriction Language Clarification.** Our recent policy statement on “Maximum Feasible Compliance” carries a bedroom restriction that impacts other additional construction, e.g. decks. Recommendation: change “any expansion” to “any increase in flow.” Moved by Ms. Ryden, seconded by Mr. Weinberg. After some discussion from Mr. Weinberg, the motion passed unanimously.
- **Annual Town Meeting (ATM) Preparation.** Four issues. First, surplus roll-off truck funds of \$6,593 to cover FY2019 budget deficit. Second, Article 4 – budget. Ms. Lambert to place a “Hold” on the Animal Control Officer line item and request a higher salary due to pending transition. Discussion ensued about ACO request. The ACO and BOH are recommending \$37,900, while our Town Administrator and Finance Committee recommends a salary \$32,494, which includes a 2% increase from last year. Justification for higher salary: ACO going from an average of 23 on-call hours per week to salaried 30 hours, which includes office time ACO per BOH Director plan. All of this is contingent upon passage of Article 16, which moves ACO jurisdiction from BOS to BOH. Third, Article 16 – ACO. This transfers ACO jurisdiction from BOS to BOH. Fourth, Article 17 – tobacco. Changing wording from “sale and use of tobacco product” to “restricting the sale of tobacco and nicotine-delivery products.”
- **ACO Transition.** Our Director views the ACO position under the BOH becoming more structured, with the ACO working six hours per day, five days per week, for a total of 30 hours per week. He sees the ACO as being in the office the first hour of the day (8-9 am), patrolling when not receiving calls, and spending the last hours of the day (1-2 pm) in the office.
- **Consolidating PT Agent Positions.** With our current part-time (Ray Belanger) agent retiring June 30, 2019, and a new part-time agent position hopefully approved at the upcoming ATM, the Director would like to consolidate them into one full-time agent’s position. The Board informally agreed that this would be an internal issue that requires no ATM approval.



- **Keeping of Animals (KOA) framework.** Legal basis: Mr. Armendo says there are three more MGLs (111, 124, & 125) that support our planned KOA. Ms. Ryden wants to start with MAHB's "Minimum Standards for the Keeping of Animals." She discussed three levels of KOA: (1) census only; (2) census plus permit/inspection/fee; and (3) public-hearing requirement, like tenant farms. She also proposes establishing an advisory group because there are issues that need to be resolved, not just discussed. Mr. May agrees we should start with an advisory group but limit their time. Mr. Weinberg believes the census is most important, as he thinks there are a lot of animals being kept that are not known. He adds: (1) inspections will have to be part of regulations, and (2) criteria for animals in census must be defined as to number and type of animals. While the Barn Book is voluntary, our BOH regulation would be mandatory for registration (and permits if required). Discussion of timing ensued, with September 2019 as possible target date. Further discussion on Advisory Group leadership, and plans to continue discussion at next meeting.
- **Next working meeting.** The next working meeting date was scheduled for May 15, 2019 at 10 AM (subsequently moved up to 9 AM).
- **Tenant farm filing deadline.** Our regulation required registration by May 1<sup>st</sup> but we received none. Mr. Weinberg proposes sending a letter to Shorelines extending the filing deadline to Monday, June 3, 2019. He also proposed sending a letter to the Shorelines announcing the extension, as there is no money in the current FY2019 budget for advertising or mass mailings. Motion: Mr. May moves the extension, which is seconded by Mr. Weinberg and passed 2-0 (Ms. Ryden had left the meeting by this point.)
- **System Sewage Flow Design.** Mr. May & Mr. Weinsberg have different readings on Sec. 15.203 of Title 5. Mr. May believes we should exercise equal application of this section on alternative design flows, noting that we have conceptually approved one for our new Middle/High School. Mr. Weinberg argues that Sec. 15.414 specifically exempts schools, that 15.203(6) cannot be retroactively applied, and that gallons per day are specified for function hall & fast food establishments and cannot use the alternative design flow rule. Mr. May agrees that Mr. Weinberg's arguments prevail.
- **Approval amendment.** The BOH failed to approve a Hold Harless agreement for the 11 Second Street Variance Approval. Mr. May moved and Mr. Weinberg seconded to amend the Board's approval, and the motion passed 2-0.

Mr. May moved to adjourn at 11:17 AM and Mr. Weinberg seconded and the motion passed 2-0.

Submitted by Maurice E. May, Vice-Chair

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Present: Philip M. Weinberg, Chair  
Maurice E. May, Vice Chair  
Tanja Ryden, Secretary

Matthew J. Armendo, Director

Also Partially Attending: Donna Lambert, Animal Control Officer  
Tim King, Town Administrator  
Nancy Paquet, BOH Principal Clerk

Meeting opened at 9:05 am.

- **Amend 11 Second Street waiver.** Our recent septic waiver approval needs amending to include a deed restriction and water testing, in addition to previously approved waiver and hold harmless. Moved by Ms. Ryden, seconded by Mr. Weinberg, and passed unanimously.
- **Moving of waste oil tank.** The Highway Dept. wants to move the tank from the Transfer Station to the Highway Department to facilitate its operation, and they are asking the Board of Selectmen for permission. Mr. Armendo says the move has no budgetary impact, though Mr. Weinberg expressed concerned that oil disposal would not be available on weekends. Discussion then moved on briefly to Ms. Ryden's hazardous waste initiative.
- **BOH before BOS – new agent job description.** On May 15, 2019, Mr. Weinberg & Mr. Armendo appeared before the BOS to discuss our new agent's job description, especially in regards to animal duties. The BOS will not delegate hiring authority to BOH until it has an approved job description. Discussion ensued. Messrs. Weinberg & Armendo both argued that a BOH agent must enforce BOH regulations and not ACO regulations, though the agent would also be an Animal Inspector. Mr. Weinberg is concerned on timing approval of the job description's latest version, adding we should figure out what the delay will be and how it will affect our operation. It was agreed that our Director will discuss the issued with Town Administrator and our Chair will discuss with BOS chair. There was more discussion of generic BOH agent job description, couples with certain priorities, which in this case would be food inspections and the upcoming Keeping of Animals (KOA) regulation. Our Director expresses concern about feeling of mistrust from the BOS but Mr. Weinberg says that may result from lack of KOA functions in earlier version of the job description, as well as previous Chair's reluctance to move forward on KOA until after the Annual Town Meeting.
- **Priority discussion – ACO transition.** Our Director has plan for ACO beginning July 1, 2019. He says that the ACO is currently "on call" under BOS but once she moves to BOH he wants formal 9 am to 3 pm hours. Question: what about after hours? Discussion ensued about flexibility provided by Assistant ACOs. Director also suggests other ACO activities, such as rabies clinics with low-cost rabies shots for domestic animals, removal of dead wild animal on private property due to rabies risk, and dealing with loose livestock (i.e., cow in the road).
- **Priority discussion – monthly articles.** Ms. Ryden wants to organize writing and distribution of monthly articles with rotating authors about what the BOH is doing. Given no budget we seek free distribution, such as Shorelines, Town webpage, Everything Westport, email list, etc.
- **Priority discussion – Director issues.** ACO transition – underway. Tenant Farm letters have gone out. At the Transfer Station, solar farm construction is underway and discussion continues on lowering level of landfill monitoring. East Beach monitoring making progress. Looking into integrating stormwater regs of BOH and Planning Board. Working on compliance with dumpster regs (e.g., numbering dumpsters). Mr. Weinberg is concerned about well setbacks in our regs and finds fault with two of them and proposes to amend them.

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- **Tim King, Town Administrator.** Mr. King arrived unannounced at 10:45 am. First, he polices us by inquiring if this meeting is posted and minutes being taken. We reply in the affirmative to both of these. Second, he asks about the job description for the new BOH agent. Our Director replies that while the February version w/out animal duties *was* approved by both Personnel Board and Union, the new May version including animal duties has not been. Mr. King assures the BOH that approval can be received quickly, allaying our timing concerns.
- **Priority discussion.** While 30-day issues have been discussed, what about 60 and 90-day issues? Ms. Ryden wants to determine lead on issues. For example, emergency preparedness and what to do with flu and anthrax outbreaks.
- **Denite for Middle/High School.** Mr. May proposes a letter to the School Building Committee citing our concerns that cost cutting may remove the denite function from our conceptual septic plan approval. The BOH unanimously supported such a letter, with Mr. May writing 1<sup>st</sup> draft.
- **Budget discussions.** FY 2019 – Town Meeting transferred \$6,593 to us with \$1,890 to BOH and balance to Transfer Station. Rest of year will be tight as certain expenses are out of control (i.e., mileage kicks up when responding to complaints). FY 2020 – the BOH & TS budgets are well thought out with no problems anticipated. Overtime to be used for emergencies only.
- **KOA update.** Mr. Weinberg is leading an advisory committee to draft a KOA/ASR regulation. First meeting scheduled for May 16, 2019 at 6 pm. Members: Mr. Weinberg, Mr. Armendo, Donna Parillo, Constance Gee, Daren Mendes, Ray Raposa, & Donna Lambert. Mr. Weinberg will focus on two questions: what are your animal concerns and what do you want from a regulation? Mr. Weinberg sees a primary intent to bring those keepers of animals who are currently out of the system *into* the system. Mr. May says one important issue is the threshold numbers of animals to be included. Mr. Weinberg notes the BOH already has performance standards for our existing animal regulations. He provides a “Criteria Matrix” as basis for KOA discussion and envisions a broad site registry but more limited permitting.
- **Clerical duties under current BOH.** Nancy Paquet, our Principal Clerk, arrived 11:45 am at our Director’s request to discuss the potential impact of KOA and new part-time clerk on the existing work load of our clerks. Ms. Paquet says any ACO change should not impact BOH; nevertheless, the clerks struggle to keep up with what’s going on now. The new part-time clerk funded under the ACO FY 2020 budget would get new and existing BOH animal regs. Our Senior Clerk Pat Kershaw is currently dealing with seasonal festivals and events and has added the East Beach septic compliance work. Ms. Paquet says we could use another clerk, starting part time, for filing and data entry. If KOA reg start September 1, 2019, we should have clerk in place by then.

Ms. Ryden moved to adjourn at 12:10 pm, seconded by Mr. May, and was unanimous.

Submitted by Maurice E. May, Vice-Chair

The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** Philip M. Weinberg, Chairman  
Maurice E. May, Vice-Chairman  
Tanja Ryden, Secretary  
Matthew J. Armendo, Director

## **MINUTES**

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May 2, 2019. Mr. Weinberg noted that there should be reference in the keeping of animal regulation that should include that inspections would be performed. **MOTION** by Mr. May to approve as amended. Seconded by Ms. Ryden. Unanimous.

## **CORRESPONDENCE**

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Paul DeNadal: Port-a-Jon Application for Catered Events at 1031-R Main Road. Mr. Armendo recommended a continuance to allow more time to look into the matter. Mr. May suggested he apply for a seasonal permit. Mr. Armendo stated that it is more complicated because there is food service. Ms. Ryden stated that the request is not in compliance with the regulation. Mr. Weinberg needs more detail to make a determination.

## **OTHER BUSINESS**

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1. Monthly Pump Reports. Mr. May noted that Fairhaven Honey Wagon is not noting which are septic and which are tight tanks – they are calling all pump outs as septic. Mr. Armendo will contact them.
2. Deed Filing Forms for A/I Systems. Mr. Armendo explained that the applicant would record this document first at the Registry of Deeds and then the Board of Health will issue a Certificate of Compliance. He asked the Board that since this will be used going forward, does the Board feel the need to look back. Mr. Weinberg felt it would be too labor intensive for staff to look back and instead thought to reach out to the engineers and request the last 3-years of alternative systems comply with the requirement of a recorded deed restrictions. Mr. Weinberg said that the reason for recording a deed restriction was to alert prospective homebuyers of the current situation, which is not apparent when buying a home. **MOTION** by Mr. May to contact septic system engineers active in Westport and request they provide information on alternative systems installed in the Town in the last three years. Seconded by Ms. Ryden. Unanimous.
3. Keeping of Animals (KOA) Discussion. Mr. Weinberg gave the members the makeup of the informal group. He noted that the group discussed the inspections executed by the state and to include these as this would expand the registry. The meetings are not the substitute for public hearings. Once drafts of the regulation are available, these would be shared with the public. The expectation is to complete this at the end of the summer.
4. Mr. May brought up the recycling and the costs from Mid-City Steel and plastic.

**OUTGOING**

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Ms. Ryden asked the Director for updates on the violation letters.

- Regarding 296 Highland Ave.: Mr. Armendo is working with the Animal Inspector to get on that site as he is not having any luck.
- 29 Oakland Ave. was re-inspected and is  $\frac{3}{4}$  complete. It will need a few more days to finish and close out.
- Mr. Weinberg asked if Weatherlow Farms returned the agreement signed. Mr. May requested to see the original notes to compare if this was correct.
- Mr. Weinberg mentioned that the Tenant Farm application has been publicized and copies were sent to those farms believed to be tenant farms.
- Mr. Weinberg also noted the Boat House Row de-nitrification system, he proposed going back and looking at the regulation. He also found a policy on nitrogen reducing systems from 2018 that was not formally adopted. The policy required that some of the systems have to comply with a certain level of denitrification.
- Mr. Armendo also updated the Board on Cumberland Farms.

**DIRECTOR**

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1. Written Report. **MOTION** by Mr. May to accept the report. Seconded by Ms. Ryden. Unanimous.
2. Verbal Report.
  - FT Agent Position. Mr. Armendo brought the members up to date on the status of advertising the position. This is the merging of the new part time position and the position Mr. Belanger is vacating in July. Mr. May asked that the Director let surrounding towns know about the opening.
  - Landfill Solar Project. The project is underway with no major problems.
  - Our FY 20 budget was passed at ATM.
  - Transfer Station Retaining Wall. Originally, there is \$11k from a prior article and the capital improvement approval of an additional \$25K that can be utilized. Mr. Armendo will draft a scope of work and follow up soliciting for bids.
  - Port-a-Jon Regulation. Mr. Armendo stated that he would like to move this up the priority list to have it go into play by July 1. There are many port-a-jons suddenly appearing in town, and none are permitted. There are not enough personnel to drive around town to police these. Discussion ensued.
  - Working Meetings. Discussion noted.
  - Landfill Monitoring Reduction. Mr. Armendo is planning to meet with Campbell Environmental to find cost savings in the well testing and monitoring.

**SEPTIC PLAN REVIEWS**

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1. 51A,B,D Cross Road (M-49/L-16) Linda Scherer, 4-Bedroom Infiltrator Quick 4 Standard Chamber Bed, Repair.

Mr. Armendo stated that in reviewing the plan a number of things popped up: there is no clear indication of dosing due to the pump chamber and it is a 4-bedroom home on a 35k sq. ft. lot and would trigger the maximum feasible compliance requirements and more information is required from the engineer. **MOTION** by Ms. Ryden to table to the next meeting. Seconded by Mr. May. Unanimous.

2. 68 Old Harbor Road (M-85/L-50) David Gilmour, 3-Bedroom Infiltrator Biodiffuser Chamber Bed, Repair.

Mr. Armendo stated that this is the 6<sup>th</sup> rendition of this repair plan and there are still a lot of questions such as the perc holes do not appear to be on the plan; he asked to table the plan until he can get more information from the engineer. **MOTION** by Ms. Ryden to table to the next meeting. Seconded by Mr. May. Unanimous.

3. 40 Oakland Avenue (M-24/L-15-16) Clark Development Corp, 2-Bedroom Contactor, Repair.

**MOTION** by Mr. May to approve subject to ConCom approval. Seconded by Ms. Ryden. Members discussed having engineers include in the plan any over-dig areas and verified by an agent. Ms. Ryden asked if information is on the plan, is not the requirement to follow the plan. The owner stated that yes that is the case. Mr. Weinberg added an amendment there be a condition that the existing wells and wetland line be staked. The amended motion was seconded by Ms. Ryden. Unanimous.

4. Bentley Lane (M-5/L-22D/SL-20) Samantha Pixley, 3-Bedroom Stone Bed, NC. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.
5. Bentley Lane (M-5/L-16A/SL-2) KRG Realty Trust, 3-Bedroom Stone Bed, NC. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.
6. Bentley Lane (M-5/L-16B/SL-3) KRG Realty Trust, 3-Bedroom Stone Bed, NC. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.
7. Gifford Road (M-29/L-22C) Emanuel Pacheco, 4-Bedroom Stone Bed, NC. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.

Later in the meeting, Mr. Armendo recalled that the stormwater plan was submitted and complies with the regulations. This plan will also need approval in the form of an amended motion. **MOTION** by Mr. May to amend his prior motion to now approve both storm water and septic plans. Seconded by Ms. Ryden. Unanimous.

Ms. Ryden noted the Board has now approved 13 more bedroom septic systems adding more load to the groundwater. She offered to organize a working group meeting to review the

denitrification regulations and that the Town is obliged under the TMDL and the Board should start doing its share. Discussion ensued.

## **APPOINTMENTS**

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### **6:30pm – Discussion: Greg Nicholas for Drift Road (M-54/L-3D) Claude Levesque.**

Both the engineer, Mr. Nicholas and owner, Mr. Levesque were present.

The questions concern jurisdictional wetlands. The parcel originally was a 5-acre parcel. In 2017, the then owner approached Mr. Nicolas asking if the property could be subdivided to multiple lots, to which he responded that it could based on area and frontage. Mr. Nicolas stated he informed the then owner that he would first need to delineate the resource areas and then perc the property. He said they filed an ANRAD through ConCom and indicated he had a copy. The resource area delineated was the river zone, which is a stream north of Kirby Road shown on the property. There is also an area delineated as a non-jurisdictional wetland and it was evaluated not only as a wetland but also the possibility of the land subject to flooding.

At the time it was delineated, DEP standards 95-1 were used. The area was not connected to any other categories connected to the Wetland Protection Act and presented as a non-jurisdictional area at that time. Since that time, he understands the Board extended their regulations to include Federally Protected Wetlands.

The question now is, if this is that area and subject to the 100 foot setback. The 1987 Corps of Engineer's Guidelines suggest using soils to make that determination. Mr. Nicholas contacted the ConCom agent to make a site visit to determine soils. Per soil logs noted in the hand out, he noted that Observation Test Hole-1 (OTH-1) at the time of the delineation of this area; it was standing water although at this time it is dry but evident that it holds water. The only evidence found of any oxidation reduction characteristic in the soil was at 24 inches. In order to be wetlands, it is 18 inches and found weeping at 26. The other 2 areas, OTH-2 and the area near the septic system showed nothing at all.

Had he done the entire area, according to the Army Corps of Engineers guidelines, he would not have shown it on the plan at all. But at the time it was done, there was no need to do the testing. In his opinion, it is not a wetland under Federal regulations. Mr. Weinberg stated in 2017, the Board revised the regulation regarding the provision for a waiver if a hydrogeological test was done and changed it to installation of a de-nitrification system. The actual inclusion of the Federal Wetland criteria was in the regulation for a long time. He asked the ConCom Agent to confirm that the area was neither Federal nor Commonwealth jurisdictional wetlands and Mr. Weinberg was satisfied.

Mr. Armendo had no comments. Ms. Ryden stated that the Federal reference was present for a long time and then has an amendment in 2015. Mr. Weinberg stated that that revision was to include the waters of the Commonwealth. Ms. Ryden asked if engineers are aware of this and asked if there is value in informing engineers. Mr. Nicholas said he searched for it but did not find anything on line. Mr. Weinberg felt that the firms who work with the BOH are generally aware of this. Most applicants try to keep their systems out of the buffer zone.

**MOTION** by Mr. May to approve the system at 0 Drift Road (M-54/L-3D) on the referenced plan subject to ConCom approval. Seconded by Ms. Ryden. Unanimous.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING.**

None.

**MOTION** by Mr. May to adjourn at 7:25pm. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk



Present: Philip M. Weinberg, Chair (PMW)  
Maurice E. May, Vice Chair (MEM)  
Tanja E. Ryden, Secretary (TER)  
Matthew J. Armendo, Director (MJA)

Also partially attending: Korrin Peterson, Senior Attorney, Buzzards Bay Coalition

Meeting opened at 10:03 am.

- **Assistant Animal Control – FY20 budget problem.** MJA says there is only \$10,000 in the FY20 ACO budget to support proposed on-call animal control duties. This is an old budget figure that predates both the Town Administrator's compensation change and our own re-design of ACO duties effective with the transfer of the ACO Department from the Board of Selectmen to the BOH on July 1, 2019. The BOH considered several options. First, return to the old ACO duty design that the budget supports. Two, proceed with the new design while alerting the Town Administrator, the Board of Selectmen, and the Finance Committee of our need for extra funds. Discussion ensued and the BOH supports staying with the new duty plan designed to meet Town expectations regarding our planned Keeping of Animals regulation and to avoid future animal abuse. MJA will write up the problem for review and discuss a remediation plan.
- **Port-a-Jons.** Our Director reports they are everywhere with only a few permitted. He suggests a cease & desist order and wants to talk with the larger suppliers. Mr. May suggests revising our existing regulation to include placing responsibility for collecting fees with haulers. Mr. Weinberg says several situations have arisen involving seasonal use that may require re-write of another section. The Board agrees to have MJA talk with Port-a-Jon suppliers.
- **Denitrification Discussion.** TER discussed her recommended revisions of the October 2017 version of the Water RMC draft, which required denite systems for new construction within a River Protection Zone (RPZ) of 200'. TER supports Town-wide denite systems for all new construction. She says visually algae in the River is getting worse. MEM says he supports denite for new construction in two ways: (1) in a 200' RPZ along the Westport River and perennial tributaries and (2) subsets of large new constructions such as municipal buildings, commercial buildings, sub-divisions, and 4B+ houses. PMW likes simplicity but has several reservations: (1) ZPA focus on systems closest to the River; (2) MEM's approach combines two things – higher volumes and affordability – more explainable to people. PMW wants Town-wide large construction categories only, such as 4-Bedroom houses and large commercial construction. Korrin Peterson/BBC discusses other towns with denite regs (Wareham & Tisbury) and recommends town-wide denite for new construction (except area north of Route 177 likely to be sewered). PMW says that is not feasible and says he and

MEM see subsets everywhere. PMW wants to give up distances in favor of subsets. PMW asks, are we ready to require denites town wide? Both MEM and PMW say no, but the Board agreed to continue the denite discussion at future meetings. Corrine Peterson to provide cost data; Mr. Weinberg to inquire about the 3 or 4 bedroom item; Ms. Ryden to work on public education and outreach.

- **Keeping of Animals.** The conversation at the subcommittee is drifting toward registration of all animals in Town and permitting without inspection. PMW supports one set of standards for all animals and one public-hearing process.

#### **TOPICS FOR OUR NEXT WORKING MEETING:**

- Revision of our Port-a-Jon regulation
- Composing a new Denite regulation

#### **TOPICS NOT ANTICIPATED WITHIN 48 HOURS:**

- **269 Howland Road septic approval – continuance from 6/3/19.** At a waiver hearing, during our regular May 5, 2019 meeting, the BOH required a denite system for this property due to its small lot size. However, owner Mr. Rodney Sutton has asked his septic engineer, Mr. Lenny Potter, to request reconsideration, which the latter has done. After discussion, MEM asked for a continuance so he could review the tape of the May 5<sup>th</sup> meeting. Following review, MEM supports the Board reversing its denite requirement due to the spirit of T5. He says that because a well test indicates a nitrogen level well below 10 ppm and neighboring lots have utility drinking water, that there is no need to require a denite system under T5. PMW defends our previous action, noting this is essentially a 4B house on a 1B lot. And while he sees no financial basis for reversal, he acknowledges that the purpose of T5 is to protect drinking water and there is no nitrogen problem in the well. TER disagrees, saying that we have an established policy regarding Maximum Feasible Compliance and we should stick to it. Nevertheless, the Board agrees to continue the issue 269 Howland Rd. as PMW wants Mr. Potter to get the owner to submit a hold harmless agreement and a statement accepting a potential nitrogen risk as his well is just 61' from his soil absorption system. PMW made a motion, seconded by TER and passed unanimously for MJA to follow up on this.
- **Minutes of April 17, 2019.** TER moved to approve the original minutes submitted by MEM, it was seconded by MEM, and approved unanimously.
- **Newspaper column.** The Board is comfortable with TER organizing the writing and publishing, at no cost, a monthly newspaper article on the BOH. She has written an overview of BOH activities as the first article, which is publishable with very minor edits.

- **Stormwater reg compliance – problem.** MJA says that the previous BOH under former Chair Bill Harkins began accepting stormwater plans integrated into septic plans that are before the Board for approval. PMW says the reg allows for expedited plans with minimal disturbance.

**Next work session – June 26, 2019 – 10 am.**

TER left at 12:40 pm. MEM moved to adjourn the meeting, PMW seconded the motion, and the Board voted 2-0 to adjourn at 12:49 pm.

Submitted by Maurice E. May, Vice-Chair

The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip m. Weinberg, Chairman of Public Health  
Maurice E. May, Vice-Chairman  
Tanja Ryden, Secretary  
Matthew Armendo, Director

## **MINUTES**

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1. April 17, 2019 spcl. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.
2. May 15, 2019 spcl. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.

## **OTHER BUSINESS**

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1. Annual BOH Appointments.

**MOTION** by Ms. Ryden to appoint as special agents: Dr. Denis Callen as Medical Advisor; Marilyn Edge as Tobacco Control; Sarah LaRue as part time special agent for Tobacco Control; and Marlene Samson, Harry Potter, Shane Potter, Jonathan Potter as burial agents. Seconded by Mr. May. Unanimous.

2. Community Septic Betterment Discussion. Two meetings ago, the Board voted to begin the program with a 4% interest loan for a standard system and 1.5% denitrification system. Mr. Weinberg circulated the public announcement to the members for comment.
3. Maximum Feasible Compliance-Protocol. Members discussed the regulation being in place for some time through Title-V. Discussion ensued. Ms. Ryden offered to draft something to provide more guidance. Mr. Armendo suggested that the estimate portion should be broken down and clarified for the engineers and a modified check list for the next working meeting.
4. Port-a-Jon Regulation Discussion. Mr. Weinberg re-circulated the re-draft and reorganized and combined the approach that they have taken with the haulers being those responsible for obtaining the permit. Mr. Armendo had comments from contractors. He also added the penalty and enforcement portion. He asked the members if they had any comment. Ms. Ryden stated that it is clearer and more robust and putting the responsibility on the dumpster company to obtain a permit makes more sense. She looked at the application form that would need to be modified to go along with the new regulations. She asked for clarification about the number of days and what was the intent. Mr. Armendo stated that its 5-days within a 30-day period, but not consecutive days. Discussion ensued. Members will provide comments.

## **OUTGOING**

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Noted with discussion. Mr. Armendo noted that the Harbor Inn private beach owner is not going to have exclusive use to a private beach as advertised but rather public beach access, because it would trigger beach testing by the state.

### **DIRECTOR**

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1. Written Report. Noted.
2. Verbal Report as given by Mr. Armendo:
  - FT Agent Position advertising discussed.
  - PT Clerk. Noted.
  - Landfill Solar Project should be completed by the end of August.
  - Port-a-John Regulations – no report.
  - East Beach is being worked on, per the Director.
  - Animal Control. Nothing to report.
  - Landfill Monitoring Reduction: DEP recommends consultant assistance by SW Cole.
  - Transfer Station: back on line for trash and glass recycling in E. Freetown.
  - Temporary Events: Mr. Armendo and Mr. Belanger were very busy this last weekend and there will be more events coming up.
  - Equine, Stable, Pig, Piggeries. There are only 4 more left to wrap up that aren't permitted yet.

### **SEPTIC PLAN REVIEWS**

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1. Carvalho Lane (M65/L60-70/SL-2) Joshua Carvalho, 3 Bedroom NC, Stone Bed SAS. There are no storm water calculations. Mr. Armendo stated that although the septic plan looks fine, there needs to be more data for storm water remediation.

**MOTION** by Ms. Ryden to approve subject to the submission of a storm water plan to the satisfaction of the Director. Seconded by Mr. May. Unanimous.

2. E. Morency Avenue (M18/24&25) Margaret Bernier, 3 Bedroom NC, ARC 36 LP Chambers Bed SAS. Mr. Armendo felt there are unanswered storm water questions on this plan.

**MOTION** by Mr. May to approve plan dated 5/28/19, subject to the submission of a storm water plan acceptable to the Director. Seconded by Ms. Ryden. Unanimous.

3. 663 Division Road (M-48/L-11) Stephen Mello. Mr. Armendo suggested tabling this plan because of questions regarding wetland delineation and proximity of well and no sieve analysis data was provided.

**MOTION** by Ms. Ryden to table to next meeting or when the applicant is ready. Seconded by Mr. May. Unanimous.

### **TOPICS FOR THE NEXT REGULAR MEETING**

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To be determined at next working meeting.

## **APPOINTMENTS**

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### **6:20pm – Food Code Variance Request: Fred Melnyk, Jr. of Bootleg BBQ.**

This was taken off the agenda.

### **6:30pm – Discussion: Sitec for 398 River Road, Existing SAS Location Issue.**

**MOTION** by Ms. Ryden to table to the next meeting. Seconded by Mr. May. Unanimous.

### **6:40pm – Waiver Hearing: Len Potter for 192 Gifford Road, Rita Blanchette Trust.**

There are 2 waivers being requested. Existing cesspool 35 feet from abutter's well.

Variance requested: septic tank, 35 feet vs. 50 feet from site well.

He is trying to keep the tank as close to the effluent as possible.

The nitrate level of the site well is .017. Washing machine line will be tied in by a separate line.

Mr. Weinberg had a problem with the proximity of the tank being referred to as an SAS vs. all the parts of it. The less than 50-foot distance of the septic tank should be approvable. Mr. Weinberg suggested obtaining an interpretation from DEP. The applicant was also present. Mr. Potter suggested talking to DEP and asking about the waiver for less than 50 feet. Mr. Weinberg requested that anything that indicates that the value should be returned as well.

**MOTION** by Ms. Ryden to table to the next meeting and to provide financial information. Seconded by Mr. May. Unanimous.

### **6:50pm – Continued Discussion: Len Potter for 269 Howland Road.**

This was discussed at the working meeting. Mr. May supports the plan as drawn. To save the money, the applicant would accept the risk to their drinking water. Mr. Potter will take a water sample at the end of July and again in September. He explained artesian well drawn from ledge vs. a dug well from ground water.

### **7:00pm – Waiver Hearing: Mark Rodrigues for 64A & 64B Charlotte White Road, Susan Shubitowski Trustee.**

A two-unit condo repair. A complete replacement within 100 feet to site well. A Singulaire System will be used. There will be a pretreatment unit to reduce the size of the unit.

Variances requested: Separation distance between the inlet and outlet pipes of the tanks and the high water table less than 12 inches and acceptance of a sieve analysis.

There is an O&M plan and a deed disclosure document.

**MOTION** by Ms. Ryden to approve conditional on ConCom approval, acceptance of the sieve analysis, hold harmless agreement, deed disclosure for IA system and a deed restriction for 5-bedrooms. Seconded by Mr. May. Unanimous.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING.**

None.

**MOTION** by Ms. Ryden to adjourn at 8:05 p.m. Seconded by Mr. May. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

Present: Philip M. Weinberg, Chair (PMW) Matthew J. Armendo, Director (MJA)  
Maurice E. May, Vice Chair (MEM)  
Tanja E. Ryden, Secretary (TER)

Also partially attending: Chris Wiley (CW) and ACO Donna Lambert (DL).

Meeting opened at 10:03 am.

- **Director review.** Discussion on how to proceed and it was decided to coordinate Board reviews through PMW.
- **Director comp. time.** MJA is requesting payment in lieu of about half his FY19 comp time. The request is for \$2,595, which is covered by the surplus in the personnel portion of the Board of Health budget. TER made a motion to approve subject to budget confirmation, MEM seconded the motion, which passed unanimously.
- **Animal Control Officer (ACO) employment agreement.** MJA says he modeled the ACO agreement after his own and wanted BOH approval before he took it to the Town Administrator (TA). PMW explained the agreement, saying it includes a combination of office hours and on-call hours. DL asked for and received clarification of the arrangement, which is based upon budget restrictions. CW asks why don't we have enough money? PMW says the BOH did not control the FY20 ACO budget and MJA efforts to correct it with the TA were rebuffed. Further discussion ensued, with DL pushing back on Sections II & IV of the agreement. MEM makes a motion to approve contract as written, which fails due to lack of a second. TER suggests new arrangement with Police Department and rewriting Section IV. Special meeting planned for July 1, 2019 to further discuss the agreement.
- **Port-a-Jon regulation.** PMW has comments from TER and MEM on his draft of a re-write of the regulation. MEM suggests changing the title of the regulation to the more generic Portable Toilets, as well as contractor responsibility for permits and clarity on seasonal use (a maximum of 6 months). TER questions section on contractors and thinks we can have a final draft. MJA has left voice mails with larger contractors without response.
- **Maximum Feasible Compliance (MFC) – checklist protocol.** PMW says DEP looks to nitrogen loading of effluent and down-gradient wells. TER wants more detailed information on the incremental cost of denite systems. MEM does not support this checklist due to additional bureaucracy, improper interpretation of Title V, and desire to move on with a denite regulation. TER disagrees with MEM on all points. PMW says he supports two denite quotes on the checklist and acknowledges that DEP's interpretation of Title 5 does not address surface water. His other issues: distance from water bodies and incremental denite costs. PMW will provide written comments to TER for consideration.
- **Denitrification – performance standards.** Passed over.
- **192 Gifford Road.** In 2016, the DEP removed the requirement that septic-tank variances need to come to DEP, and that local Boards can approve. MJA recommendation: given risk of long pipe blockage and DEP's previous approval of tanks <100' from wells, we should approve the plan for 192 Gifford Road. MEM makes motion to approve plans as drawn with waiver, but motion fails for lack of second. PMW moves to approve waiver for septic tank 36' from abutters well, subject to 24-hour hydrostatic tank test; MEM seconds the motion, which passes 2-1, with TER opposed.



- **351 Fisher Road – how to proceed.** The Board has issued an emergency order to vacate. The period to vacate has ended and the seven-day appeal period ended on 6/24/19. Town Counsel says the Board should vote on legal action. TER made a motion for the Town Counsel to take enforcement action; MEM seconded the motion, which passed unanimously.
- **663 Division Road.** TER makes a motion to table this issue until our next regular meeting on July 1, 2019. Her motion was seconded by MEM and passed unanimously.

**TOPICS FOR OUR NEXT WORKING MEETING:**

- Revision of our Port-a-Jon regulation
- Composing a new Denite regulation

TER left at 12:40 pm. MEM moved to adjourn the meeting; PMW seconded the motion, and the Board voted 2-0 to adjourn at 12:49 pm.

Submitted by Maurice E. May, Vice Chair

The Regular Meeting of the Board of Health convened at 6:03 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary

Matthew J. Armendo, Director

### **MINUTES**

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1. June 5, 2019 spcl. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden with amendments. Ms. Ryden asked to include the following after the end of the denitrification discussion: Korrin Peterson to provide cost data; Mr. Weinberg to inquire about the 3 or 4 bedroom item; Ms. Ryden to work on public education and outreach.

### **OTHER BUSINESS**

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1. Community Septic Betterment Discussion. Members discussed posting notices on various boards, cable TV and on the website.
2. Maximum Feasible Compliance Protocol. Mr. Weinberg asked that the draft be reviewed by George Campbell. Mr. Armendo has sent the draft out to Brett Rowe at DEP.
3. Port-a-Jon Regulation Discussion. Members reviewed the draft and are supportive of the content. Ms. Ryden had some corrections that were not substantive and offered the definition of seasonal as described in it. Under purpose, a line indication "this regulation replaces port-a-Jon regulation adopted on July 18, 2011, effective August 1, 2011 and amendment adopted on June 18, 2012, effective June 15, 2012". **MOTION** by Ms. Ryden to have a public hearing on July 29, 2019 to adopt the portable toilet regulation with edits as discussed. Second by Mr. May. Unanimous.
4. Denitrification Discussion. Mr. Weinberg explained that he has used information relating to the integrated water management plan and additional new construction policies to include performance standards. Discussion ensued. Ms. Ryden suggested this be brought up at the next meeting for approval because it has been a long time since this discussion had originally begun. She suggested agreeing on the limit of 19mg/l. Ms. Ryden suggested working with Mr. Weinberg to make a draft ready for public review.

### **OUTGOING**

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Noted. Mr. Weinberg asked that letters reminding people to comply with the registration of equine should be sent.

### **DIRECTOR**

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1. Written Report. Members reviewed the report with no comments. Mr. Armendo stated that he will have the Animal Control report included next time as is done with the other agents' reports.
2. Verbal Report. Mr. Armendo made his report. Discussion ensued over the various items:
  - FT Agent Position
  - PT Clerk

- Animal Control
- KOA
- Transfer Station
- Temporary Events
- FY 19 Year End

### **SEPTIC PLAN REVIEWS**

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1. 663 Division Road (M-48/L-11) Stephen Mello, 1-Bedroom Repair, Quick 4 Standard Infiltrator Bed. Len Potter – 1 bedroom repair. Wetland flagged. **MOTION** by Ms. Ryden to approve the repair and accept the sieve analysis. Seconded by Mr. Potter. Unanimous.
2. 192 Gifford Road (M-24/L-17) Rita Blanchette Trust, 4-Bedroom Repair with Variances (Hearing was 6/17/19)-Needs Hold Harmless, Board Vote Required. Len Potter was present, continued from 6/17/19 to approve the Hold Harmless Agreement. Board voted to approve the tank but not the plan. This request is for approval of the Hold Harmless. The system is still being designed for cost. Discussion ensued. The plan is not for review or approval at this time. **MOTION** by Ms. Ryden to approve the Hold Harmless Agreement for reduction in distance from the septic tank to abutter's well. Seconded by Mr. May. Unanimous. The plan is scheduled to be on the July 29, 2019 agenda.
3. 94 Cross Road (M-49/L-5) Richard & Bobbi Kornick, 3-Bedroom Repair, Infiltrator Quick 4 Chamber Bed. **MOTION** by Mr. May to approve the repair. Seconded by Ms. Ryden. Unanimous.
4. 249-B Fisherville Lane (M-74/L-7) Joy Goldfarb 2012 Irrevocable Trust, 5-Bedroom Repair, Quick 4 Standard Infiltrator Bed. Len Potter was present. Ms. Ryden asked about the caretaker's house and why it is not on the plan. Mr. Potter reviewed the plan and the directions of the waterline flow to the next waterline and so forth. **MOTION** by Mr. May to approve the repair, pending ConCom review and reflecting the updated plan for a 1,500-gallon tank. Seconded by Ms. Ryden. Unanimous.
5. 16 Cook Lane (M-87/L-39A&G) Lee Rudolph & Patricia Cummings, 3-Bedroom Repair, Quick 4 Infiltrator Chamber Bed. This plan was previously approved and nothing was acted upon and it has since expired. **MOTION** by Ms. Ryden to approve plan dated 6-7-19 subject to ConCom review. Seconded by Mr. May. Unanimous.

### **TOPICS FOR THE NEXT REGULAR MEETING**

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Mr. Armendo suggested a working meeting on Wednesday or Thursday next week. The members agreed upon Wednesday, July 10, 2019 at 11am.

### **PUBLIC HEARING**

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#### **6:30pm – Application for Garbage Hauler Permit: CL Noonan of W. Bridgewater, MA**

Carlos Pereira was before the Board and he noted he only will be using roll offs and the permit fees will be paid by the applicants. **MOTION** by Mr. May to approve the permit. Seconded by Ms. Ryden. Unanimous.

**APPOINTMENTS**

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None.

**TOPICS NOT REASONABLY ANTICIPATED**

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None.

**MOTION** by Mr. May to adjourn at 7:27 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

Present: Philip M. Weinberg, Chair (PMW) Matthew J. Armendo, Director (MJA)  
Tanja E. Ryden, Vice Chair (TER)

Absent: Maurice E. May, Secretary

Meeting opened at 11 am.

### **OTHER BUSINESS**

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1. **Matt's Mileage/Agent Coverage:** Matt described his need to cover the food inspections and other duties of retired agent on Saturdays and evenings in order to keep up. Examples include Farmer's market and events at brewery and winery. He is unable to be reimbursed for mileage and will otherwise accumulate comp time that cannot be covered. He is requesting to be paid the agent's rate for the extra work. PMW and TER were supportive of such a request.
2. **Port-a-Jon Regulation:** Public hearing already scheduled for 7/29.
3. **Denitrification:** PMW expressed concern about the cost and how to explain the rationale for why BOH is imposing this requirement. PMW also feels Maury May would be opposed to the current proposal and therefore there would not be a consensus. TER asked what specific information/data she would need to provide to support the need to go forward.

### **TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

1. **KOA – REG/CENSUS/APPLICATION:** Matt provided a one-page draft application form. TER described her reconceptualization of categories covered by regulation.
2. **192 Gifford Rd – Denitrification:** PMW provided information from George Campbell topography and water flow on site. PMW moved and TER seconded approval of the plan as submitted. Vote: Unanimous
3. **Tobacco Violation Update:** Discussion ensued. Still need to determine if permit revocation is an option based on wording of the hearing notice letter.

Submitted by Tanja E Ryden, Vice Chair

The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** Philip M. Weinberg, Chairman                      Matthew J. Armendo, Director  
              Tanja Ryden, Vice-Chair  
**Absent:** Maurice E. May, Secretary

### **MINUTES**

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July 01, 2019 reg. **MOTION** by Ms. Ryden to approve as amended. Seconded by Mr. Weinberg. The vote was 2 in favor. Mr. May was absent.

### **OTHER BUSINESS**

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Pumping Reports. Mr. Armendo noted that there might be a typo in pump-out of Truman Street. He also said he would be reaching out to Fairhaven Honeywagon and Frades because the reports were not in proper form.

### **OUTGOING**

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Noted.

### **DIRECTOR**

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1. Written Report. Mr. Armendo noted that he has included Animal Control and the Public Health Nurse. He said if there are any questions, to please reach out to him. Mr. Armendo stated that he was not able to attend the last keeping of Animals meeting and Mr. Weinberg gave him an update. Mr. Weinberg also noted the public hearing for the Port-a-Jon Regulation is ready. Mr. Armendo stated it is scheduled for July 29<sup>th</sup>.
2. Verbal Report
  - FT Agent Position. Mr. Armendo sated they have interviewed a candidate and are waiting for additional applications.
  - PT Clerk. They have received many applications and Mr. Armendo expects to begin interviews next week.
  - Animal Control. Mr. Armendo stated that they have hired Victoria Martin and that her on-call days will be Thursday through Sunday.

### **SEPTIC PLAN REVIEWS**

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1. Bright Wood Path (M-40/L-31/SL-2) BJB, LLC, 3-Bedroom NC, Stone Bed (6/24). **MOTION** by Ms. Ryden to approve subject to ConCom review. Seconded by Mr. Weinberg. The vote was 2 in favor. Mr. May was absent.
2. Bright Wood Path (M-40/L-31/SL-3) BJB, LLC, 4-Bedroom NC, Stone Bed (6/24). **MOTION** by Ms. Ryden to approve subject to ConCom review. Seconded by Mr. Weinberg. The vote was 2 in favor. Mr. May was absent.

3. Bright Wood Path (M-40/L-31/SL-4) BJG, LLC, 3-Bedroom NC, Stone Bed (6/24). **MOTION** by Ms. Ryden to approve subject to ConCom review. Seconded by Mr. Weinberg. The vote was 2 in favor. Mr. May was absent.
4. Division Road (M-47/L-5A/SL-2) William Shaw Jr., 3-Bedroom NC, Quick 4 Standard Infiltrator Bed (6/28). The applicant is constructing a residential home in the footprint of the old barn. The stormwater regulation looks for a disturbance of 5K sq. ft. and that calculation is included for new construction but a repair or replacement it is exempt. It would be helpful to clarify based on any clearing, if any. He suggested approving based on the supposition. He reviewed the area/space and did not feel there was 5K sq. ft. of alteration. **MOTION** by Ms. Ryden to approve subject to verification of stormwater calculations. Seconded by Mr. Weinberg. The vote was 2 in favor. Mr. May was absent.
5. Heritage Drive (M-23/L-78) Warren Messier, 3-Bedroom NC, Stone Bed. Mr. Armendo stated that there is no information on how the property is being combined as these could affect the nitrogen loading. **MOTION** to table to July 29 for more information to clarify questions on combining lots, stormwater questions and reserve area clarifications. Seconded by Mr. Weinberg. The vote was 2 in favor. Mr. May was absent.
6. 375 Pine Hill Road (M-37/L-11) Karl & Jennifer Megules, 3-Bedroom Repair, Infiltrator Quick 4 Chamber Bed (6/28). Ms. Ryden stated that plan notes do not say that these need to be in compliance with BOH. The engineer refers to the DEP modified approval for this AI system. Mr. Armendo can advise the engineer that the plans need the note prior to approval. **MOTION** by Ms. Ryden to approve subject to modification of the plan to include standard note to include compliance with Title-V and local Board requirements. Seconded by Mr. Weinberg. The vote was 2-in favor. Mr. May was absent.
7. 185 Tickle Road (M-21A/L-78) Frank & Eva Boback Trustee, 3-Bedroom Repair, Quick 4 Chamber Bed (7/10). **MOTION** by Ms. Ryden to approve subject to ConCom review. Seconded by Mr. Weinberg. The vote was 2-in favor. Mr. May was absent.

#### **TOPICS FOR THE NEXT REGULAR MEETING**

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None.

#### **PUBLIC HEARING**

**6:20pm – Application for Garbage Hauler Permit: MAC Disposal of Acushnet, MA.**

This hearing is postponed to the next meeting.

#### **APPOINTMENTS**

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**6:30pm – Tobacco Violation Hearing: Walid Assi of Cedar Smoke Shop, 35B State Road.**

Mr. Assi was present with Attorney William Flanagan representing Cedar Smoke Shop. Mr. Weinberg stated that subsequent to receiving notification from Marilyn Edge, new information about other violations have been brought to the Board's attention. Mr. Weinberg gave a notice of the hearing and its scope that would include suspension and possible revocation and at this time the Board is giving new notice and that, the hearing is postponed to hear testimony regarding the new violations. He suggested continuing this hearing to the next meeting.

Attorney Flanagan read the notice and requested additional information. Mr. Weinberg explained that the Board did not have any and would be relying on testimony a week from now. The continuation is due to additional violations, which would make the smoke shop subject to not only a suspension but also possible revocation. By postponing, the owner is receiving notice of the hearing.

Ms. Edge was recalled back in the meeting. She stated that she just spoke with Mr. Assi about no signs were received and she insisted that the sign age was provided through the tobacco control program, as all others have. She said he received his signage. Ms. Ryden visited the location, had some questions regarding the signage, the age of employees, and asked if the Board could ask for documentation demonstrating all the employees are of the proper age. Ms. Edge suggested confirming with the attorney that the Board does not need to wait for a decision from the District Court. Mr. Armendo is allowed to card the employees and photograph the ID, especially if under 18.

Ms. Edge is planning to be present unless the State hires someone to take her place since she is now retired from the position. She noted from what she heard, Mr. Assi appealed the violations in District Court. August 6 is the court date. The next Board meeting will be a special meeting on July 22, 2019 to take testimony and render a decision. Ms. Edge recommended there be a member from Town Counsel present. Discussion ensued. **MOTION** by Ms. Ryden for the BOH to request Town Counsel be present for the meeting of July 22, 2019. Seconded by Mr. Weinberg. The vote was 2 in favor. Mr. May was absent. Ms. Edge provided a packet with information she was able to gather. Mr. Armendo will keep the Board up to date.

**6:50pm – Waiver Hearing: Len Potter for 92 Sylvia’s Lane, John Buxton.**

Len Potter was present representing the owner for a 2-bedroom summer seasonal cottage close to the river’s edge and the septic needs to be replaced with a 2,000-gallon tight tank.

Mr. Potter planned the tank 50 feet away from the river and that is the variance he is requesting. He will need a waiver for being 7 feet from the neighbor’s property. Discussion ensued. Mr. Weinberg felt it would be helpful to walk through the regulation and its intent. The design was reviewed and discussion ensued. **MOTION** by Ms. Ryden to approve subject to a waiver for setback from tight tank to property line allowing 7 feet, ConCom review; execution and recording of a deed restriction for limited seasonal use; a hold harmless agreement; notice that the tight tank is recorded at the registry of deeds; a 24-hour hydrostatic test; submission of an operations and maintenance plan with at least one annually; an annual check and subject to modification based on use and an update as needed. Seconded by Mr. Weinberg, The vote was two in favor Mr. May was absent.

**7:00pm – Waiver Hearing: Wendy Henderson, 55 Drift Rd, Philip Vance & Debra Crossley for Alternative Layered Cake System.**

Mr. Weinberg noted that he knows Mr. Vance socially but does not feel it is a conflict of interest.

The SAS is close to the water table. Ms. Henderson explained the system and dosing cycles for this year round house. Ms. Henderson explained the system and that no variances are being sought.

Discussion ensued over the requirement for a deed-restriction. Mr. Vance asked if they could ask for a variance to the deed restriction. He was told if there was a change in system that would allow it, he



would make a request to the Board. **MOTION** to approve the A/I Layer Cake System subject to ConCom review, subject to a 4-bedroom deed restriction and notice of hold harmless agreement. Seconded by Mr. Weinberg. The vote was 2 in favor. Mr. May was absent.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING.**

Mr. Armendo stated that the special meeting is set for July 22. He suggested meeting that day or anytime before the next regular meeting on July 29. Discussion ensued over the Keeping of Animals Regulation and the Portable Toilet Regulation.

Members discussed the cyanobacteria on Devol Pond.

Mr. Weinberg also discussed denitrification systems on lots because of its proximity to an abutting property and the need to discuss under the topic of Maximum Feasible Compliance.

**MOTION** by Ms. Ryden to adjourn at 7:52 p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Special Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

**Also Present:** Marilyn Edge, Officer Kyle Fernandes and Detective Christopher Dunn

**Tobacco Violation Hearing: Walid Assi of Cedar Smoke Shop, 35B State Road and his Attorney Brian Corey.**

Members of the Board conducted an adjudicatory hearing regarding alleged violations by the Cedar Smoke Shop owned and operated by Mr. Walid Assi.

Procedurally, Mr. Weinberg read into the record the notice dated July 15, 2019 that was hand delivered to Mr. Assi on July 15, 2019 at the Board of Health of meeting. A copy of the notice is attached to minutes. A prior letter dated June 27, 2019 (Exhibit A) did not include the possibility of possible revocation and therefore was redrafted and hand delivered at the July 15, 2019 (Exhibit B) meeting of the Board of Health that Mr. Assi was present at.

Atty. Corey noted for the record that the notices were not addressed to Mr. Assi but not the corporate entity.

Mr. Weinberg reviewed ground rules at this time prior to taking testimony. Mr. Weinberg asked the individuals giving testimony to swear in. They will give names and addresses when they give testimony.

The first complaining witness is Marilyn Edge, the former director of the Tobacco Collaborative covering Westport Massachusetts. She noted that she retired on June 28, 2019 and she is not getting compensated in any way for being present this evening nor for being present at the last meeting or any other meetings for this case so far since June 28, 2019. She stated she had many occasions to speak with Mr. Assi and in conversation with his attorney has denied all those conversations. Under the tobacco control program, regular compliance checks were performed in various communities and a list of violation dates are in the packet that the Board has received.

Mr. Weinberg asked Ms. Edge to describe what initiated the investigation, the actions taken and the outcome to get a sense of the chronology of events.

Ms. Edge stated that in 2018 the Tobacco Control Program office in the City of Fall River received two notices from the FDA that during their compliance checks, they had two violations.

Attorney Corey objected that the rules may be liberal and some hearsay is expected but this appears to be hearsay once removed and there are no FDA representatives here or is any evidence presented. He added if there were any evidence from her conducting that investigation, it would be perfectly normal for her to present her information that was reliable and admissible. In this instance, she did not conduct the investigation.

Mr. Weinberg understands the reference as what initiated her compliance check on the Cedar Smoke Shop. Ms. Edge stated that was the case and that the FDA documents are part of the submitted packet.

The FDA has two violations and protocol was for Tobacco Control to perform compliance checks as well. Ms. Edge noted that she had conversations with Lt. Paul Holden and Officer Fernandes, the SRO at the High School. She went to the High School and met with a group of High School students that are conducting an anti-smoking project and listened to a litany of complaints from them about this particular retailer. The Westport Police conducted checks that did not involve her. Ms. Edge conducted compliance checks on her own with an 18-year-old male student who is not a resident of Westport and in two cases; he was able to purchase e-cigarette products from two different clerks at Cedar Smoke Shop. These were purchased on June 11 and June 25, 2019.

Mr. Weinberg asked Town Counsel, Nicole Costanzo, if it were necessary to take in the products as evidence and she responded that the description was sufficient. He asked if Ms. Edge issued a citation. She responded that she did under the Town's regulation: the first was a fine of \$100.00 and the second violation for \$200.00.

Mr. Weinberg asked Ms. Edge to describe her conversations with Mr. Assi. Atty. Corey noted for the record and objection.

Ms. Edge proceeded and stated that when the Board of Health strengthened their Tobacco regulations in November effective December 30, all of the retailers in Westport were notified of the change. On January 2, 2019, a letter was issued to all the retailers with a copy of the revised regulation and instructions of the new signage needed. She had several conversations with Mr. Assi who indicated that he had no idea that the regulation changed. She stated she called him on the phone and discussed the age of his employees because when the regulation went into effect, his establishment is an adult only establishment in town, no one under 21 should have been allowed in the store. She stated they had a phone conversation in November and at that time, she said that she was not going to have him fire his entire staff but that he should be moving to be in compliance with the new regulation and that eventually all his employees would have to be 21+. Ms. Edge stated that she provided Mr. Assi with signage as all other retailers had been given. She said that she and Attorney Flanagan and Mr. Assi had a conversation at the last meeting that he never got the sign and so she brought some today. Mr. Weinberg asked where the signs came from. Ms. Edge stated they came from her department and she distributed them. She noted that Mr. Assi's shop was the only retailer in Westport that did not display them. He still had signs indicating 18 and she said he denied he ever got any new signs and denied that any other store in Westport received them.

Mr. Weinberg asked if there is a report generated and Ms. Edge explained that they enter the information into a central database. She noted that since she retired, she no longer has access to that. However, what she provided is what she had printed out at the time. Mr. Weinberg asked to identify the paperwork for which Ms. Edge identified the first offence citation: she stated she prepared and had hand delivered the citation on June 27, 2019 and the citation that carried a \$100 fine for the first offense. Mr. Assi signed for the citation. She explained the process of the tickets to Mr. Assi that he could pay or appeal. She said Mr. Assi folded the tickets and put them in his pocket, stating he would give them to his attorney.

Mr. Weinberg asked if members of the Board had questions.

Ms. Ryden stated that she understands the town regulations and the state law both came into effect December 30, 2018. She asked if he was supposed to be in compliance with the state law. Ms. Edge noted he does not because the town regulations supersede them.

Mr. Weinberg stated the Board has a letter dated February 1, 2018, which is the first notification from the FDA addressed to the Cedar Smoke Shop indicating the violation of Federal Regulation where by a minor under 18 purchased an e-liquid product and no one checked the minor's ID. Atty. Corey asked what was the origin of the document and how it came to the Board. Mr. Weinberg stated it is a FDA print out from their website provided by Ms. Edge. Atty. Corey objected because it is a third party provided document and that under these conditions, evidence is very liberal and it is not a self-authenticating document. In Town Counsel's opinion, the Board can consider these documents as evidence and the board can decide if they find them reliable and credible reports. The rules of evidence do not apply in this type of proceeding, in her opinion, and the Board can determine the weight that it would like to give the documents.

Ms. Edge stated that the FDA website is public and anyone can check these documents and print them out. She added that Mr. Assi would have received the first notification within 48 hours by UPS or FedEx, where he would have had to sign for it.

Mr. Weinberg stated that the second document, Exhibit E, is an FDA administrative complaint for a monetary penalty for the same violation. It also summarizes the history of violations going back to November 2018 for selling an e-tobacco product to a minor under 18.

Atty. Corey was recognized and he thanked the board for allowing him to examine the witness. He asked what time she arrived today and where did she go. She stated she arrived just after 5pm and went upstairs for a meeting she was asked to attend in the offices of the Board of Health. Present were Town Counsel, Mr. Weinberg and Mr. Armendo. She said when the other members of the Board came she left. Attorney Corey asked what the purpose was of attending a meeting. She stated it was a procedural request. Mr. Cory asked if she was employed and for whom she worked. Ms. Edge stated she was retired and prior to retiring worked for the City of Fall River Health Department for 19 years as Tobacco Control Director since 2004 and after school coordinator prior to that. He asked where she had received her police investigative training and Ms. Edge stated from her experience working with 13 communities' police department. He asked if she was properly trained in the use of confidential informants. She stated she had from the Fall River Police Department after 2004 and noted the Officer and it was part of the program training. The police officers went with her as she was performing her duties. Ms. Edge contacted the Police after the FDA letters were received, most likely in early January. He asked if she offered to under-aged buys and where did the students come from. She stated that she did utilize them and that these students were referred to her by their guidance counselors and that they are so referred due to their interest in law enforcement jobs. Atty. Corey asked who they were. Ms. Edge stated she is not at liberty to say. These students are not City employees but rather receive a cash stipend funded from the FDA. He asked how these students are trained and Ms. Edge said that they follow on line training. He also asked where this information is and Ms. Edge stated that information was in a file in her office.

Atty. Corey asked who utilized her confidential informant. She stated only she did and not the police. He asked when her first conversation with Lt. Holden. She said it would have been early January. Atty. Corey asked if she was required to keep a phone log as a city employee. She said she was not and he asked how can she recall when she last spoke with Mr. Assi. Ms. Edge stated

that her last conversation was with Mr. Assi at the prior BOH meeting on July 15 and prior to that on June 7<sup>th</sup> and prior to that, it would have been at the time of the FDA letter receipts. He asked when were the other conversations and Ms. Edge responded there would have been several more. He asked about a phone log entry and she stated there would not have been because she was not required to keep one.

He asked what officers assisted her on the buys at the shop. She said none did, they conducted their own buys. He asked her what were those dates. She read the dates to him and then he asked her if some of those dates coincided with each other on purpose and she said yes. He asked if the buyer was the same person used by her and she said no; he then asked if the coincidental date was purposely coordinated. She said yes it was. Atty. Corey asked if there was anything not attached to the ticket to Mr. Assi.

Mr. Cory asked about the June 25 data and did not see one for June 11. There were other dates but these were corresponding in to the police department visits.

Attorney Flanagan asked Ms. Edge how long after the day of the violation is delivery of a citation requires. She noted it was 15 days or June 26 but was not delivered until the 27<sup>th</sup> and would not be valid in a district court level. The first citation is invalid. Ms. Edge stated that it does not make the second violation invalid. Mr. Flanagan asked about the informant and other questions pertaining to how he was paid and when he began working prior to age 18 and what he was compensated. He asked how the data was accounted for. He asked if they check in pockets, socks and sneakers. She checked the pockets, but otherwise the informant is not searched before the buy. She asked how much money was given. She responded \$20. He asked if any of those products were tested to see if they contained tobacco. She said no. He asked if the labeling indicating the contents vs. labeling of cigarettes. He asked how many checks were performed at the shop since they opened. She stated five checks.

Mr. Weinberg asked the next witness to approach the microphone. Officer Kyle Fernandes, the School Resource Officer stated that he was assigned to the School February 19. He was made aware that JUULling and vaping was a big issue in the school; this relates to nicotine consumption. Over time, he developed a rapport with both students and teachers regarding the prevalence of this material in the school. It became apparent that there were a couple of the kids who would go the Cedar Shop and buy products, and later selling it for twice the price among other school kids. He had his informant go in the store during his investigation. He was contacted by MA State Trooper Paul Martin who had made a motor vehicle stop at the Cedar shop and observed vaping materials on the seat. The Trooper went into the store to discuss with Mr. Assi. Attorney Corey objected to this testimony because of the third person nature. Mr. Weinberg stated he would let him continue. Officer Fernandes stated that he had a copy of the state report. Counsel for Town reviewed the material; it was marked as Exhibit I. He said that Troupier Martin went to look at the surveillance tape with Mr. Assi. The tape revealed that Mr. Assi stood next to the clerk and at no time was an ID solicited from the buyer who was clearly buying tobacco products. The report reveals the clerk's age as 18. Officer Fernandes stated that he had the informant enter the Cedar Smoke shop to purchase nicotine products on different occasions. He indicated the weeks that these happened. The informant made buys the week of May 23, 2019 and the week of June 9<sup>th</sup> and June 24<sup>th</sup> he purchased a stick and this was the last buy.

No further questions from the Board.

Atty. Corey asked how many reports were written on this matter. The officer stated that 2-3 reports. Atty. Corey asked how many citations or arrests were issued. He did not. He said the kids came and spoke to him about the problems, he did not ask them to speak to him. Atty. Corey asked if he had prior permission from the parents. The officer said he did not as the students came to him. Attorney Corey asked questions pertaining to the officer's gaining knowledge of the chain of sales. Town Counsel suggested that the Chair may stop this line of questioning. The Chair indicated that the officer was clear that the students went to him with information.

Atty. Corey asked how old the informant was and the officer stated that they were 18. The attorney insinuated that the informant was not confidential. Town Counsel stated that this line of questioning was inappropriate. The attorney stated that the officer is unwilling to share the particulars of his investigation and a proof to invalidity.

He asked when he contacted Ms. Edge. The officer referenced his notes and Attorney Corey argued that the officer could not remember dates. Town Counsel informed the Chair that this line of questioning was inappropriate and argumentative and that he can stop it.

Atty. Corey asked if he is instructed to report relevant details and asked for the dates and times. Town Counsel informed the Chair that this line of questioning was inappropriate.

Mr. Weinberg stated that he would like the attorney to confine his questioning to the date the purchase was made. Atty. Corey stated he would like to ask a couple of questions, through the Chair, with regards to the purchase. He would like to know the dates and times without the officer referring to his notes. The officer stated that the dates and times will not be given at this time due to the fact that it is still under criminal investigation and that with video surveillance, his confidential informant could be identified. Atty. Corey said the Board should strike his testimony in this matter due to the lack of dates and times. The officer is unwilling to tell us the time, said Atty. Corey. Mr. Weinberg clarified that the officer has already stated it was during the week the offenses occurred and it has been ascertained and corroborated with the other witness. Mr. Weinberg stated the Board can consider its weight but will not strike his testimony.

Attorney Corey asked with regards to his testimony, if the officer had entered the premises prior to the issuance of the search warrant. He stated he had not entered the premises. Atty. Corey affirmed the officer did not know what the interior looked like before the issuance of the search warrant.

Atty. Corey asked the officer that he indicated in his affidavit the individuals he was dealing with were operating in violation of the education reform act and in illegal possession of contraband on school property. Town Counsel stated that this document was not before the Board. Mr. Weinberg also stated this document has not been introduced. Mr. Weinberg did not see the relevance. Town Counsel stated that there is a criminal investigation and the Chair can limit this line of questioning. Atty. Corey asked the officer how many times he had individuals visit Cedar Smoke Shop. The officer responded: three.

Attorney Flanagan asked if he had taken video evidence and if it was the device or the tapes. The officer responded that they took the entire device. He asked if there was any other surveillance; the officer stated that they had none other. Attorney Flanagan asked if Officer Fernandes had an opportunity to look at the video surveillance. He responded no and that it was with the State Police. Mr. Flanagan asked if he observed Mr. Assi selling any tobacco product to anyone under

21. The officer stated that no one other than what Trouper Martin observed of Mr. Assi standing next to the clerk. Mr. Flanagan asked if the officer had any information that Mr. Assi personally sold to under 21. He responded that he did not.

The attorneys had no further questions.

Mr. Weinberg wanted to clarify that for the purchase of weeks of 5/23/19 and 6/9/19, the confidential informant came out and showed him what he purchased and if his ID was checked. He said that he did show him what he bought and his ID was not checked. The officer stated the age check was not asked in the week of 6/9. Mr. Flanagan asked if the clerks who sold the tobacco were fined. The answer was no.

Atty. Corey stated that since the violations, employees under 21 have been terminated. Mr. Assi has purchased an ID scanner. All employees are 21 or older. Atty. Corey stated that there is no indication in the regulation on what constitutes a violation. He also noted the first ticket is void because it was delivered one day late. The Board has every right to issue further action under section A. He has offered the Board a suspension of the license for 14-day closure and a \$100 fine. The signage is in place. The scrutiny applied in this case was extraordinary. He is making this offer of compromise or abide by the regulation of first time fine of \$100 fine. He does not qualify under any other term of section O, Violations. He is making these representations without waiving any right to appeal or issuing any statements to the validity of the investigation. Atty. Corey stated that his client wishes to move on and he understands that mistakes have been made. He has shown he is willing to correct those mistakes and remediate the issues as a responsible business owner. He thanked the Board for their time.

Mr. Weinberg stated that he would look to Town Counsel's opinion. However, the regulation clearly stated that no one under 21 shall purchase or sell products. Mr. Assi is the business manager. Mr. Weinberg stated that it has been proven that sales of under 21 years of have taken place.

Atty. Corey stated the Board has received evidence of two citations for violations having been issued; the actions of the police are ongoing with criminal evidence being filed. The only evidence are the citations.

Town counsel stated that Board can use the evidence provided. The regulations do provide a definition for tobacco products. The definition includes products derived from tobacco regardless of the nicotine content. There has been evidence presented today of underage sales of tobacco products as that term is defined in the Board's regulations.

In Town Counsel's opinion, the Board can consider all the testimony that was given. It is up to the Board to determine if testimony is reliable and credible and in determining whether additional violations have occurred while relying on the documents that have been given to the Board including reports from the FDA and the police department.

As for the other opinion regarding the issuance of a citation, whether it is late or not, does not in any way limit the Board's ability to consider the underlying charge as a violation of the regulations. The regulations in Counsel's opinion, are very clear and are defined as a violation and that is anything that is not compliant with the sections of the regulation.

The regulations specifically prohibit under age sales and the minimum legal age in Westport is 21 and therefore, in the Counsel's opinion, the Board can consider the testimony about the multiple under age sales including all of the incidents in the public notice of the June 11 compliance check and June 25 compliance check by the town as well as the January 19, 2018 and the November 15, 2018 compliance checks and compliance checks done within three weeks by the town and state police.

Ms. Ryden asked if the Board would have the opportunity to ask questions of counsel present. It was the opinion of the town Counsel that questions could be asked but may not be answered because of the current criminal case. Ms. Ryden asked of Mr. Assi if he was willing to be sworn in. He responded he was not. Ms. Ryden asked to provide testimony. Town Council said she might have to recuse herself from deliberation.

If it is incidents not in this report then it is not part of the proceedings and should not come out at this time, per Town Counsel. Ms. Ryden said she therefore does not have any testimony. Town Counsel said that these are the incidents that the Board will deliberate upon.

Atty. Flanagan said that the Board members could not vote on the matter that have personal bias or predetermined information. Attorney Corey stated including any personal or familiar interactions.

Atty. Corey said in light of the member offering to testify, it would indicate that she did have information that would be in conflict.

Mr. Weinberg suggested taking a break with town Counsel. The Board reconvened after a short break to deliberate with counsel.

Ms. Ryden stated on the advice of Town Counsel, she will voluntarily recuse herself to avoid any appearance of conflict and step away from the deliberations.

Mr. Weinberg then walked through the procedures.

**MOTION** by Mr. May to close the evidentiary portion of the discussion. Seconded by Mr. Weinberg. The vote was two in favor with Ms. Ryden recused.

At this time, the chair reviewed the documents and the FDA report revealing that there was an underage sale at the time.

**MOTION** by Mr. May that the compliance checks of November 2018 and January 2018 are in violation of the Board of Health regulations for sale of nicotine products to under the minimum legal sales age. Seconded by Mr. Weinberg. The vote was two in favor with Ms. Ryden recused herself.

With regards to the evidence from the police from the week of May 28 and June 11 & 25:

**MOTION** by Mr. May to find that the Westport Police Department compliance checks of May 28 and June 11 & 25 are valid in that it was determined that underage minors were purchasing tobacco products. Seconded by Mr. Weinberg. The vote was two in favor with Ms. Ryden recused.

With regards to evidence of minors purchasing nicotine products:



**MOTION** by Mr. May to find that the Westport compliance checks June 11 & 25 of 2019 are valid and that it was determined that tobacco products were sold to underage minors. Seconded by Mr. Weinberg. The vote was two in favor with Ms. Ryden recused.

Regarding evidence of June 7 and State Police action on June 7, 2019:

**MOTION** by Mr. May to find that the State Police compliance check on June 7, 2019 led to the discovery that underage minors were purchasing tobacco products. Seconded by Mr. Weinberg. The vote was two in favor with Ms. Ryden recused.

Mr. Weinberg counted a total of 8 violations. Disposition:

Mr. May did not feel that it warranted revoking the license and put the shop out of business. Town Counsel stated that with four violations in a 12-month period, the Board could take enforcement action lesser than revocation, including suspending the license for 60 days. However, in light of the ID scanning machine the Cedar Shop is showing good effort but Mr. May supports suspension of the license for 60 days. Mr. Weinberg did not feel the timing of the suspension is of concern and preferred to suspend it sooner than later. He stated that what surprises him is that Mr. Assi had numerous notices of underage sales and did not make any reparation. The importance the Board gives to this regulation and the fact that Mr. Assi was selling addictive products to children, merits shutting down the operation for 60 days is a show of the Board's commitment to protect children and evaluation of the seriousness of the offenses.

**MOTION** by Mr. May to suspend the Tobacco License for 60 days to commence when notice is received by the Cedar Smoke Shop Inc. Seconded by Mr. Weinberg. The vote was two in favor with Ms. Ryden recused.

Attorney Corey stated that the store would close for 60 days, as tobacco is all that is sold.

**MOTION** by Mr. May to adjourn at 8:19 p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

### **MINUTES**

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July 22, 2019 spl. **MOTION** by Mr. May to accept as amended. Seconded by Ms. Ryden. Unanimous.

May 20, 2019 reg. **MOTION** by Mr. May to accept as amended. Seconded by Ms. Ryden. Unanimous.

### **OTHER BUSINESS**

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1. Pumping Reports. Noted.
2. Next working meeting: Aug. 07, 2019 @ 10am is confirmed.

### **OUTGOING**

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Ms. Ryden asked about a couple of waste disposal services that have not applied for a permit. Mr. Armendo stated that there has been no word from one and the second entity will be hiring a 3<sup>rd</sup> party.

The Harbor Inn and Title-V Inspection: the odor was reported to be from garbage containers. However, Mr. Armendo stated that he went and observed no garbage container. He responded by letter that the Inn would be required to have an inspection.

### **DIRECTOR**

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Written Report. Noted.

### **SEPTIC PLAN REVIEWS**

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1. 1847 Main Road (M-83/L-76) John Buxton et al, 3-Bedroom Repair, Stone Bed. Mr. Weinberg stated that the application did meet maximum feasible compliance. The well is up gradient from the SAS. **MOTION** by Mr. May to approve conditional on a 3-bedroom deed restriction. Seconded by Ms. Ryden. Unanimous.
2. 51A,B,D Cross Road (M-49/L-16) Linda Scherer, 4-Bedroom Repair, Quick 4 Standard Infiltrator Chamber Bed. Mr. Armendo recommended that this plan be continued to the next meeting, as there is more information needed pending consultation with the engineer. **MOTION** by Ms. Ryden to continue subject to additional well data. Seconded by Mr. May. Unanimous.
3. 1067 Drift Road (M-55/L-52) Charlotte Babbit Trust, 4-Bedroom Repair, Infiltrator Quick 4 High Capacity Chambers. Mr. Armendo suggested some additional notes on the plan and he is ok with the overall plan. He suggested the Board approve contingent on the stabilization statement and compliance with Title-V statement. **MOTION** by Mr. May to approve conditional on ConCom

approval and conditional on the statement noted to be placed on the plan. Seconded by Ms. Ryden. Unanimous.

4. 104 Forge Road (M-28/L-20F) Mark & Christine Wiley, 3-Bedroom Repair, Presby Bed. Attorney Brian Corey and Engineer Greg Nicholas were before the Board. Mr. Weinberg stated that the well is up gradient to the proposed septic system. The well test indicates nitrates below 6 but above 5, which would be scrutinized by the local Board of Health. Ms. Ryden asked about the raised system despite there only being a 2-foot separation to the Presby System. Mr. Nicolas stated that because of the current situation, he thought that a 4-foot separation and a 1,500-gallon tank would be more beneficial. The proposed construction costs are add-on and over 10% of the value of the property, according to Attorney Corey. He also noted that where the department's policy differs is that the policy refers to new construction and where the well is up gradient, it is probable the numbers are coming from others systems not this one. Ms. Ryden asked if there are other systems that need a 1,500-gallon tank. Mr. Weinberg stated that based on the data and cost differential, he felt it did not trigger the maximum feasible compliance. **MOTION** by Mr. May to approve the 3-bedroom repair conditional on a 3-bedroom deed restriction and 4-foot separation. Seconded by Ms. Ryden conditional on that the remedial use approval will not have any other conditions. Unanimous.

#### **TOPICS FOR THE NEXT REGULAR MEETING**

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None.

#### **APPOINTMENTS**

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None.

#### **TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

None.

**MOTION** by Mr. May to adjourn at 6:40 p.m. Seconded by Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 5:45 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman      Matthew Armendo, Director  
                 Tanja Ryden, Vice-Chair  
                 Maurice E. May, Secretary

### **PUBLIC HEALTH NURSE**

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**Presentation** - Linda Pierce, RN – Immunizations: Vaccine-Preventable Diseases

The Public Health Nurse recommended vaccines for preventable diseases. She described how vaccines prevent diseases. For any additional information, persons are encouraged to contact Ms. Pierce, RN.

### **MINUTES**

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1. May 15, 2019 ex. **MOTION** by Mr. May to approve. Second by Ms. Ryden. Unanimous.
2. June 26, 2019 spcl. **MOTION** by Mr. May to approve. Second by Ms. Ryden. Unanimous.
3. July 10, 2019 spcl. **MOTION** by Ms. Ryden to approve. Second by Mr. Weinberg. Mr. May abstained because he was absent. Unanimous.
4. July 15, 2019 reg. **MOTION** by Ms. Ryden to approve as corrected. Second by Mr. May. Unanimous.
5. July 29, 2019 reg. **MOTION** by Ms. Ryden to approve. Second by Mr. Weinberg. Unanimous.

### **OTHER BUSINESS**

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1. Pumping Reports. Noted.
2. KOA Proposal Update. Mr. Weinberg stated that the Keeping of Animals proposal has been worked on by members of the Animal Welfare Advocacy Group and AgCom Chair Ray Raposa and others.

Mr. Raposa stated that the AgCom disagrees and sent a summary to include that the purpose is for animal welfare, yet there are many references to the environment and his opinion is that that responsibility lies with the ConCom not the BOH. He stated that the registration is very much like a census. He cautioned not to give one Board too much power as it risks putting farmers out of business, removing the right to farm and that environmental issues should fall on another department. He noted that the use of the land also falls under Ch. 61 where there are other considerations.

Mr. Weinberg stated that the BOH has regulations that deal with ground water and surface water and the BOH has the ability to regulate the environment and animals on it. Ms. Ryden read the Tenant Farm Regulation purpose into the record. Mr. Weinberg read the KOA purpose.

Mr. Weinberg explained further that there is a need for the safety of public health; for police and fire to know where animals are, which not necessarily listed in the barn books and for animal welfare. Ms. Ryden stated this is a collaborative process and inspections would be handled in the same manner. The members felt this would not interfere with right to farm or barn book inspections. Discussion ensued.

**MOTION** by Ms. Ryden to recognize the August 8, 2018 draft as the version to be used for the purpose of the public hearing. Second by Mr. May. Unanimous.

3. Next working meeting - Members discussed August 21 as a working meeting date at 9 am.

## **OUTGOING**

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Mr. May made note that the Cedar Smoke Shop was closed. Mr. Armendo confirmed that.

Ms. Ryden noted a notification was issued to a property owner on Summer Ave who has a contaminated well and this is a concern she hopes to address through septic regulations.

## **DIRECTOR**

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No report this week.

## **SEPTIC PLAN REVIEWS**

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1. 20 Lakeside Ave. (M-33/L-174) Frank Coolidge, 4-Bedroom Repair, Quick 4 Infiltrator Bed. **MOTION** by Mr. May to approve conditional on a 4-bedroom deed restriction and ensure the standard conditions of remedial approval are being met. Seconded by Ms. Ryden. Unanimous.
2. 328 Gifford Road (M-24/L-28C) Michael Reynolds, 3-Bedroom Repair, Stone Bed. **MOTION** by Mr. May to approve and subject to the abandonment fee being paid before the permit is issued. Seconded by Ms. Ryden. Unanimous.
3. 21 Stage Coach Road (M-41/L-9AD) Randal Ustinovich, 5-Bedroom Repair, Presby. **MOTION** by Mr. May to approve conditional on ConCom review and that the Presby system is pumped annually. Seconded by Ms. Ryden. Unanimous.
4. 418-G Drift Road (M-52/L-28, 28A & 33) Jonathan Levi, Shared System (14-B) MicroFast/ADS ARC 36 Chambers. The case came before the Board because the Health Director had concerns about the previously approved plan's compliance with Title 5 on the calculation of the design flow of the proposed SAS, whether the proposed shared system was permissible, and conditions the Board required when the plan was approved in June 2017.

The property owner was present but not the project engineer. After discussion, it was agreed that the project engineer and the Director would meet to discuss the outstanding compliance issues. The Director would notify the Building Dept. that the Board would not object to a building permit being issued that allowed the owner to proceed at his own risk.

#### **TOPICS FOR THE NEXT REGULAR MEETING**

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None.

#### **APPOINTMENTS**

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##### **6:00pm – Waiver Hearing: Mark Rodrigues for 788 State Road, Gerald Coutinho.**

Both were present before the Board. The proposed system is a de-nitrification system for a voluntary repair. Water samples were collected last Thursday and results are expected in 10 days.

Variances requested:

- Distance between pump chamber and garage slab foundation, 5 feet vs. 10 feet;
- Distance between the Singulair tank and stone foundation, 8 feet vs. 10 feet;
- Distance between SAS and garage slab foundation, 8.4 feet vs. 10 feet;
- Distance between pump chamber and site well, 41.9 feet vs. 50 feet;
- Distance between proposed SAS and abutting wells are less than 100 feet:
  - 788 State Road, 54.4 feet
  - 780 State Road, 81.6 feet
  - 3 Lenox Avenue, 88 feet
  - 5 Elmwood Avenue, 83.5 feet

A deed restriction and hold harmless agreement has been prepared. A maintenance contract will also be required. Also required will be an O&M Contract and 3 years of well testing and a statement of compliance. The well testing results are still required to be submitted for review.

**MOTION** by Mr. May to approve. Second by Ms. Ryden conditional that the system is not designed for water softener discharge or a garbage grinder. Unanimous.

##### **6:10pm – Waiver Hearing: Len Potter for 813 Gifford Road, Carlos Mota, with MFC Waiver.**

Repair variance requested - waiver to the denitrification policy as this is a 3-bedroom house on a 19K sq. ft. lot.

Mr. Potter noted that the value of the land is \$200K and a de-nitrification system would be in excess of \$30K, which is more than 10% of the assessed value. The owner is adding a 28 x 46 addition and more than the value stated and Ms. Ryden suggested having the well data first. Mr. Potter stated there will be a renovated bathroom and estimated that the cost of renovation is around \$100K. Mr. Weinberg also would like to see the well data and if it comes up clean, then financial considerations do not need to be considered.

**MOTION** by Ms. Ryden to approve the repair for a 3-bedroom home conditional on the owner's well test results being below 5ppm and a 3-bedroom deed restriction and if results are above 5ppm, the plan is to come back before the Board for further discussion. Second by Mr. May. Unanimous.

**6:20pm – Order Appeal: Andrew Steinke, 23 Acoaxet Rd-Title 5 Inspection Required, re: Orders dated 7/17/19 & 7/29/19.**

Mr. Armendo stated that the owner of the property called to postpone so that he can gather information for systems that have pumped in the vicinity. He told him that he has the right for public record but is asking the Board to uphold the BOH order to address the lack of Title-V Inspection of the system because an odor has been observed coming from the septic system. He would need a Board vote to reaffirm the order. If the order is not followed, they could have enforcement consequences. Mr. Weinberg stated the Board controls the timing. Ms. Ryden asked that he is to do it immediately

Abutter Michael Silverman was present. He stated that the cesspool failed in 2008 and the owner is an expert at delaying and he is concerned of the safety issue.

Mr. Armendo spoke with the owner and suggested he appear to ask for an extension.

**MOTION** by Ms. Ryden to inform Mr. Steinke that the order by the BOH stands to have a Title-V Inspection immediately or the BOH will suspend permits due to imminent public health danger from his septic system. Second by Mr. May. Discussion ensued. The motion was not voted upon.

**MOTION** by Mr. Weinberg to reordering and reaffirm the BOH demand for a Title-V inspection to be performed immediately and if there are no results the BOH will commence appropriate enforcement actions. Seconded by Mr. May. Unanimous.

Tom Gebhard, abutter, stated that it was known that the system failed in 2008 and this information was on the plan for the solar panels. Mr. Armendo stated that there is nothing in the file in the BOH.

Mr. May suggested a time certain. Mr. Weinberg suggested the owner attend the August 21, 2019 special meeting. Members wanted to amend the motion to state that the owner must schedule an inspection within 48 hours. The motion stood as made.

**6:30pm – Discussion: Len Potter for 36 E. Shore Road, Wayne & Rebecca Turner.**

Mr. Turner and Mr. Potter were present. Of the 3 lots involved, the plan proposes to install a new well that is independent of the other two lots that are tied in to another well and create a new bathroom in the barn that is going to be tied into the existing system. Mr. Weinberg asked if this would be considered a bedroom under Title V. Mr. Turner stated that it is an office space/studio for his use now that he is spending more time in Westport. He explained it is one open space outside of the bathroom. Mr. Armendo asked if the current system, which looks like a small system, could it handle the effluent. Mr. Potter stated that it is not a residence or bedroom and

Mr. Turner would be providing an affidavit to the Building Department stating so. Ms. Ryden asked about ConCom review and the appearance this it is on the water's edge. Mr. Potter clarified that it is not on the river and that the locus on the plan is incorrect. Conservation issues will look at velocity and flood zones.

**MOTION** by Mr. May to approve subject to ConCom approval and subject to an affidavit stating the use is limited to an office and conditional on the plan locus correction. Seconded by Ms. Ryden. Unanimous.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN  
ADVANCE OF THIS MEETING**

None.

**MOTION** by Mr. May to adjourn at 8:05 p.m. Seconded by Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk



The Regular Meeting of the Board of Health convened at 6:01 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** Philip Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary

**Absent:** Matthew Armendo, Director

## **MINUTES**

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1. August 12, 2019 reg. **MOTION** by Mr. May to approve. Second by Ms. Ryden. Unanimous.

## **OTHER BUSINESS**

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1. Pumping Reports. Mr. May noted that his system was pumped in June and has not seen that in these reports. He will take it up with the staff. Ms. Ryden also noted that Cumberland Farms is pumped almost every 5 days and didn't they obtain an approval for a new system. Ms. Ryden will ask the Director.
2. Appointment for Marilyn Edge's Replacement: Seth F. Baker. **MOTION** by Mr. May to appoint Seth F. Baker. Seconded by Ms. Ryden. Unanimous.

## **OUTGOING**

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Ms. Ryden noted that there are more wells on First Street and the Let are contaminated with nitrates and she is concerned that the Board take action; especially if it is not good for the wells; it is not good for the river. Also, the smaller lots on O Drive are having the same issues.

Mr. May stated that he missed the meeting but there was discussion over the Harbor Inn and failed septic system. Discussion ensued. Mr. Weinberg noted that they have not reached the issue of maximum feasible compliance but due to the small area of the lot, it is being discussed.

## **DIRECTOR**

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1. Written Report. Ms. Ryden noted that now that Animal Control is under the Board of Health and call reporting indicates it is a very busy department. No further comments.

## **SEPTIC PLAN REVIEWS**

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1. Wildberry Way (M-35/L-12F) Joey & Amanda Duarte, 4-Bedroom NC, Cultec Contactor 100 Chambers Bed.

Alan Ewing was present and described the new construction system. Ms. Ryden asked because it is a steep grade, will it be mounded. Mr. Ewing stated the water table is 36 inches and it is slightly graded, it will be slightly mounded at the bottom. Mr. Weinberg noted to the engineer that there is Stormwater Management Permit requirement.

**MOTION** by Mr. Weinberg to approve conditional on stormwater plan review, that there is an omission statement on the plan; a statement that indicates that the system will be constructed in compliance with Title-V and conditional on compliance with the DEP general use approval letter. These must be annotated in the notes. Seconded by Mr. May. Unanimous.

2. 1305 Drift Road (M-56A/L-27C) James Medeiros, 2-Bedroom Repair, Infiltrator Quick 4 Standard LP Chambers.

**MOTION** by Mr. May to approve subject to MA DEP general use approval for the Quick-4 infiltrator. Seconded by Ms. Ryden. Unanimous.

3. 364 Gifford Rd (M-24/L-31B) Rob Kreft, 3-Bedroom Repair, Quick 4 Standard Infiltrator Bed.

Ms. Ryden asked if this is the correct approval because there is mention of the SAS being 40% less and the leaching area per remedial use approval, the reduced SAS must provide an area no less than 400 sq. ft. Since this is remedial, Ms. Ryden does not see the letter as being the correct letter attached.

**MOTION** by Mr. Weinberg to approve subject to compliance with the MA DEP remedial use approval letter. Seconded by Ms. May. Ms. Ryden suggested that under remedial use approval that the owner needs to comply with the notice requirement and notification requirement of standard conditions. The vote was two in favor with Ms. Ryden abstaining.

Members briefly noted the Medeiros hearing is tomorrow and if they would be attending. Mr. Weinberg will touch base with Mr. Armendo. The members are available.

#### **TOPICS FOR THE NEXT REGULAR MEETING**

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None.

#### **APPOINTMENTS**

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##### **6:20pm – Dumpster Reg. Waiver Hearing: Robert DeMello, 55 Summer Ave., Distance to Rd**

Mr. DeMello was present and noted that he shares the dumpster with Tony Rego, which is on Mr. Rego's property. He stated that they have graveled it and cleared around it. Mr. Weinberg noted that the formal request is to allow Mr. DeMello's dumpster 14 feet from the property line.

The abutter has complained that it is not 20 feet from the property line. Abutter from 51 Summer Ave, Jessica Cabral, stated that she feels he is being vindictive by moving his dumpster in the line of sight of her child's playing outside.

There are two dumpster on the side of Conserve Ave. Mr. May would like to make a site visit.

Ms. Ryden stated the issues between neighbors is not for the BOH but the placement of the dumpster is under the purview of the Board. She does not know the area or where the other

dumpsters are. It would be helpful for the agent to provide more information or perform a site visit. She suggested placing this on the next agenda.

Mr. Weinberg suggested a sign to make sure the drivers place the dumpster as far back as they can.

**6:30pm – Waiver Hearing: S&K Engineering for 358 Old Bedford Road, Riley Homes.**

Kevin Silva from S & K Engineering was present.

The request is for a variance for:

- Setback of site well to SAS, 80 feet vs. 100 feet
- Sieve analysis in lieu of perc test
- Tank Tees to be set less than 12” requested.

Ms. Ryden noted that the report from the agent stated that the abandonment fee was not paid. Mr. Silva said once approved that fee would be paid. Mr. May noted that it is a small sized lot and the nitrates are not that bad. A denitrification system would place them over the 20%.

**MOTION** by Mr. May to approve the variances as requested conditional on ConCom approval; a 3-bedroom deed restriction, a Hold Harmless agreement and 3 years of well testing. Seconded by Ms. Ryden. Unanimous.

**6:40pm – Waiver Hearing: Len Potter for 374 River Road, William Wickes, Quick 4 Standard Infiltrator Units.**

Mr. Potter explained the repair and variances requested with distances greater than existing distances:

- Setback from abutter’s well to SAS, 70 ft. vs. 100 ft.
- Setback from site well to SAS, 66 ft. vs. 100 ft.
- The proposed SAS is 96 ft. from edge of the river

Because the owner plans to place an office above the garage, the BOH has determined that it could be a bedroom and Mr. Potter proposes to install a leaching field behind the garage for one (1) bedroom and maintain setbacks.

Ms. Ryden asked why these were not combined and requested Mr. Potter to ask the client if they would consider a denitrification system. Mr. Weinberg noted that looking at the whole as new construction, then the system could not be placed within 100 feet. This being an upgrade, the Board would like to know if the owners would consider a denitrification system.

**MOTION** by Ms. Ryden to continue the waiver to the next meeting. Seconded by Mr. May. Unanimous.

**6:50pm – Discussion: Len Potter for 269 Howland Road, Rodney Sutton.**

Mr. Potter stated that he performed a perc in March/April. The current cesspool is in failure and owner wants to upgrade. The proposed leaching field is 66 feet from the well. He was asked by

the Board to perform several water tests one in April (2.09) and now after usage in August (3.73). Mr. Potter is seeking approval of the plan contingent upon water testing. Ms. Ryden stated that the trend is upward and would like to have another test. The Board requires a third well test and final review of the plan once the results are back.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN  
ADVANCE OF THIS MEETING**

None.

**MOTION** by Mr. May to adjourn at 7:27 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Special Meeting of the Board of Health convened at 2:58 p.m. at the Town Hall Annex.

**PRESENT:** Philip M. Weinberg, Chairman of Public Health  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

**1. Harbor Inn Septic System Discussion.**

Mr. Armendo noted that Mr. Steinke from the Harbor Inn met with him and Mr. Weinberg last week and indicated that he would not sign the septic agreement. He has until the 9<sup>th</sup> of September to execute the agreement. In the case he does not execute the agreement, Mr. Armendo asked permission from the Board to file in housing court to petition to enforce.

**MOTION** by Mr. May for Mr. Armendo to file in the case the agreement is not signed.  
Seconded by Ms. Ryden.

Discussion ensued. Mr. May stated that if Mr. Steinke does not do anything by September 9<sup>th</sup>, he concludes that he is stonewalling the Board. The Board will need to move as was done with Mr. Andrade, the owner of 248 Sanford Road.

Ms. Ryden was not familiar with those circumstances and her concerns are with a public health risk and a failed septic system. A public accommodation facility really needs to be addressed. The agreement Mr. Weinberg drafted may have avoided a Title V inspection but would set the clock ticking to require a repair or upgrade and the Board needs to move forward to ensure that happens.

The Board voted unanimously, all in favor.

Mr. Weinberg stated since there are 2-years from the discovery of the failure, the Board should have a definitive request as of either the inspection date or court date. The Board cannot officially declare a failure until a Title-V inspection is completed and he is hoping that the court can order the inspection.

If in fact the inspection comes back as failed, the Board can go back to court to order a specific time by which the repair must be completed. He stated or as part of the preliminary injunction, the Board can propose that on a failed Title-V inspection, a date can be set for the installation of a new system. Mr. Weinberg asked to have a date certain by which the report must be filed. Mr. Armendo stated that according to Title-V, the inspector has 30 days to file the report. Going in to court, the Board could ask for it within 10 days. Mr. Weinberg noted a month lapsed since the first order and to have the report submitted sooner.

Mr. Potter was in the office and members wanted to know what his opinion was in regards to the failed system. Mr. Armendo noted his observation of a failure of the cesspool by himself and Mr. Swartz of an odor and records indicating odor in 2008.

Mr. Steinke indicated during the meeting with Mr. Armendo and Mr. Weinberg that the way they determined seasonally high ground water was not through soils, but through a pipe in the ground. Mr. Steinke argued that that was the only way to determine ground water. They asked Mr. Potter if this was so. He said in earlier times, they would use standpipes installed in the year before the spring. He said they have a shallow well in the basement of the north side of the house, the well had water. The building is on the water aqueduct but does not use that system. Mr. Armendo said that the standpipe is not an accepted practice and no longer used today and instead the only way now in practice is through soil mottling.

Mr. May asked for info on cesspools. Mr. Armendo stated that cesspools are 6 feet wide and 6 feet deep. So, if the water table is at 36 inches, the cesspool is in the groundwater by 3 feet. Mr. Potter stated that the water table is high; he did a perc test at 56 inches recently there. Discussion ensued. Mr. Weinberg felt that in discussion with Mr. Steinke, the water table was referenced but it is apparent that Mr. Steinke may have been mistaken.

Ms. Ryden stated that there is sufficient evidence that the Board can deem it in failure.

**2. Ms. Ryden asked to bring up another item under the 48-hour posting requirement: The Keeping of Animals regulation has moved to Town Hall now.**

There have been many written comments received. The Board could choose to read these into the record or acknowledge these. Mr. Armendo suggested that the Board do the later. Members discussed expectations, potential changes and opening statement for the meeting. Mr. Weinberg's preference is to go back to a work group, but deferred to the Board if they wanted to decide this beforehand. Mr. May urged that this be wrapped up by September 23. Ms. Ryden stated that there are some things the Board agreed informally with AgCom that should be changed. Ms. Ryden felt that there are things that will need to be talked through. Mr. Weinberg felt that if there is going to be a significant change, this should go back to the work group. Ms. Ryden said that with substantive changes this should be the case but not with technical edits.

Mr. Armendo stated that the majority of the complaints are against inspections. He suggested that there should be some more explanation to dispel the public from thinking that the inspections will be with out the owner knowledge and consent. Also, members wanted to offer more explanation about Barn Books controlled by the state. Discussion ensued over how to conduct the meeting and if to respond to comments.

The Board agreed to have a work session on 9/18/19 at 9:00 am. Discussion ensued over the next agenda and subsequent meeting schedule.

**3. Septic Betterments.**

Mr. Armendo noted there have not been any applications for the betterment and that the Board may want to consider reducing the interest rate because banks are offering less. Ms. Ryden asked this be placed on a future agenda for discussion,

**MOTION** by Mr. May to adjourn at 3:48 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:03 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Maurice E. May, Vice-Chairman  
Tanja Ryden, Secretary  
Matthew J. Armendo, Director

### **PUBLIC HEALTH NURSE PRESENTATION**

Town Nurse Linda Pierce, talked about getting the flu shots this year. She noted that flu clinics will begin this Wednesday from 8 am to 11am. It is important to call for an appointment.

Ms. Pierce discussed Alzheimer's awareness month. She discusses symptoms and places that provide services and support groups. For additional information, contact the Town Nurse.

### **MINUTES**

1. August 26, 2019. **MOTION** by Ms. Ryden to approve. Seconded by Mr. May. Unanimous.

### **OTHER BUSINESS**

1. Monthly Pump Reports.

Mr. May noted that some of these companies used to report monthly on a regular basis. Mr. Armendo stated that an e-mail was sent to the companies reminding them to send in their reports.

2. Sample Collectors.

Who Is Allowed Other Than a Lab Agent to Collect Samples for Required Tests. Staff is reporting that the labs are taking a few weeks to get out and collect samples. The question is who would be allowed to collect the samples. Staff is looking for Board input. Discussion ensued.

Allowing the tester to sign a statement under the pains of perjury and to notify the director would be sufficient notification.

3. 29 Oakland Avenue.

Conditions are unsafe for people living in this house. There are no utilities, no potable water, no sewage. The issue was presented to Town Counsel. Members did not want to cause them any further harm due to the situation they are living in. There are potential budget implications. Members asked the Director to go ahead and obtain a court order to have them vacate the dwelling.

4. KOA Update/Discussion.

Mr. Weinberg reminded the audience that the continuation to the Keeping of Animals regulation is tomorrow at 7pm in the Town Hall Annex Gym. He also prepared a statement to clear up concerns among the farming community dealing with misconceptions. He read the statement and had a copy on the website.



Ray Raposa, Chair of the AgCom, was present and stated at the last AgCom meeting, that committee did not vote to approve or disapprove the regulation.

## **OUTGOING**

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Ms. Ryden stated six letters were issued for well contamination and one for nitrates and stated this demonstrates the ongoing problem. Two of them are on the same street and are a result from a septic repair requiring annual well testing. Almeida street reads higher numbers according to Mr. Armendo. Mr. Weinberg stated that the updated system may not be the source; it is an older neighborhood.

## **DIRECTOR**

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1. Written Report.

**MOTION** by Mr. May to accept the report. Seconded by Ms. Ryden. Unanimous.

2. Verbal Report.

Mr. Armendo gave his report on the following:

- Board of Health: busy office procedures
- FT Agent Position: will be interviewing
- Animal Control: report attached
- Transfer Station: recycling ongoing
- Landfill: monitoring still ongoing
- Nursing: flu clinic beginning

Mr. Armendo stated that the system at the Harbor Inn appears to be in failure. The owner has been reluctant to sign an agreement to have it inspected and submitted his own version of the agreement that does not address the requirement to inspect.

Mr. Armendo is asking for the Board to approve a court order just to get this done based on the altered agreement submitted by the owner today. He did not acknowledge the system is in failure and refused to obtain an inspection.

**MOTION** by Mr. May, in light of Mr. Steinke's refusal to sign the BOH agreement, to not accept the revised version by Mr. Steinke and to reaffirm the prior vote authorizing the Director to go through housing court. Seconded by Ms. Ryden. Unanimous.

## **SEPTIC PLAN REVIEWS**

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1. 30 Old Farm Road (M-68/L-23J) Mario Cipollini, 3B to 4B Upgrade, Stone Bed. Mr. Armendo looked at the proposed pump chamber calculations and he did not see any washback calculations, which are required on the plan. Ms. Ryden stated that there are no stamp indicating "no garbage grinder" or "no water softener".

**MOTION** by Ms. Ryden to continue in 2 weeks to allow for missing information on plans: stamps for no water softener and no garbage grinder and washback calculations. Seconded by Mr. May. Unanimous.

2. 698 Pine Hill Road (M-43/L-4) Christopher Hart, 3B to 5B Upgrade, Stone Bed. Mr. Potter stated that there is sufficient area for the upgrade and complies with all setbacks and does not require a variance. A new 1,500-gallon tank will be installed. Ms. Ryden noted that general note references that the component is more than 150 feet but should be corrected to 100 not 150 feet away. Mr. Armendo asked Mr. Potter to sign the plans as there was no signature.

**MOTION** by Ms. Ryden to approve plan dated 9-3-19 subject to ConCom approval and corrections to technical notes on the plan. Seconded by Mr. May. Unanimous.

3. 374 River Road (M-87/L-42) William Wickes, 3B to 4B Upgrade, Quick 4 Infiltrator. Mr. Potter discussed a system located between the house and the river. He is showing same tank in the same location. The system is a 4-bedroom system. The owner had no interest in a denitrification system.

**MOTION** by Mr. May to approve the plan dated 8-10-19 and revised August 30, 2019 pending ConCom approval and stamped plans. Seconded by Ms. Ryden. Unanimous.

## **APPOINTMENTS**

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### **6:30pm – Continued Dumpster Reg. Waiver Hearing: Robert DeMello of 55 Summer Avenue, Distance to Road.**

Present were Robert DeMello and Neighbors Mr. Rego and Ms. Cabral.

Mr. Armendo read the summary of the prior minutes and the letter the Board requested from Mr. Rego and that the photos were submitted today indicating that the dumpster was moved back as far as possible at 16 feet vs. 20 feet from the property line.

Ms. Ryden noted it was up against a tree; to move it back further, she asked if the tree must be removed. Mr. Rego stated yes that is correct. (Mr. DeMello shares the dumpster with Mr. Rego and is actually located on Mr. Rego's property). The abutter (Ms. Cabral) felt that if she had to move her dumpster 20 feet back, then Mr. DeMello should as well. If there is a reasonable alternative, residents should comply; if there isn't any harm to anyone else, Mr. Weinberg would allow the reduction in feet seeing no other reasonable alternative.

The abutter, Jessica Cabral of 51 Summer Avenue stated she had no issue with the placement of the neighbor's shared dumpster. She asked if she could move her dumpster closer to the road.

**MOTION** by Ms. Ryden to grant a waiver for placement of the dumpster as far as 16 feet back from the road and to keep the area clean and make a good faith effort as they can. Seconded by Mr. May. Unanimous.

Mr. Weinberg asked Ms. Cabral to submit something in writing so that the Board could take it up at a subsequent agenda.

Mr. Rego stated he has another dumpster at 49 Conserve Avenue to move back and he asked for 2 more weeks to move it back. Ms. Ryden said he came to the BOH and is making a good faith effort to comply. Mr. Weinberg asked him to let the Board know when he has done it all.

**6:50pm – Waiver Hearing: Sitec for 86 Washington Street, Beatrice Hamer, Quick 4 Infiltrator system.**

Sean Leach of SITEC was present. The system is in failure and is being upgrade for remedial use. There are no wetlands on this parcel. Mr. Leach submitted revised plans that corrected a typo.

Variance requested: 3.3 feet vs. 4 feet separation to ground water.

**MOTION** by Mr. May to approve the variance septic plan dated 8-22-19 conditional on hold harmless agreement, ConCom approval and conditional on compliance with remedial use. Seconded by Ms. Ryden. Unanimous.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

None.

**MOTION** by Mr. May to adjourn at 7:29 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Special Meeting of the Board of Health convened at 7:00 p.m. at the Town Hall Annex Gymnasium.

**PRESENT:** Philip M. Weinberg, Chairman  
Maurice E. May, Vice-Chairman  
Tanja Ryden, Secretary  
Matthew J. Armendo, Director

**The Public Hearing for the proposed Keeping of Animals Regulation convened at 7 p.m.**

This meeting was continued from September 5, 2019 when the capacity for the meeting room was exceeded, members continued the meeting to this evening to accommodate the anticipated large number of people. The number of persons present was estimated close to 100.

Mr. Weinberg addressed the public which filled the gymnasium at the Annex. He explained the order of the speakers and asked the public for their courtesy in addressing the board and other members of the public.

Mr. Weinberg explained the process by which this draft was created through the Animal Action Committee and other members of the community focused on animal welfare.

Tanya Ryden thanked the members of the workgroup that contributed to this draft that included Ray Raposa, Darrin Mendes, Constance Gee, Donna Perrillo to name a few. She also cautioned persons about EEE being of moderate threat in Westport.

Richard Brewer, Selectman addressed the crowd by thanking all for coming to be heard and commended the commonality of everyone present who did not want to see animal abuse.

Donna Perrillo, former at-large member of the Animal Action Committee explained how the group looked at creating a list of all animals for public safety and for the barn book inspections so that the abuse that happened would not happen again. MDAR requires annual inspection of all animals for disease prevention and outbreaks.

Ray Raposa, Chair of the AgCom stated that he worked on this draft. He is in 75% agreement and does not fault the Board of Health as they did not have much to go on when working on this but he hopes to move forward together to make this better.

Constance Gee addressed the audience stated that the draft was vetted in good faith with the AgCom Chair who stated he had no problem with this draft. She said this has been worked on for several years and the agricultural community has been involved. The aspects for having this regulation were reviewed. She noted that the committee has worked in good faith up to now and will continue.

Mr. Weinberg began calling on the public who had volunteered their names for comments.

John Ciccotelli, Former Director of Public Health at one time in town. He rose in favor of a regulation but not this regulation. He gave his opinion about the keeping of a barn book. He is not against the Board of Health. He urged the Board not to take away anyone's rights while working on this draft.

Karen Gonsalves stated that she has had animals most of her life and read the Right to Farm by-law to the audience gaining their audible support when she said manure management always meant spreading it out over the fields.

Mr. Weinberg suggested that people look at the Right to Farm By-law and understand what authority the local boards of health have and how that was used for drafting the Keeping of Animals regulation. He said that the manure management is important in respect to not stockpiling it near a drinking water well or where it will runoff to a water way.

Ronald Leprise of Gifford Road rose in opposition of the regulation and that it violates the rights of all. He felt none of it made sense.

Kathy Nevitz fully supports the community and had to ask someone to cover her chores to be here. She is already part of the barn book. She supports her animals and lifestyle and the draft KOA regulation does not need to be redundant. She said we are in support of this town and loves this town.

Phillip Plante stated he is 3rd generation farmer and the people sitting here should be listened to. He said this draft is making the town go far away from what it was and what people want. He said it has to be feasible on both sides.

Ray Elias from Holly Lane has a licensed stable permit. He is not a 61A and he agrees with what the BOH is trying to do because what happened on Rt. 177 put a black mark on the rest of "us". He stands in opposition of this regulation. The Right to Farm act has everything this board needs listed from the MDAR and the power to do what they need without the new KOA regulation. He encouraged everyone to look up the MGL and note that there are enough existing regulations.

Judi Duval who grew up this town recognised all the farmers and said this is crucial to their survival. Farming is a dirty smelly business. This is a slippery slope – the BOH has worked on this for years and there is reason for surprise as evidenced by everyone being here.

Bill Shaw has lived here on a farm all his life. He's never had any complaints or any sick animals. He agrees with everyone that there are enough regulations. Besides spreading manure on their fields, on the other hand, many people spread chemicals on their lawns.

Kyle Derosiers feels this regulation does nothing for the community.

William Long from Division Road has lived in town raising poultry all his life. He did not hear about this regulation until last week. He thought, why should he be punished because of what happened on Rt. 177 and there it wasn't once, it was twice. People raise animals on their own land and they want them to be healthy. He took it as an insult because it looks like the BOH thinks, through this draft, that he does not know how to raise his animals.

Greg Andrade, a 4th generation hog farmer running 200 animals said his farm once had up to 800 animals. He disagreed with the regulation and infringement on the rights of people and the immoral act of the government to judge persons. Regulations have hurt his farm. He asked not to make Westport Farmers pay for other people's crimes.

Sherri Mahoney asked why the tennat farmer issue has created scapegoats out of Westport farmers. She asked what rendered the BOH capable of dictating to the farmers in Town. Many feel that the

regulation is for the tenant farmer situation on Rt. 177 but instead, it is written for local farmers and small enthusiasts. She cited the 4th amendment protects against going on to someone's property but this regulation does not prevent accessing someone's land. She spoke in opposition to this regulation because farming is the heart of Westport and farmers are true animal advocates in this village.

Ann MacPherson stated she's lived in Westport for 50 years and keeps chickens, ducks and geese on 27 acres and feels the KOA is an insult. Who is responsible if someone comes on their property and contaminates her animals or if they get loose and now become subject to predation. She noted people in New Bedford can keep chickens without all this. It is outright discrimination against farmers.

David Charest of Old Bedford Road said he knew nothing about this. Advertising should be more intense. He has animals and does not want to lose them.

Charlie Merrow who farms sheep, chickens and turkeys strongly opposes this regulation. He moved to Westport because it is a Right to Farm Community and he is raising his kids to learn the value of working on a farm. Having farmers move out threatens everyone of us. The regulation has unintended consequences that can hurt everyone and create liability. He would not risk his farm or family to be over regulated and would get rid of his farm. The Community has done just fine except for that tenant farm on Rt. 177. The farmers need help from this town in growing their farms, in fencing and making it a better place in the southcoast.

Patrick McBride agreed with the previous speaker; he moved to Westport because it is a farming community. He has a few chickens and is raising his kids to appreciate the value of raising animals. He rose in strong opposition to this regulation in that it is a delicate balance in what they do and we all do.

Steven Medeiros of Sodom Road and 3rd generation farmer, reminded everyone that there were once 54 dairy farms and now there are only 4 left. He was opposed to the regulation. He's been an assessor for 24 years and this is what people want for their families. He does not want to go to Buttonwood Park to see cows.

Carla Lee Samson stated she's been in Westport for 30 years and she loves it and has seen farms disappearing. She thinks it's the BOH attempt to save face for what happened on Rt. 177.

Tammy Surtleff was raised on a farm in Little Compton and has lived in Westport for 20 years. She said that when working with animals, sometimes things happen despite best efforts and it is hard work. She noted that those on the tenant farm are not even addressed in this. Credit should be given to residents for the quality care. Because of a few people, all are labeled bad. More regulation is not the way.

Paul Samson said all this seems to be coming from the abuse that happened and asked how many other abuse cases have there been. Mr. Weinberg stated that there were two cases involving separate piggeries presenting public health risks. There have been animals that have gotten out and into the street. Mr. Samson asked if this is all for nothing for something that happened in 2016 and the courts are still not done with.

Justin Laprise said from an outsider's perspective and seeing how all these people work and farm, it is ignorant and preposterous to circumvent the farmers who put food on your table. This is just local government using outliers circumventing the rights of local farmers.

Amy Lawton lived all her life in Westport and is part of the Tripp family who are multi-generation dairy farmers. She has seen regulations put farmers out of business. This regulation will levy a cost to register the animals and the taxpayers will have to pay for salaries and she does not want to be burdened. The tenant farmers were neglectful and asked if those tenants would even consider registering their animals. She came out tonight to show her support.

Laura Hadley an attorney who has tried farming. The proposed regulations are a valid and valliant effort but people's basic constitutional rights should be respected. It is most important to protect our farmers, neighbors and each others.

Tom Viera asked who would be inspecting our farms. He said a nuisance was not clearly defined. He said he had no problem with someone coming to the property, but asked to please give at least 24-hour notice. He said he wants to know that the person coming to the farm should know about farms and what they are talking about. The regulation was poorly written and does not tell everyone what is going to do. Most people in this room do not have social media to know what is happening. He said there needs to be more transparency, send letters to everyone. He offered more revisions to what is wrong with it.

Ryan Camara from Main Road. He has farmed for the last few years and has been a resident for 10 years. He has a full time job and does not make a living farming but it is his second passion. He said when its made harder to do what they love, people leave and more parking lots appear. Some people want to live here and want to teach their children a better way of living. He does not want to be over burdened if he is forced and he would then leave his ancestor's property. He asked to allow the community to be part of what is being done or the community will resent it.

Mr. Weinberg felt that because everyone is here, he should provide some background. He noted the failure of Rt. 177 and out of that came an Animal Action Committee and it was recommended that the Board of Selectmen do something. It was tasked to the BOH and the previous BOH chair said that they would not move forward until there were more resources available to manage a registry. At the time, the town recognised the BOH had a responsibility to know where the animals were and and that they are being cared for and he said he is not implying that they are not being cared for. He said the BOH heard that there are people keeping animals that are not part of the barn book inspections. Subsequently, at town meeting a budget was approved for a full-time inspector and and part time assistant. There are 3 parts to the regulation – registration is one part which was a primary objective of the BOH and the Police who are responders to public safety and animals that get loose. This information would be kept confidential. The BOH does not have access to the state barn book. He stated there would not be a fee, in retrospect.

The second part has to do with tenant farm regulations: other towns had this on their books as a source of information.

The third source was the AgCom and Darrin Mendes but the BOH did not get their feed back. He also stated that they tried to operate by a basic principal.

Fees were brought up again. Mr. May called ORDER to all who were disrupting the chair as he expalined how they arrived at this regulation.

Mr. Weinberg said it would not be right to promise there would not be a fee in the future and this is a separate discussion because the Board of Health has no idea what costs are associated if this went

forward and that is why it was not addressed. Mr. Weinberg stated that he has never gotten a complaint for anyone trespassing on anyone's property. He read the MDAR state law, which addresses visiting properties. Mr. Weinberg stated that the Board of Health did not intend to violate anyone's constitutional rights and again reiterated that the framework was taken from other state regulations and sources.

Sherilyn Mahoney addressed the people present and caused them to vote the regulation down. Mr. Weinberg tried to explain again that it was not the purpose of this meeting to take votes. Ms. Mahoney stated that the vast majority present do not want this regulation. Mr. Vieira also raised his voice to support her statement.

Weinberg tried to address people's concerns and stated that the intention was to move forward.

Mr. Elias asked to address the fees saying that Dartmouth has 2 categories of 5+ acres and under 5 acre farms. He suggested looking at Dartmouth's fees: \$50 for application and \$35 for inspection.

Lynn Pacheco said the Board made registering a requirement and by doing so that gives permission to enter a property anytime.

Mr. Weinberg stated he is prepared to sit down and discuss with Mr. Laprise or he can send in his comments if he wants but prefers not to take them at this moment. Mr. Laprise said he would like to meet with Mr. Weinberg.

Carla Samson stated again this regulation is nothing but a way for the Board to save face after what happened in 2016. The Board of Health is trying to force their will on the community and it needs to stop.

Gilbert Sousa III stated that this regulation will deter people in the future and those with animals will get rid of them like the other speaker stated. The community wants to keep the right to farm.

Mr. Weinberg stated seeing there were no more comments offered that the meeting was closed at 9:18 p.m.

Submitted by Lucy R. Tabit, Recording Clerk



The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

## **MINUTES**

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1. May 06, 2019 spcl. Members had questions and no vote was made.
2. June 06, 2019 spcl. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.
3. June 17, 2019 spcl. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.
4. Sept. 09, 2019 reg. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.
5. Sept. 10, 2019 spcl. **MOTION** by Mr. May to approve with correction to scriveners' errors. Seconded by Ms. Ryden. Unanimous.

## **OTHER BUSINESS**

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1. Pumping Reports. Mr. May stated he has a problem with the office not receiving two of the major pumping reports. The fax machine is not functioning. Mr. Armendo stated that the staff is looking into getting copies via e-mail and by mail. The information should be resolved by the next meeting.
2. Equine Regulation-Rabies Requirement. Donna Lambert requested that the requirement for rabies vaccination be removed from the equine regulation.

At the time of the regulation, there was a veterinarian who sat on the panel and stated there was concern at shows that horses be vaccinated and that the horse is a dead end host meaning that chances of someone being bitten by a horse are very slim. It is no more of a risk than being bitten by a cow. There are 28 equine permits in town. Mr. Weinberg suggested sending a letter to permit holders stating that that requirement be suspended. The state has no requirement that horses or livestock be vaccinated. Mr. Weinberg asked if other towns mandate this vaccination. Ms. Lambert stated that the state does not mandate any vaccinations.

Ms. Ryden asked if the vaccination protects the horse. Ms. Lambert stated it does as it would any livestock. Ms. Ryden stated that there is no rush at this time and she suggested the Board take it under advisement and look further into the information.

## **OUTGOING**

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Ms. Ryden noted two wells were identified as being contaminated and she stressed the importance of well protection.

Mr. May asked about the status of the Harbor Inn and Mr. Steinke. Mr. Armendo stated that a letter was issued and a Title-V inspection was to be completed by today and it was not. Mr. Armendo spoke with Town Counsel and a preliminary court injunction is likely to be filed to have Mr. Steinke comply.

**DIRECTOR**

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1. Written Report. Noted, no questions from the members.
2. Verbal Report
  - 29 Oakland Avenue: Mr. Armendo expected some work today.
  - Medeiros Farm: An inspection revealed that there was no standing water and there is machinery and dumpsters on site for cleanup.
  - AACO: After interviews, the Director recommended Nick Vidmar. **MOTION** by Mr. May to recommend to the Board of Selectmen that Nick Vidmar be hired as the Assistant Animal Control Officer. Seconded by Ms. Ryden. Unanimous.
  - Barn Book Information: Mr. Weinberg briefed the members on his discussion with Mr. Cahill.
  - Landfill Monitoring Reduction Update. Mr. Armendo noted the memo from the consultant. Work is ongoing.

**SEPTIC PLAN REVIEWS**

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1. 60 American Legion Hwy. (M-21/L-2B) Nancy Beaulieu, 3-Bedroom Repair, Contactor 100 Units Bed. Ms. Ryden asked about the wells. Mr. Armendo was awaiting a response, nothing further to report. **MOTION** by Ms. Ryden to continue plan dated 8/28/19 to earliest convenience. Seconded by Mr. May. Unanimous.
2. 45 Pratt Avenue (M-53/L-25V/SL-17) Riley Homes LLC, 3-Bedroom Upgrade, Stone Bed. Mr. Armendo stated this is a simple 3-bedroom repair and has been through ConCom. **MOTION** by Mr. May to approve the repair plan dated 9/1/19. Seconded by Ms. Ryden. Unanimous.
3. Blossom Road (M-1/L-10B,10C) Keith Donnelly, 4-Bedroom NC, Infiltrator Quick 4 Chamber Bed. Mr. Armendo stated this is not part of a subdivision and yet there is not enough information regarding stormwater. The applicant needs to meet the area limitation and impervious surface. An engineer for this project was present and stated that he had submitted the full stormwater report and checklist to the office. **MOTION** by Mr. May to approve the plan dated 8/15/19 subject to confirmation to stormwater plan. Seconded by Ms. Ryden. Unanimous.
4. Maya Way (M-68/L-3E) Joseph & Maria Cordeiro, 3-Bedroom NC, Stone Bed. Due to some technical issues, the plan is passed over per Mr. Armendo.
5. Old Harbor Road (M-86/L-21/SL-2) Alexandra Taylor, 4-Bedroom NC, Infiltrator Quick 4 Chamber Bed. **MOTION** by Mr. May to approve the plan dated 8/1/19 as revised 8/21/19 subject to ConCom review. Seconded by Ms. Ryden. Unanimous.
6. Bentley Lane (M-5/L-16C) KRG Realty Trust, 3-Bedroom NC, Stone Bed. **MOTION** by Mr. May to approve the plan dated 8/6/19 as revised 9/11/19 subject to ConCom review. Seconded by Ms. Ryden. Unanimous.
7. Bentley Lane (M-5/L-18A) KRG Realty Trust, 3-Bedroom NC, Stone Bed. **MOTION** by Mr. May to approve the plan dated 8/6/19 as revised 9/11/19 subject to ConCom review. Seconded by Ms. Ryden. Unanimous.
8. 23 Brookwood Drive (M-70/L-28) Christine Andrade, 3-Bedroom Repair, Eljen B43 Modules Bed. **MOTION** by Mr. May to approve the repair subject to a 3-Bedroom Deed Restriction and ConCom review. Seconded by Mr. Weinberg. Unanimous.

9. 15 Newton Street (M-21/L-9G) Roberta Chaves c/o Estacio DeCastro, 3-Bedroom Repair, Infiltrator Quick 4 Plus Standard LP Chambers Bed. **MOTION** by Mr. May to approve the sieve analysis and plan dated 9/6/19 as revised 9/19/19 subject to a 3-Bedroom Deed Restriction and ConCom review. Seconded by Ms. Ryden. Unanimous.
10. American Legion Hwy. (M-21/L-21) Rabih Salibi, 4-Bedroom NC, Infiltrator Quick 4 Chambers. The lot had some Conservation issues. The applicant requested the BOH for approval to avoid filling in over the wetland line. They are in federal wetlands jurisdiction and have permission from the Army Corps to fill in. The better environmental outcome was not to fill in the wetlands and move forward with the plan as proposed. **MOTION** by Mr. May to approve the 4-Bedroom plan subject to ConCom approval and subject an infiltrator and subject to stormwater review. Seconded by Ms. Ryden. Unanimous. Mr. Weinberg wanted the record to show that the approval was made based on the Board not wishing the wetlands to be filled in.

#### **TOPICS FOR THE NEXT REGULAR MEETING**

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None.

#### **APPOINTMENTS**

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##### **6:30pm – Waiver Hearing: Len Potter for 95 Howland Road, Janie Martignetti.**

Mr. Potter stated that the lot was designed in 1975 as a 3-bedroom home and it was found to be a 4-bedroom home.

The proposal is to eliminate one bedroom and install a 3-bedroom septic system. There is a precast manhole that houses a pump and was an add-on and pumps the effluent to the tank. The intent is to add a 2<sup>nd</sup> 1,000-gallon tank as a secondary chamber because 500-gallon tanks are not manufactured.

He said that he submitted a copy of the deeded plot, which describes a 40 foot right of way, which serves 2 houses to the rear and is actually a 12-foot graveled way. The right of way provides an additional 8K sq. ft.

**MOTION** by Mr. May to approve the plan dated 9/6/19 subject to a 3-bedroom deed restriction. Seconded by Weinberg. The vote was two in favor with Ms. Ryden abstaining. Ms. Ryden asked if any well testing was done. Mr. Potter said in the 70's, but well maintains 100-foot setback. Mr. Armendo will look in the file for any recent testing.

##### **6:50pm – Waiver Hearing-Continued: Len Potter for 269 Howland Road, Rodney Sutton.**

Mr. Potter was before the Board.

Ms. Ryden supports a denitrification system based on the concern over the trend of rising nitrates. Mr. Potter explained that the current situation is a failed cesspool in the dropping water table. The property is used on the weekend. The use is not every day and he suggested one more test. Mr. May stated that the trend of nitrates from 2 to 5.07 is of concern. The neighbors do not have wells within 100 feet, but this would impact the owner's well at 61 feet distance. Mr. May would be inclined to approve the plan as submitted. Mr. Weinberg stated the variance requested is the setback from the site well 61 feet vs. 100 feet and the applicant has the right to perform another test is so desired.

**MOTION** by Ms. Ryden to continue subject to another well test. Seconded by Mr. Weinberg. The vote was two in favor with Mr. May opposed.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

1. Discuss & Vote to hire potential candidate to fill position of Assistant Animal Control Officer. This subject was covered under the Director's Report.
2. 86 Washington Street (Map 11, Lot 1276) received a variance for distance to groundwater and the system was a 4-Bedroom system yet the dwelling was for 3 Bedrooms. **MOTION** by Ms. Ryden to require a deed restriction for a 3-bedroom system for plan dated 8/22/19 and amended 9/9/19 to be in compliance with Title-V for no increase in flow with a variance to ground water. Seconded by Mr. May. Unanimous.
3. Ms. Ryden read the vaping CDC warning for e-cigarettes and suggested the BOH issue a public health advisory and a potential to restrict sales. **MOTION** by Ms. Ryden that the Board issue a public health advisory mirroring the CDC advisory recommending refraining use of e-cigarettes or vaping products until more is known about specific health risks and that the BOH issue a letter to the state reps asking they take appropriate action. Seconded by Mr. May. Unanimous.
4. Next working meeting October 2 at 1pm.

**MOTION** by Mr. May to adjourn at 7:17 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Matthew J. Armendo, Director  
**Absent:** Maurice E. May, Secretary

### **PUBLIC HEALTH NURSE – PRESENTATION**

Linda Pierce, Public Health Nurse gave a summary on the deadly mosquito borne virus of EEE and the recent problems with Vaping. For any questions, the public is urged to contact her directly at the office.

### **MINUTES**

1. Sept. 03, 2019 Special Meeting. **MOTION** by Ms. Ryden to approve. Seconded by Mr. Weinberg. Unanimous.
2. Sept. 23, 2019 Regular Meeting. **MOTION** by Ms. Ryden to approve. Seconded by Mr. Weinberg. Unanimous.
3. Sept. 03, 2019 Executive Session. Members deferred approval until the next Executive Session occurs rather than entering an Executive Session for this sole purpose.

### **OTHER BUSINESS**

1. Pumping Reports. Mr. Armendo reviewed reports for the Board. No issues of note. He stated that he is working on a standardized form so all haulers submit information that will be easier to track.
2. 2019 Priorities. Mr. Weinberg stated that the Board will await for a full Board to discuss. He asked the listening audience to let the Board know what are some of the things they feel the Board should address.

### **OUTGOING**

Mr. Armendo stated that Wealthlow Farms was squared away today. He anticipated progress on Brookwood Drive; Fire Department review has approved the smoke detectors but not the second egress at this time. Mr. Weinberg noted the Board of Selectmen approved the Assistant Animal Control Officer and the Board is pleased to have the coverage.

### **DIRECTOR**

1. Written Report. Noted.
2. Director's Update:
  - Board of Health: Mr. Armendo noted the following in a busy office. The staff is doing the best to address all issues. He noted there are 3 active cases with Town Counsel and these require more than usual time to address. These are the Harbor Inn, 29 Oakland Ave and Medeiros Farm. Mr. Armendo also noted 351 Fisher Road is subject to another inspection per the courts and he will be performing inspections on these last four tomorrow.

Mr. Armendo stated that there are 27 Regulations on the book. He suggested some should be combined and some dissolved to be more effective. The recently updated regulations are set and need no review, but older regulations should be reviewed. Ms. Ryden stated that Keeping of Animals and Denitrification are more current and suggested that some of the simpler/older regulations are allocated to the members to determine if they should be addressed.

- FT Agent Position: Mr. Armendo said the new agent is now helping with barn books.
- Animal Control: The Assistant ACO, starting on 10/15. He will also be nominated on 10/21 as AI. Mr. Weinberg read the stats for Animal Control calls; the numbers were quite high. Mr. Alden asked how many of those calls were for farm animal abuse. Mr. Armendo said there were 4 calls for animal welfare but not for livestock. Donna Perillo asked when the new ACO would have training for animal welfare and Mr. Armendo stated that it is scheduled.
- Transfer Station: Operations running well.
- Landfill: The consultant is working with Mr. Armendo and DEP. Part of the requirement for maintaining the landfill is cutting the grass. He suggested as part of the reduction in monitoring savings, perhaps a company can be hired to do the cutting next year since the highway department has been very busy and could not address it this year.
- Nursing: Members reviewed the monthly report statistics. Ms. Ryden urged listeners to get their flu shots.

### **SEPTIC PLAN REVIEWS**

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1. 343 Old Bedford Road (M-3/L-91A&B) Donna Lambert, 3-Bedroom Repair, Stone Bed. **MOTION** by Ms. Ryden to approve the 3-bedroom upgrade plan dated 9-16-19. Seconded by Mr. Weinberg. Unanimous.
2. Maya Way (M-69/L-3E/SL-4) Joseph & Maria Cordeiro, 3-Bedroom NC, Stone Bed, (continued from previous meeting). ConCom has approved. The previous plan showed a 4-bedroom house with a 3-bedroom design. It was corrected to a 3-bedroom house with a 3-bedroom system. **MOTION** by Ms. Ryden to approve the plan dated 9-23-19. Seconded by Mr. Weinberg. Unanimous.
3. 70 Tickle Road (M-21/L-115) C2S Development, 3-Bedroom. Members had questions regarding actually locating the well. **MOTION** by Ms. Ryden to continue pending well testing and update plan to include the field location of the well, errors and omissions statement and subject to maximum feasible compliance. Seconded by Mr. Weinberg. Unanimous.
4. 40 Oakland Avenue (M-24/L-15-16) Clark Development, 2-Bedroom Repair, Cultec Inc. Contactor 100 Chambers (H10) w/o Aggregate. Mr. Armendo reviewed the plan that the location of the house is pushed back and may be in the buffer zone. It probably needs an order of conditions and so the plan is back before ConCom. **MOTION** by Ms. Ryden to continue subject to ConCom review and sieve analysis and I/A requirements. Seconded by Mr. Weinberg. Unanimous.
5. 495 Gifford Road (M-31/L-17G) Dorothy Greenhalgh, 4-Bedroom, Singlair 60-600 & Quick 4 Infiltrator LP Bed. **MOTION** by Ms. Ryden to continue subject to well testing and maximum feasible compliance evaluation. Seconded by Mr. Weinberg. Unanimous.

6. Bentley Lane (M-5/L-16D) Joe & Diane Raposo, 4-Bedroom NC, Stone Bed. Because it is new construction, there is no stormwater review. **MOTION** by Ms. Ryden to approve the plan dated 9-19-19. Seconded by Mr. Weinberg. Unanimous.
7. 398 River Road (M-87/L-6A) Dennis Talbot, 3-Bedroom NC, Quick 4 Infiltrator Standard Chamber Bed. Engineer from SITEC, Mr. Leach, was present to answer any concerns. He noted that the subdivision was allowed under the CITGO Rule. There is one well serving two homes. The proposal is to move one well and install two others to make all lots compliant. Stormwater review is not required because of the 2-bedroom cottage already existed and there is no proposed square feet of disturbance or new construction.

Ms. Ryden was concerned with denitrification. Mr. Leach stated that a new layer cake septic system would not be permitted since it is not remedial. They are 250 feet from the river and well past the set back required in this plan design. Ms. Ryden said that it is sloping towards the river and she is not comfortable with this plan. Mr. Leach said that it is placed as far as possible away from the river-front zone and meets the requirements.

Because it is a summer cottage, the FAST System would not work because it is not used year round. Mr. Leach said that layer cake system would have been useful, but it is only approved for remedial use. Discussion ensued.

Ms. Ryden would like to hear from DEP and find out what the process is and how long the process will take to allow for an I/A system and so asked to continue this to the next meeting. They are able to go forward with well drilling at their own risk. Mr. Leach said, nothing will change from now to two weeks from now as he already tried to seek DEP input and found out that this configuration is all that could be done. **MOTION** by Ms. Ryden to continue to two weeks from now. Seconded by Mr. Weinberg. Unanimous. This will allow a full board vote. Mr. Armendo will contact the DEP and begin inquiring.

8. 29 Riverview Drive (M-36/L-11) Stephen Pichette, Upgrade 3 to 4-Bedroom, Quick 4 Infiltrator Standard Chamber Bed. Has been to ConCom and I/A system. **MOTION** by Ms. Ryden to approve the plan dated 8-1-19 revised 10-2-19 subject to ConCom review and subject to Title-V. Seconded by Mr. Weinberg. Unanimous.

#### **TOPICS FOR THE NEXT REGULAR MEETING**

Nothing at this time.

#### **APPOINTMENTS**

**6:20 pm – Executive Session – Pursuant to the provisions of MGL C 30a Section 21(A)**, Chair Declares an open meeting will have a detrimental effect to: approve Executive Session Minutes.

Minutes were tabled to a future Executive Session. No Executive Session was held at this time.

**6:30 pm – Discussion: Susan Baltrus, owner of Rental Property at 222 Brayton Point Road.**

Ms. Baltrus stated that her 3-bedroom home was not as so designated by the Board of Health, which is a 5-bedroom. She has been asked to upgrade the septic from 3-bedroom to a 5-bedroom. It would be a hardship to upgrade; to alter rooms and wall structures is also a financial hardship for her family. She asked the Board to make an exception as they have been there since 1975. The reason she is asking for an exception is that the house is vacant a large majority of the time and is rented out occasionally. It's

been used a total of 17-21% during this year. Because it is vacant a vast majority of the time, she does not anticipate a problem. She offered to not allow it to be occupied more than 30% of the year and will have the system evaluated and pumped every 2 years instead of the 3-year requirement. She is willing to take preventative measures to make sure nothing happens.

Mr. Weinberg stated that the Board's flexibility is limited by the Title-V based on the time used under system sewage flow design criteria: actual water meter data shall not be substituted for activities/per each bedroom. The Board is not permitted to do this unless it is a school. He stated the other problem is what happens if it is sold and listed as a 5-bedroom home. She said she is happy to list it as a 3-bedroom home. Despite her offer in how to "use", the fact is that per definition, the house meets a 5-bedroom definition for septic designs.

Ms. Ryden said that this may not be appealable to DEP. Mr. Armendo stated that there are a lot more people who can actually stay there. Members suggested a low interest loan to upgrade or install a denitrification system. Ms. Ryden asked to see a well water tests and the plan from 10-years ago and also what the resource areas are.

Ms. Baltrus delayed her return to Florida to attend this meeting and will remain in touch with the Director to work this out.

Mr. Jon Alden asked how many people can be in a room. Mr. Armendo stated that the square footage allowed per person is written in the sanitary code. Discussion ensued.

#### **TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING.**

For the next newspaper column, Ms. Ryden proposed that there be information about the regulation updates and then in November a list of the transfer station holiday hours.

Mr. Weinberg asked to include in the column information on the Barn Book inspections – that those who do not participate in the barn book inspection can contact Joe or Donna to be included. Ms. Ryden asked for him to provide the language.

Ms. Ryden asked about the October 17 working meeting. Having no participants, there will be none.

**MOTION** by Ms. Ryden to adjourn at 7:45 p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk



The Regular Meeting of the Board of Health convened at 6:03 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

## **MINUTES**

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May 06, 2019 (corrected). Tabled to October 23, 2019, the Wednesday work session.

## **OTHER BUSINESS**

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1. Pumping Reports. Noted.
2. Vaping Discussion. Mass Association of Health Officers requests local Board adopt a resolution to stop vaping due to increasing number of injuries to lungs and addiction through the use of vaping products. The resolution for this Board would be to ban flavored tobacco products including e-cigarettes and create excise parity and to ask the legislators to support the bills in the Senate and House to regulate tobacco products. Ms. Ryden cited latest statistics noting Massachusetts is the 8th worst state with 20% of students using these products. **MOTION** by Ms. Ryden to support the ban and contact legislators. Seconded by Mr. May. Unanimous.
3. Household Hazardous Waste Collection Discussion. Ms. Ryden requested support to ask the Selectmen. She asked the Board for support while she is researching where the money is appropriated; partnering with other towns was not an option; Clean Harbor in New Bedford and other options. **MOTION** by Mr. Weinberg to move forward for a hazardous waste collection day. Seconded by Mr. May. Unanimous.

## **OUTGOING**

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Noted.

## **DIRECTOR**

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1. Written Report. Noted.
2. Update
  - a. Portable toilet applications are on the increase.
  - b. Mr. Armendo attended Housing Court today and provided the Board the details for several properties.
3. Board of Health.

Mr. Armendo stated that the Board really needs another clerk to help with the overload, especially with the fee re-structure it is nearly impossible to keep current. He suggested asking for funding for a part-time clerk and can demonstrate that revenue can support this.

4. Animal Control/AI. Donna Lambert was present to discuss the expired contract with Forever Paws. Mr. May said this contract has a figure for \$44K and has never seen the ACO budget. Ms. Lambert stated that the figure is based on daily boarding for dogs. She opined that the number may be based on other towns. She also noted that the owners must pay to reclaim their animals and therefore the Town is then reimbursed. The ownership is turned over to Forever Paws after 10 days. In 10 years, only 5 dogs have been turned over to Forever Paws as owners of the animals reclaim their pets. Forever Paws is a no-kill shelter. The other shelter in Dartmouth, which is a euthanize shelter, is only used for wild animal decapitation for rabies testing. Ms. Ryden suggested clarification in item 3 and 5. The funds come back to the general fund. Discussion ensued over creating a revolving fund. **MOTION** by Ms. Ryden to approve the contract with Forever Paws for FY'21. Seconded by Mr. May. Unanimous.
5. Transfer Station. Operations are running well. Two containers need replacing and Mr. Armendo expects to place the request with capital improvements.
6. Landfill. He is looking for the hydrogeographic study for the landfill to provide to the DEP, but he feels that DEP should already have this study on file. Mr. Weinberg suggested Tighe & Bond should also have a copy.
7. Nursing. Flu shots are being distributed.

Ms. Ryden asked the Board to consider becoming members of the Mass Association of BOH and to discuss at the Wednesday work meeting

#### **SEPTIC PLAN REVIEWS**

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1. 2 Celtic Drive (M-24/L-6J) Dave Dubois, 3-Bedroom Upgrade (no increase in flow) Infiltrator Quick 4 Chamber Bed. Mr. Armendo stated there is nothing that requires any variances and calculations appear to be correct. **MOTION** by Ms. Ryden to approve plan dated 10-1-19. Seconded by Mr. May. Unanimous.
2. Bentley Lane (M-5/L-16/SL-1) Joao & Catrilia Conceicao, 3-Bedroom New Construction, Stone Bed. **MOTION** by Mr. May to approve plan dated 10-2-19 subject to ConCom approval. Seconded by Ms. Ryden. Unanimous.
3. 4 Little House Lane (M-87/L-32C) Anne Hopkins, 3-Bedroom Repair, Infiltrator Quick 4 Chamber Bed. **MOTION** by Mr. May to approve plan dated 10-3-19. Seconded by Ms. Ryden. Unanimous.
4. 194 Sanford Road (M-16/L-76) John Desio, 1-Bedroom, New Construction Stone Bed. Nelia Williams, abutter and Len Potter were present. Mr. Potter stated this was a plan that was begun in 2002. There was a cobbler who lived there in the summer with no well and with an outhouse and at the time the BOH allowed the next two successors to have an approved system for a one-bedroom. The successor had an approved plan in 2003 and by 2019, it had been extended and expired a few times. Mr. Potter is seeking approval of the expired plan again. The design standards of Title-V requires a 2-bedroom septic system. In 2004, DEP issued an approval as it meets all standards for a 1-bedroom house. There is already a deed restriction for a 1-bedroom house. Based on the background, the Board can approve. Ms. Ryden asked about the 2016 update to Title-V and if that would change any requirements. In 2017, the Board of Appeals approved the

plan showing the 1-bedroom dwelling. There are no changes or variances requested. The abutter asked the Board not to approve this plan as the area already is congested and lots are very small. Discussion ensued.

5. Mr. Weinberg noted that the Board would need to look at architectural plans. Mr. Potter stated his client intends to use the same plan as was previously approved. Ms. Ryden had serious concerns. Mr. Weinberg noted that Mr. Armendo will want to look into further architectural floor plan. Mr. Potter noted that an 18 inch perc rate is a good rate being less than 20. Ms. Williams presented photos showing her land before and after rain and she indicated that with another septic system abutting her, she asked what will happen then with storm water. Mr. Potter is proposing a swale for stormwater and plantings to take up any water; he stated it is not high ground water. The proposed system would not be in the groundwater. **MOTION** by Ms. Ryden to continue subject to perc tests and architectural plans. Seconded by Mr. May. Unanimous.
6. 1759 Main Road (M-83/L-167) Katrina & Mark Strozik, 4-Bedroom Repair, ADS ARC 36 Chambers in Bed. **MOTION** by Ms. Ryden to approve plan subject to annotation of reserve area on plan. Seconded by Mr. May. Unanimous.
7. 131 Forge Road (M-28/L-14) George Thibault Estate, 3-Bedroom Repair, Infiltrator Quick 4 Chamber Bed. **MOTION** by Mr. May to approve plan 9-30-19 subject to annotation of reserve area on plan. Seconded by Ms. Ryden. Unanimous.
8. 245 River Road (M-86/L-26) Frances Lynch, 3-Bedroom Repair, Stone Bed. Mr. Potter was present for this. Ms. Ryden had asked if the engineer would speak with the owner to consider installation of a voluntary denitrification. Mr. Armendo stated he felt this was straightforward. **MOTION** by Ms. Ryden to approve plan dated 9-25-19. Seconded by Mr. May. Unanimous.
9. Mackady Court (M-66/L-18E) Robert Frazier, 3-Bedroom New Construction, Infiltrator Quick 4 Standard Chamber. Ms. Ryden wanted to be sure that it is for a 3-bedroom as it is not indicated. Mr. Armendo said it is stated in the septic design. Ms. Ryden noted there is no note that ConCom has reviewed this and in the notes section stated that they pump annually. It is possible the instructions are from the A/I manufacturer. **MOTION** by Mr. May to approve plan dated 9-30-19 rev'd. 10-15-19 subject to ConCom approval. Seconded by Ms. Ryden. Unanimous.

#### **TOPICS FOR THE NEXT REGULAR MEETING**

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None.

#### **APPOINTMENTS**

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#### **6:15pm – Discussion: Len Potter follow up for 269 Howland Road, Additional WA Completed**

Mr. May noted that with the water testing results for Nitrate levels of 2-4 he is able to approve. **MOTION** by Mr. May to approve the repair plan with a variance to allow setback of 61 feet to well and subject to a hold harmless agreement based on meeting Title-V requirements and conditional on a deed restriction for 4-bedroom home. Seconded by Mr. Weinberg. Ms. Ryden stated for the record that a de-nitrification plan was not submitted and that she would abstain. Mr. May added that all

abutting neighbor's wells are serviced by the water company. The vote was two in favor. Ms. Ryden was opposed.

**6:15pm – Discussion: Sean Leach follow up, 398 River Rd BOH Request Denitrification SAS.**

This was continued from October 7, 2019 with the hope of looking at a possible denitrification system. Discussion ensued.

**MOTION** by Mr. Weinberg to approve the plan dated 8-14-19 (2-sheets) subject to “in the event that should the occupancy in the house change from seasonal use to year round use”, the owner will apply to the Board of Health for a denitrification technology system. Seconded by Mr. May. The vote was two in favor with Ms. Ryden opposed.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING.**

None.

**MOTION** by Mr. May to adjourn at 8:40 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

## **MINUTES**

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1. May 06, 2019. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous
2. Oct. 07, 2019. **MOTION** by Mr. May to approve. Seconded by Ms. Ryden. Unanimous.
3. Oct. 21, 2019. Mr. May presented scrivener's error edits. Tabled to the next meeting.

## **OTHER BUSINESS**

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1. Pumping Reports. Noted.
2. Title 5 Inspection: 78-A Hillcrest Acres – tabled to the next meeting.
3. Household Hazardous Waste Discussion. Ms. Ryden asked members to support funding as a separate warrant article for Town Meeting. Rather than adding the funding to the BOH budget, she has the support of the Fire Chief to submit it jointly as an article. Mr. Weinberg stated that the Town Administrator was supportive including it as a budget item. The amount is for \$25K. The state-wide contract for hazardous waste contractors would not require the Town to go out to bid. **MOTION** by Ms. Ryden to submit an article for \$25K for Household Hazardous Waste Day and that it be accompanied by a letter signed by Mr. Weinberg. Seconded by Mr. May. Unanimous.

## **OUTGOING**

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Ms. Ryden noted another failed well in the outgoing correspondence.

## **DIRECTOR**

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1. Written Report. Noted.
2. Update
  - Board of Health: Mr. Armendo summarized the activities in the office.
  - Medeiros Farm: still working on.
  - 351 Fisher Road: noted.
  - 29 Oakland Ave: check list and progress provided.
  - 23 Acoaxet aka The Harbor Inn.
  - 31 Brookwood Drive: noted
  - Animal Control/AI: members asked that Ms. Lambert attend the next meeting; Mr. Armendo updated the members about the new Assistant ACO and new schedule. They requested a copy of the schedule be sent to them.
  - Transfer Station: nothing new to report.
  - Landfill: Consultant George Campbell, feels that DEP may have questions.

**SEPTIC PLAN REVIEWS**

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1. 16 B Drive (M-23A/L-1,2,3) Harvest Home Properties, LLC, 3-Bedroom Repair, 3-500 gal. Chamber Bed with Aggregate. **MOTION** by Mr. May to approve plan conditional on a 3-Bedroom deed restriction. Seconded by Ms. Ryden. Unanimous.
2. 908 Sanford Road (M-30/L-20) Theresa Martin, 2-Bedroom Repair, Infiltrator Quick 4 Chamber Bed. **MOTION** by Mr. May to approve plan conditional on a 2-Bedroom deed restriction. Seconded by Ms. Ryden. Unanimous.

**TOPICS FOR THE NEXT REGULAR MEETING**

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Next working meeting to be determined.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

None

**APPOINTMENTS**

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**6:40pm – Waiver Hearing: Len Potter for 9 Velvet Avenue, Georgiana Isidore.**

Tabled to the next meeting.

**6:50pm – Discussion: Susan Clare (neighbors) to 222 Brayton Point Rd. # of Bedrooms**

Neighbors Karen Connery of 228 Brayton Point Road was present with Susan Clare of 234 and 238 Brayton Point Road.

They were present to provide her feedback on the the septic violation that is having an impact to their neighborhood. She said that the owner advertises on VRBO. The place is run like a hotel that the owner rents out April through October and that she can vouch for since she is there. She said there have been repeated zoning violations and septic violations since 2015. She said that the owner has used the property as a business in a residential area in the middle of a sensitive nature reserve. Ms. Clare read further notes from VRBO on guest comments and made note that the owner is actively renting and admitted so at the meeting of the BOH on October 7th.

Ms. Connery asked the Board to reconsider the granting of a 2-year extension as the true nature of what was going on there was not revealed. She said the large amount of renters leave a great deal of trash and dog feces and she has had to pick up a lot of it on her side of the property. Carolyn Kaiser at 270 Brayton Point Road also gave a statement on the requirements they personally had to comply with when they required permitting. She was in opposition of the rental activity.

Mr. Weinberg stated that his only comment is that the only reason the 2-year period came up was because Title-V provides this period by default and the owner offered a shorter period of time to pump out the septic. He felt the Board would review what action it could take in their jurisdiction. The BOH can look at the number of beds per room and system that can accomodate that. Discussion ensued. At 7:01pm members recessed to reconvene at 7:15 in the gym.

**7:15pm – Discussion/Vote: Animal Registry Regulation**

Mr. Weinberg addressed the group gathered in the gym. He noted that he has met with members of the farming community and feels that he has learned what the issues are. He invited comments this evening and asked that points are not repeated.

Copies of the regulation were provided. He said the registry is simple basic information requesting name, contact information, type and number of animals so that the Animal inspectors and public safety have the information they need. This information would translate to information that the barn inspections could use.

Mr. Weinberg stated that there were 3 particular issues that raised concern. The purpose statement indicated protection of the environment. The concern was that this was read as an expansion of the scope of the regulations. There has been suggestion it be deleted and he said the members will vote on this later on. Another concern was the use of the word “valid” in registration was obscure as to what valid actually meant. Mr. Weinberg clearly noted that the regulation specifically defined that valid was the inclusion of all the information requested.

The farming community had reservation of the BOH’s authority. There are other regulations that authorize the BOH to take action for nuisance issues, for example. The suggestion was to strike this provision. The Board already has authority based on other regulations.

At this time, Mr. Weinberg called upon persons who listed their name on the sign in sheet.

Charlie Merrow stated that the amount this regulation changed is substantial but it hasn’t changed enough. It is not a simple or tight regulation, it is broad and should be simpler. He felt one ought to be providing specific information. The regulation should assure to not penalize or fine for omission of information.

Mr. Weinberg stated that he does not want to debate the draft this evening. The Registry is a mandatory requirement and there is no fee but there is a potential for penalty after BOH notification and AgCom mediation and opportunity for the individual to file the appropriate paperwork.

Ron Laprise did not agree with section 4A6. Mr. Weinberg explained the need for reporting the different types of livestock and that there would be no penalty. Mr. Laprise also noted Section 2 was incorrect. Mr. Weinberg stated the Board will vote on this. Also, item 7 should be edited regarding authority. He also felt pushing this through was disrespectful.

Sam Mundel felt that number 7 is problematic and he does not support this as written. There is no requirement that facilitates a registry. He does not feel that asking for farmer’s data is appropriate. He knows there is confusion and differing opinions about this regulation. He feels that Town Meeting would be a more appropriate forum. A number of persons were working on a petition and that is the correct forum for this group that would facilitate barn books and help police and fire.

Ramond Elias thanked the BOH for working to reduce it. In his opinion, the farmers are unreasonably regulated by this registry. The authority and purpose should simply be name, address, contact info and how many animals.

John Ciccotelli spoke as a resident and hobby farmer in town. He noted that in the eight years of existence of the Right to Farm By-Law, no one was ever been fined or reprimanded. Essentially this is nothing more than a census for the BOH for the purpose of emergency management planning due to possible epizootic diseases. He feels this is as bare bones as it can get and congratulated the BOH.

Sherilyn Mahony stated that much work has been done since September and she has had several meetings and the BOH has listened. The present concern was if the changes she submitted today would be incorporated. She reviewed the parts to be removed. She stated that it is 90% there but not quite and does not support this draft. She sees a failure of the BOH to provide the appropriate tools to make the barn book work.

Raymond Raposa, Chair of the AgCom asked about making the “kind“ of animals easier than requiring a 30 day action with penalty. He asked to make it more friendly. He will not support this draft. With AgCom support, he feels it could work and noted it does not take anyone’s right to farm away.

Ms. Ryden read letters of recommendation and support for the regulation from the Fire Chief, the Police Chief and Chair of the Board of Selectmen.

Thomas Vieira asked about public health and specifically about the mangey fox that killed his and neighbor’s chickens. He supposed that disease could have been spread. He was told by the town there was nothing they could do. Mr. Weinberg felt this was outside the scope of this regulation. Mr. Vieira said a registration will not change it.

Mr. Weinberg reviewed section by section and changes being proposed tonight.

**MOTION** by Mr. May to approve the Animal Site Registry Regulation dated 10-30-19 as amended on 11-4-19 on the floor (see Chair’s notes): Section 2; Section 4 C; Section 6, 7, 8; and effective date November 28, 2019. Seconded by Ms. Ryden. The vote was unanimous.

Members moved to adjourn.

**MOTION** by Mr. May to adjourn at 8:08 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk



The Special Meeting of the Board of Health convened at 12:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

## **OTHER BUSINESS**

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1. Director Update.  
Mr. Armendo updated the Board on the conference he attended last week. He explained the new systems that are being considered. He also attended EEE information meeting. The housing code will be changing and he has asked to be part of the new committee that will be looking at the state sanitary code.
2. 222 Brayton Point Road.  
No official application has been made for an increase from a 3 to a 5 bedroom system. The owner is in violation at this time. The option of a 5-bedroom system is probably not possible. There is a rental component that the Board could limit to 3-bedroom or 6 people. The owner had related that they have a greater capacity for family members. The owner went over the top on the rental side and neighbors complained to the Board. Armendo suggested that they limit the dwelling to a 3-bedroom system. The Board could be less harsh because it is seasonal and not used all year round. The system would not be burdened over time, but may be overburdened by per day use. Ms. Ryden noted the two issues – the septic issue and the housing code for rooms not being adequate. The neighbors are also bringing up the issues. Mr. Armendo will address a letter of conditions to comply with to the owner.
3. Priorities Discussion.  
Mr. Weinberg provided a list for members to look at and consider in any order other than listed. Discussion ensued. Mr. Armendo suggested having this on one agenda only so the Board can focus on line by line.
4. Animal Site Registry Next Steps.  
The members looked over the form and font sizes and two different fonts. Press releases are scheduled. Mr. Armendo discussed the potential opposition and the influence on operations on the department and wanted to develop a strategy when more letters and communications start up.

## **TOPICS FOR NEXT MEETING**

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None.

## **TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

Mr. May brought up the Transfer Station budget. He noted that the trend for recycling is moving to negative figures. The recent price sheet indicates the cost of recycling is being passed on to

the Town. He questioned if \$15K in the 2021 budget was sufficient. Ms. Ryden suggested informing the BOS of the negative trend line. Members reviewed other capital expenditures.

**MOTION** by Mr. May to adjourn at 1:43 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:00 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**Present:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

#### **PUBLIC HEALTH NURSE PRESENTATION**

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Linda Pierce, RN – Diabetes

Ms. Pierce gave information on diabetes. She offered for anyone who needed additional information to contact her at the Nurse's office.

#### **MINUTES**

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1. Oct. 21, 2019
2. Nov. 04, 2019

**MOTION** by Mr. May to approve the minutes of October 21 and November 4 as amended due to scrivener's errors. Seconded by Ms. Ryden. Unanimous.

#### **OTHER BUSINESS**

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1. Pumping Reports. Noted.
2. 222 Brayton Point Road-Septic Issue. Mr. Armendo asked to table this until he has had a chance to discuss with the Chair. Mr. Weinberg noted the restrictive nature of the area. Mr. Armendo stated that the system could not be expanded from a 3 bedroom to a 5-bedroom system in the velocity zone. Mr. Weinberg stated that the ConCom Agent noted the land is in the velocity zone but not in the more restrictive areas. Discussion ensued over any anticipated requests for a variance. Mr. Weinberg noted the issue of owner renting the home and the concerns of the abutters. The current use of renting to over 15 people puts undue stress on the current system. Ms. Ryden asked to place this item on the next work session agenda for discussion.

#### **OUTGOING**

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Ms. Ryden suggested reminding people that it is time to renew various permits on the website and by way of press releases.

#### **DIRECTOR**

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1. Written Report - Mr. Armendo supplied the agent's reports.

#### **SEPTIC PLAN REVIEWS**

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1. Heritage Drive (M-23/L-78) Warren Messier, 3-Bedroom New Construction, Stone Bed. Mr. Armendo stated that the assessor's card lists it as a non-buildable lot because the owner had, some time ago, asked to not be taxed as a buildable lot. The Building Department also has it listed as an unbuildable lot, based on the Assessor's records. The lot is still undersized as it is using the utility line easement area to make up the balance. Continued until this is explained better to the Board.
2. 40 Oakland Avenue (M-24/L-15&16) Clark Development, 2-Bedroom Repair, Cultec Inc. Contactor 100 Chambers (H10) w/o Aggregate. This was before the Board in February and the plan was revised twice since. The Board would only need to accept the sieve analysis. **MOTION** by Mr. May to approve plan as revised 9/25/19, which includes approval of a sieve analysis. Seconded by Ms. Ryden. Unanimous.
3. 169 Atlantic Avenue (M-89/L-18) Pamela Alexander, 7-Bedroom Repair, Quick 4 Standard Infiltrator Bed. Len Potter was present to answer any questions. The original house was demolished and a new house is being constructed close to the original footprint. Ms. Ryden noted the plan shows a lot with 43K sq. ft. and the Assessor's field card reports 30K sq. ft. Mr. Potter believes the card is in error and will verify with the Assessor's information. There is no increase in flow. The system will continue to service 7 bedrooms. **MOTION** by Ms. Ryden to approve the 7-Bedroom repair plan with no increase in flow subject to a deed restriction and subject to the lot area on the plan as noted is correct. Seconded by Mr. May. Unanimous.
4. Gel's Way (M-84/L-21B/SL-2A) Michael Hughes/Christopher Audette, 4-Bedroom New Construction, Infiltrator Quick 4 Chamber Bed. **MOTION** by Mr. May to approve subject to ConCom approval. Seconded by Ms. Ryden. Unanimous.
5. Walter's Way (M-34/48E) Karen Antonio, 4-Bedroom New Construction, Infiltrator Quick 4 Chamber Bed. **MOTION** by Mr. May to approve the septic plan dated 11-6-19 conditional on the 6 corrections requested in the director's letter dated November 14, 2019 and ConCom approval. Seconded by Ms. Ryden. Unanimous.

**TOPICS FOR NEXT MEETING**

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NONE.

**APPOINTMENTS**

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**6:20pm – Waiver Hearing: Sitec Inc. for 38 Brookwood Drive, Donna Pulkowski.**

Korey Medeiros from SITEC was before the Board.

Variance requested is setback from vegetative wetlands 62 feet vs. 100 feet. Well separation is maintained at 100 feet.

Mr. Weinberg stated that Maximum Feasible Compliance must be adhered. The upgrade is to comply with standards of new construction if the well is down gradient and if there are nitrates present in the well.

Mr. Medeiros stated there is no additional flow in this repair. Mr. Weinberg stated Title-V considers any repair an upgrade.

The applicant may install a denitrification system or seek a waiver and provide well testing to show low levels of nitrogen and show the cost of the system exceeds 10% of the value of the property. They would need estimates for a denitrification system. Currently, there was no well test required by the bank of the buyer or seller.

The Director will provide Mr. Medeiros a copy of the policy and checklist or the applicant can have well testing submitted and a deed restriction.

Mr. Weinberg stated that based on topography, it looks like any effluent may flow towards the well which is down gradient.

Nicole Plante, owner/broker of the property, stated that this is a heavy financial burden on the seller. Maximum Feasible Compliance was not known to her and she doubts any other realtors are aware of it. It hurts everyone involved from seller to buyer. She stated that as a realtor, she was not aware of this policy and as a result, any potential seller would need to know before listing. The cost of a conventional system and a denitrification system can make a difference to the seller who may choose not to list the property for sale because \$30K is substantially more to pay than \$15K.

The members advised the next step would be to obtain a well test and to ask for a waiver. Ms. Ryden suggested also completing the Title V inspection, which was not done because the pool is thought to be on the D-box. The application package did not have all the information for the Board to consider.

**MOTION** by Ms. Ryden to continue to the next appropriate meeting. Seconded by Mr. May. Unanimous.

**6:30pm – Discussion: Johnny Desio, 194 Sanford Road-Septic Issue. Cancelled.**

**6:40pm – Waiver Hearing: Len Potter for 9 Velvet Avenue, Georgiana Isidore. Cancelled.**

**6:50pm – Waiver Hearing: Mark Rodrigues, 449 Adamsville Rd, David & Jane Carreiro Est.**

There are no setback restrictions to wells and property lines. Variance requested is separation to groundwater to 3.2 feet vs. 4 feet to allow for gravity feed. The large system is to accommodate the poor perc rate.

**MOTION** by Mr. May to approve the variance requested subject to a hold harmless agreement and ConCom approval on the plan. Seconded by Ms. Ryden. Unanimous.

**7:10pm – Discussion: Chahine Elhaoui & Collins Eng. for 1005 State Road-Septic Issues.**

George Collins and Mr. Elhaoui were before the Board.

Mr. Collins designed a local upgrade septic system with the following variances being requested:

- Sieve Analysis in lieu of perc
- Set back from SAS to wetlands, 12 feet vs. 50 feet as required.

Well setbacks have been maintained.

Mr. Collins stated that because the house is so close to the street, they would be hard pressed to move the well. It is a group home. The system is designed for a 4-bedroom home with supplemental flow for staff that check in on the residents.

Discussion ensued over the prior status of the system. There are no records other than this was a 6-room house. Mr. Collins asked to modify the design to slightly less than 5 bedrooms and reduce flow to under the 550 threshold and offered to place a 4-bedroom deed restriction on the property.

Discussion ensued over the number of bedrooms. The applicant purchased the home as a 4-bedroom home. The Board discussed treating it as a repair of a 4-bedroom with a deed restriction; the architectural plans reflect 4 bedrooms and "an office". The office is a questionable potential bedroom room for the members.

Ms. Ryden asked for more information from ConCom. Continued to the next meeting subject to a submission of a 4-bedroom plan, well testing and reduction of system to less than a 550 flow.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

**6:30pm – Follow-up Discussion: 70 Tickle Road, C2S Development – Water Test.**

This was on the October agenda and the Board, at the time, requested additional information. The water testing came back with nitrates at 7.84. The applicant is approaching the last 20 days in which to install this system or he forfeits \$45K from the bank. Ms. Ryden stated the well is down gradient and subject to Maximum Feasible Compliance and appears to be high risk. The applicant could ask for a waiver or install a denitrification system. Mr. Weinberg stated that the errors and omissions statement is in error and in its stead, the applicant could file a hold harmless agreement.

**MOTION** by Ms. Ryden to continue and to hold a special meeting if needed. Seconded by Mr. May. Unanimous.

**MOTION** by Mr. May to adjourn at 8:28 p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Special Meeting of the Board of Health convened at 11:00 a.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Matthew J. Armendo, Director

**ABSENT:** Maurice E. May, Secretary

### **OTHER BUSINESS**

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1. Discussion: 78-A Hillcrest Acres Title 5 Report-Actual Bedrooms vs. Septic Design, Possible Deed Restriction. The property is a 4-bedroom property with an auxiliary apartment. Increase in flow is not an option for this property because it is undersized at 15,000 square feet. Members discussed the conditions under maximum feasible compliance.

### **APPOINTMENTS**

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#### **11:00am – Waiver Hearing: Kevin Silva for 70 Tickle Road, C2S Development with MFC Waiver.**

Requesting a waiver to nitrogen removal. The contractor estimated the system over 10% of the value. The system was not in use at the time this property became available. It is a substantial cost for the client. The house will be significantly upgraded with no increase to the number of bedrooms. The combined cost for a denitrification system is \$33K and the valuation is low \$200K. **MOTION** by Mr. Weinberg to approve plan dated 9-19-19 for a 3-bedroom repair conditional on a 3-bedroom deed restriction and that the current owner notify the buyer of the well test results from November testing. Seconded by Ms. Ryden. Unanimous.

#### **11:15am – Waiver Hearing: Kevin Silva for 306 Davis Road, Maria Miranda Est. with MFC Waiver.**

The family is voluntarily upgrading the system. Water test was at 2.7 but the Radon came back at 20K units (max is 10K). The lead that registered may be because the house was closed for two months. Nitrogen was low.

Variance requested:

- setback to site well 92 feet vs 100 feet.

**MOTION** by Mr. Weinberg to approve the 3-bedroom system variance requested for plan dated 11-8-19 conditional on a hold harmless agreement and three years of well testing and confirmation if testing applies to 306 Davis Road. Seconded by Ms. Ryden. Unanimous.

**MOTION** by Mr. Weinberg to adjourn at 12:00 p.m. Seconded by Ms. Ryden.  
Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk



The Special Meeting of the Board of Health convened at 10:00 a.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

## **OTHER BUSINESS**

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1. 222 Brayton Point Road. Members discussed correspondence to be issued to the owner. The septic system can only accommodate 3-bedrooms and the home has 5-bedrooms. The BOH will ordered the owner to upgrade the system to a 5-bedroom system by May 2020 or decommission 2 of the bedrooms and to have the system pumped immediately upon receipt of this letter. Lastly, the owner will be ordered to enter into a contract with a licensed Westport septage hauler to have the system pumped once a month until upgraded or two bedrooms are to be decommissioned. Ms. Ryden specified that a 5-bedroom is not permitted under the local requirements nor is it guaranteed to be permissible and is subject to a request for a variance, which may or may not be granted. The other issues are nuisance issues not connected to septic requirements. Karen Connery from 228 Brayton Point Road was present. She said the home is rented year round and upcharges for holidays and large groups go up to as many as 21. Mr. Weinberg said another part of the order would be to cease renting it to more than 6 people. Mr. Armendo will circulate the next draft.
2. MA Dept. Agricultural Resource Discussion. The Board asked for this so as to be able to develop very specific questions.
3. Animal Site Registry Outreach. Ms. Ryden has not seen anything in the paper yet. Mr. Armendo scaled back awaiting answers from MDAR. Mr. Weinberg noted that the Board would send out a notice and form to surrounding feed stores and known farms and a wider distribution wherever possible.
4. Sharps Kiosk. Ms. Ryden will be looking into a Sharps container for the Nurse's office funded by local sponsors who will donate the container to the town. The kiosk would be placed outside the Nurses office.
5. Regulation Consolidation. Mr. Armendo suggested that the regulations be reviewed for validity and for streamlining if these are still valid. Mr. Armendo does not expect to do all at once, but begin to review and prioritize. The Board will be able to weigh in. There are some on the priority list such as the denitrification regulation. Members and Mr. Armendo shared ideas and thoughts on areas that were discussed. He will start by focusing on septic related regulations and involve septic installers and engineers for their feedback. Ms. Ryden asked to set up a working meeting in January to strategize which ones to focus on.
6. Westport Food Regulation Discussion. Mr. Armendo explained that the food vendors do not always know they are required to fill out a temporary food vendor application. Mr. Reis explained the process and discussion ensued. Inspections would be performed as required.

7. Letter to the Editor Discussion. Mr. Weinberg stated this item had to do with the letter that Sean Leach wrote. Mr. Weinberg asked the members if they wanted to discuss any part of it. Mr. May did not feel the Board should respond to it. Mr. Weinberg was not anxious to respond either.

**TOPICS FOR NEXT MEETING**

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1. The next working meeting is December 11 with Mike Cahill from MDAR.
2. Mr. Weinberg mentioned creating a FAQ on maximum feasible compliance; conduction a meeting with realtors for septic upgrades.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

**MOTION** by Mr. May to adjourn at 12:00 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Special Meeting of the Board of Health convened at 11:30 a.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

## **OTHER BUSINESS**

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### **Mass. Department Agricultural Resource – Michael Cahill, Director**

Mr. Cahill explained about the Barn Book Inspections. This is a State requirement where inspections are to make sure animals are healthy and are not suffering any infectious disease unnoticed or ignored by the owner. He said the inspection serves to prove that the property is managed appropriately, that the animals have food and water and that they are not knee deep in manure. Lastly, the inspection gathers information such as what species are on the property and counts their number for the purpose of answering any emergency response plan for disease out-breaks or natural disasters. The information collected is not public record and confidential. This aspect is written into public records law for emergency information. Providing information confidentially by the owner allows for better inspections. Inspections are written into the law but the confidentiality protects the owner's fourth Amendment rights. The inspectors have to get permission to enter a property and if refused they would obtain an administrative warrant to do so.

Mr. Cahill stated that in the past they have shared collected information with the emergency management director in the Town for their emergency response plan to have a better understanding what they have to deal with should the need arise. He has provided this info to the Emergency Management Directors. He said that what they have made it clear to owners and municipalities that the information is not shared for the purpose of taxation, assessment or permitting through the Board of Health. The Board of Health has the statutory right to require a permit and they can write regulations on what their expectations are on the property to ensure it is related to public health such as manure management and pest control, for example, because these can affect the people in the surrounding area.

In terms of the State being able to respond to disease outbreaks and emergencies, they are careful not to associate that with the permitting process of the BOH because if the state animal inspector pays a visit for a state inspection and two weeks later the BOH is looking for the owner who did not apply for a permit. This situation would cause a hindrance the next time the inspector goes, because the BOH sought out a permit. The owner would be less apt to allow the next inspection. This is why the inspections are kept separate.

The season for inspections is September through January because it is the lowest census on the farm and gives a better representation on what is there year round. The types of animals are traditional farm animals to include exotic species. Pigeons and pet rabbits are not included because the low incidence of disease breakout. For example, one chicken would have to be inspected because the incidence of disease is higher.

He described the "condition" by which they work with livestock – anything less than "adequate" triggers action and use of other agencies.

Mr. Weinberg asked about inadequate fencing and if the animal inspector should mention this. Mr. Cahill stated that the inspector should but is not required to mention it. A farm cannot be deemed a nuisance if conducting normal agricultural practice unless the animal is in the road meaning the animal is a nuisance.

Ms. Ryden asked if there is a trigger for a barn book inspection. Mr. Cahill stated not a barn book inspection – but a complaint could trigger an inspection.

The BOH asked if MDAR audits the barn book program. Mr. Weinberg asked if there is any follow-up or verify the information is correct. He said there are not enough personnel to do so. However, occasionally, if the numbers look different they will take a closer look.

Mr. Cahill is the records custodian for the Barn Book. Discussion ensued over the BOH having to collect the same information. Mr. May felt that MDAR's interpretation is not correct.

Ms. Ryden asked if the Animal Inspectors could work with the Emergency. The BOH has the statutory right to collect a fee, but the BOH is not doing that. The BOH is trying to implement a one-time registration and by doing so; the BOH can deal with public health issues.

Mr. Weinberg asked if the inspector sees an egregious activity, could they report this issue. Mr. Cahill stated that the inspector could do that.

Ms. Ryden asked about the criteria that falls below adequate and then what happens? Mr. Cahill stated that the inspector could certainly speak up. Ms. Ryden asked that once a complaint is made, it would be a barn book unless it is written in the book. MDAR wants the inspectors to write a supplemental report so it can be shared.

The MDAR has the authority to charge fines, thus these are civil matters. However, animal cruelty is a felony. If it is a criminal case, they have to pass it to MSCPA and ASPCA, which have their own unit of law enforcement. He noted that MDAR and these organizations do not always agree on cases of animal cruelty. These organizations must work with MDAR. He said that based on what it costs to prosecute; these other organizations may not take the cases. He talked a little about the local case where the MDAR was not allowed to do anything once these other companies step in.

Mr. Cahill stated that the Federal Government requires animal identification for cattle & swine, goats and sheep. Any cattle should be tagged over 18 months of age and if selling, all animals require a tag to prove its origin. He said a lot of animals do not have an id and it requires to be slaughtered right from the auction or processed by the person to potentially protect other animals, if it had a problem. The animal inspector will keep an eye out for this.

MDAR conducts free testing for flock owners if the birds are being sold or shown.

Ms. Ryden asked how Westport ranks in terms of agriculture/Barn Books. He stated there are many farms in this small area. The western part of the state also has a lot of animals but not the same density. He noted that he has been trying to get another inspector for this area. Ms. Ryden asked the number of municipalities that have animals, based on Barn books – Mr. Cahill responded about half in the state.

Mr. Weinberg opened questions to the public. Mr. Raposa asked about a calf slaughter with no ear tag. The calf should be tagged regardless if sold. As far as manure, he wanted to know what the requirements were. Mr. Cahill did not have the expertise for that.

Discussion ensued over animals being vaccinated and checked by the Animal Control Officer. The Town would have to authorize the ACO to issue citations and Westport has done so. Discussion ensued.

Mr. Cahill stated that he would make the information known to the emergency management if needed, but would not share the barn book information with the BOH. Other comments were heard and mostly to repeat the information presented by Mr. Cahill.

#### **TOPICS FOR NEXT MEETING**

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None.

#### **TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

None.

**MOTION** by Mr. May to adjourn at 1:00 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health at 6:00 p.m. by at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director  
Linda Pierce, Public Health Nurse

### **PUBLIC HEALTH NURSE PRESENTATION**

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#### **Linda Pierce, RN**

Opioids. Ms. Pierce gave a presentation on opioids addition, symptoms and consequences. For further information, persons can call the office.

### **MINUTES**

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1. Oct. 21, 2019. Previously approved.
2. Nov. 04, 2019. Previously approved.
3. Nov. 18, 2019. **MOTION** by Mr. May to approve as amended. Seconded by Ms. Ryden. Unanimous.

### **OTHER BUSINESS**

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1. Pumping Reports. Noted.
2. Barn Books/Equine/Swine. There are 12 left on the existing list and should be wrapped up by the end of the year. All equine and swine inspections were completed and permits issued on time.
3. FY21 Budget. Members reviewed budget provided in their packets. The Board will be meeting with the FinCom Rep. Members discussed adding a modest increase to the Director's salary that was removed by the administrator. Discussion ensued.
4. New regulations that restrict the sale of nicotine vaping and flavored vaping and tobacco products. Mr. Weinberg read the changes into the record and members reviewed the new requirements.
5. Regulations & Consolidation. Regulations were reviewed and some have non-criminal dispositions and others do not. He would like to have these streamlined with ones as they are addressed.
6. Priorities.
7. Audience participation: Sam Mundel was present and asked if there would be another public hearing similar to having Mike Cahill from the MDAR. He said they learned a lot from that meeting. Discussion ensued.

### **OUTGOING**

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Noted.

### **DIRECTOR**

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1. Written Report. Noted.

## 2. Update:

1. Board of Health. Mr. Armendo updated the members on the food permits and animal site registrations. He noted there are 6 active cases in housing court with 3 expected to close soon.
2. Transfer Station. The crew works hard to keep the site safe.
3. Nurse. A monthly report is attached.
4. Animal Control. Ms. Ryden asked for the report. Mr. Armendo did not have it yet. The addition of Mr. Vidmar has been very good for the department in November. No complaints have been received.
5. Barn Book. There are 12 left on the existing list and should be wrapped up by the end of the year by both inspectors. All equine and swine inspections were completed and permits issued on time.

**SEPTIC PLAN REVIEWS**

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1. 231-C Tickle Road (M-70/L-68&69) Raymond & Therese Fournier, 2-Bedroom Repair, Infiltrator Quick 4 Chambers Bed. Mr. Armendo suggested rewriting their error and omission statement. **MOTION** by Mr. May to approve the plan subject to the inclusion of an error and omissions statement on the plan. Seconded by Ms. Ryden. Unanimous.
2. 1038 American Legion Hwy. (M-28/L-39A&39B) Edward Sieminski Estate, 3-Bedroom Repair, Stone Bed. **MOTION** by Mr. May to approve conditional on ConCom approval and a 3-bedroom deed restriction. Seconded by Ms. Ryden. Unanimous.

**TOPICS FOR NEXT MEETING**

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None.

**APPOINTMENTS**

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**6:30pm – By Law Variance Hearing: Len Potter for 194 Sanford Road, Johnny Desio.**

Len Potter was present along with Attorney Perry and the applicant. The status of the variance that DEP indicated had lapsed. The Board had to look at it again. The question is if it extended to the perc test that was done in 2004 and in 2002 prior to that. Because the test was conducted no longer in the manner that tests are conducted under the current requirement, the question is if the perc tests would be allowed. DEP responded that the perc tests and the way they were conducted were acceptable.

The issue reflected in the plan was that the house had to remain a 1-bedroom house. The Board requested an updated set of plans to verify a 1-bedroom home and a 2-bedroom septic system. The architectural plans were reviewed and this satisfied that condition. The other issue was the report from the 2017 review by the Zoning Board of Appeals, which made a finding to allow the applicant to build the house on the lot and that the lot is buildable and it is not substantially more detrimental to the neighborhood. Mr. Weinberg noted the ZBA referenced variances from the BOH were setbacks and not a variance for the system. Attorney Perry noted the ZBA was discussing zoning dimensional requirements.

Mr. May read the letter of concerns from the abutter, George Foster. He wrote about asbestos. The owner stated that he had a company remove all asbestos so what was in a pile was debris. Mr. Foster

is alleging a hole filled with asbestos debris. Mr. Desio stated that the company removed every trace. Mr. Desio said Mr. Foster did not know that the asbestos was removed and what was filled in the hole was not asbestos. Mr. Potter said, in order to get a demo permit issued, they had to have a company remove asbestos.

Nelia Williams also has asbestos concerns because she & Mr. Foster said it was piled up against Mr. Foster's wall. Mr. Armendo stated that upon inspection with Mr. May they observed debris close to the wall. He later came back with the Building Inspector, who called a cease and desist until it was cleared. It was cleared and the debris next to the wall was removed. Ms. Williams asked if there was a soil test. Mr. Desio stated he had to prove what was removed at the time that there was asbestos remediation. Ms. Williams said the Building Inspector does not evaluate the asbestos he only issues a permit. Mr. Desio said all the asbestos was removed before the demo so he asked what asbestos she was talking about.

Ms. Williams was concerned that her property would have flooding. Mr. Weinberg stated that the previous Board and DEP made a finding that there was an out-house on the property and it was considered as a septic repair. The Board generally does not look at stormwater issues for repairs. This will be a raised system and any runoff will be captured in the swales and stored in the bio retention area. There is a proposed roof drain as well to mitigate storm water runoff. Ms. Ryden observed that it is a more intensive use of the lot because the previous 10 x18 cottage is now being replaced by something 5 times larger.

Ms. Ryden asked if there was any other system that would have less impact on the neighbor and the neighborhood as a whole. Mr. Armendo noted they are doing as much as they can to reduce the stormwater. He also said a bottomless sand filter system may be a solution. Mr. Potter suggested putting in a quick-4 infiltrator. Ms. Williams asked how high would that system be. He said a .5-foot elevation. Ms. Williams asked the Board to consider a de-nitrification system to protect the area. Mr. Weinberg stated that this Board can suggest it but there are no requirements. Discussion over the shrinking of the stone bed it would move it farther away from the stormwater retention area. Mr. Desio was in agreement to reduce the size.

Ms. Williams stated that she sent questions to the Board of Health and she wanted them addressed. Mr. Armendo handed the questions to Mr. Weinberg. The perc test does not need to be redone based on DEP information.

The next question was how many people will occupy the house. Mr. Desio said that it would be just himself and his girlfriend.

Ms. Williams was concerned that she has several 100-year old trees and just off the property line and when Mr. Potter will be digging, she does not want their roots dug up. She does not want anything to happen to them. Mr. Potter said the ditches would only be a foot and a half in the ground. The purpose of the swales are to slow the water down so it's absorbed.

**MOTION** by Mr. Weinberg to approved the variance requested to allow the construction of a 2-bedroom septic system subject to the following conditions: no increase in sewage flow; no increase to the architectural drawing of 9-11-15 and that the dwelling will always remain a one-bedroom house and that there shall not be an addition of a second bedroom and approval of the plan for an infiltrator system reducing the size of the SAS allowing expansion of the bio retention area and conditional on a hold harmless agreement. Seconded by Mr. May. Unanimous.



**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

None.

**MOTION** by Mr. May to adjourn at 8:01 p.m. Seconded by Ms. Ryden. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk

The Regular Meeting of the Board of Health convened at 6:04 p.m. at the Town Hall Annex with the Pledge of Allegiance.

**PRESENT:** Philip M. Weinberg, Chairman  
Tanja Ryden, Vice-Chair  
Maurice E. May, Secretary  
Matthew J. Armendo, Director

## **OTHER BUSINESS**

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1. Request for Response - Shared Neighborhood Wastewater Treatment Feasibility & Design.

Maureen Thomas from Buzzards Bay Coalition requested the Board support the grant for aquatic resource restoration to improve water quality and habitats in the East Branch of the Westport River.

The Town has been working on the integrated water resource plan to improve the TMDL and to improve water quality and habitats. The MET Grant would be seeking proposals for conceptual designs for Cadman's Neck and The Let. There will be three meetings to look at the variables.

Ms. Thomas asked for support in kind and for information of septic systems in these areas. Mr. May asked what comprised of The Let. The Let is the area comprising First, Second and Third Streets. The grant would cover \$50K and \$22K would be the in-kind match. Discussion ensued.

**MOTION** by Ms. Ryden to support the grant application and have staff provide a letter. Seconded by Mr. May. Unanimous.

2. Priorities. Tabled to the next working meeting. Members discussed topics for the working meeting.

## **OUTGOING**

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Ms. Ryden noted that Cumberland Farms on Route 6 is pumping frequently and there was one report that does not indicate where it came from. Mr. Armendo stated that there is attention on Cumberland Farms and the Board could require a system repair sooner as they are pumping every 3-7 days.

Mr. Weinberg also noted he drafted a letter for Mr. Armendo's signature for 98 Sanford Road outlining the waivers; he wanted to reflect that the variance was required.

Regarding Brayton Point Road, Mr. Armendo will try to reach out to the owner as the mail was returned as undeliverable.

**DIRECTOR**

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## 1. Update

- East Beach Road Septic System Requirements. Mr. Armendo discussed the wash-over last winter and the BOH requirement for tanks that needed immediate inspection and those that could wait to this coming year – after the permitting season. A letter was received from the attorney representing the trailer residents of East Beach and there are inaccuracies.

Town Counsel has been supplied the letter for review and information is pending. Mr. Curt was present from the East Beach Association. He does not want East Beach trailers to be singled out and that these same requirements are applicable to other homes on the barrier beach and along the river. He stated that the residents do not want to be discriminated against.

Mr. Weinberg stated that it was a particular storm that precipitated the requirement. Mr. Armendo stated that if the tanks appear to be compromised, inspections may be required again. Mr. Curt stated that he wants to agree upon what is the definition of compromised.

- Barn Book Update. 112 have been completed and 14 are outstanding and 20 no longer have animals. Animal Site Registrations: 27 registrations have been received. Mr. May suggested extended the date for these at the next meeting.
- Annual Renewal Update. 81 letters for food have been sent and 66 were returned. Mr. Armendo read the rest of the types of permit applications. A few are still outstanding in each categories.

**SEPTIC PLAN REVIEWS**

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1. 23 Bayberry Drive (M-52/L-16 20,013 sq. ft.) Catherine L. Ferry, 4-Bedroom Repair, Singulair Bio Kinetic Wastewater Treatment System and Quick 4 Plus Standard LP Chamber System. **MOTION** by Ms. Ryden to approve upgrade plan dated 12/13/19 for a 4-Bedroom home with a waiver for a sieve analysis, a Hold Harmless agreement, a 4-bedroom deed restriction and notice of alternative system and compliance with MADEP requirements for reporting including O&M reporting. Seconded by Mr. May. Unanimous.
2. 1082 American Legion Hwy. (M-23/L-18B 37,461 sq. ft.) Lois Guay, 2 to a 3-Bedroom Upgrade, ADS ARC 36 Chamber Bed System. **MOTION** by Mr. May to approve upgrade plan dated 12/19/19 conditional on ConCom approval and a 3-bedroom deed restriction. Seconded by Ms. Ryden. Unanimous.
3. Spinnaker Way (M-22/L-20 18 Acres) W2 Realty LLC, 4-Bedroom New Construction, Stone Bed System. **MOTION** by Mr. May to approve new construction plan revised dated 12/03/19 conditional on ConCom approval. Seconded by Ms. Ryden. Unanimous.

**TOPICS FOR NEXT MEETING**

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None.

**APPOINTMENTS**

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**6:30pm – Waiver Hearing: Len Potter for 12 East Shore Road, Mary Porter.**

Len Potter presented abutter notifications to the Chair. No abutters were present. Replacement of system with denitrification is proposed: 1,500-gallon Advantax unit.

Variances requested:

- Setback to site well, 51 ft. vs. 100;
- Setback from well at East Shore Road, 61 ft. vs. 100 ft.;
- Setback to 16 East Shore Road, 66 ft. vs. 100 ft.

Wells have been tested and results were submitted with application. Mr. Weinberg requested receiving reports from the monitoring services.

**MOTION** by Mr. May to approve plan dated 12/10/19 conditional on ConCom approval, Hold Harmless agreement, a 2-bedroom deed restriction and notice of alternative system and 3-years of well testing and compliance with MADEP requirements for general use. Seconded by Ms. Ryden. Unanimous.

**6:40pm – Waiver Hearing: Len Potter for 10 Arlington Avenue, Sheila Sabourin.**

Len Potter discussed the replacement for a failed system with an Eljen System.

Variances requested:

- Setback from SAS to rear property line 5 ft. vs. 10 ft.
- Setback to site well at 51 feet;
- Setback to 9 Greenwood Ave. 79 ft.;
- Setback to proposed tank 46 ft. (revised in discussion 50 requested in original request)

Well testing came back with coliform but no nitrogen. Discussion ensued over moving the system to achieve further distance from the well.

**MOTION** by Mr. May to approve variances requested for plan dated 12/10/19 conditional on Hold Harmless agreement, a 3-bedroom deed restriction and notice of alternative system and 3-years of well testing and subject to satisfactory well test results and pending a revised plan showing tank moved closer to SAS by 8 feet. Seconded by Ms. Ryden. Unanimous.

Mr. Armendo may review the pending issues and the application will not need to return for review by the Board at a meeting.

**6:50pm – By Law Waiver: Alex Gorodetsky for Heritage Drive, Warren Messier.**

The applicant, Warren Messier, returned with a revised plan adding the de-nitrification component, and a deed restriction duly recorded. The applicant also provided the notice of alternative system.

**MOTION** by Mr. May to approve variance as requested on plan as revised 12/16/19 for SAS placed less than 100 ft. but more than 50 ft. in proximity to wetlands due to a proposed denitrification system plan, a deed restriction for the alternative system and compliance to MADEP approval for an alternative system. Seconded by Ms. Ryden. Unanimous.

**TOPICS NOT REASONABLY ANTICIPATED FORTY-EIGHT (48) HOURS IN ADVANCE OF THIS MEETING**

**MOTION** by Mr. May to adjourn at 7:42p.m. Seconded by Mr. Weinberg. Unanimous.

Submitted by Lucy R. Tabit, Recording Clerk