

## Board of Health Minutes

March 11, 2020

As Approved – June 10, 2020

Present: Diane Dietzen, MD, Chair; Jessica Collins, Vice-Chair; Sharon Hart, Public Health Director; Jennifer Jernigan, Assistant Public Health Director

*The Board of Health Meeting was called to order at 4:36 p.m. by Dr. Dietzen.*

### 1. Acceptance of Minutes:

Jessica Collins motioned to accept the minutes of the February 5, 2020 meeting. Dr. Dietzen seconded. All were in favor.

### 2: Announcements/Open Forum:

Rudy Ternbach spoke about February 2019 when this Board was talking about the appropriateness of having a conference regarding the drive or kill on the aquifer. The spin off to that was another conference on the geochemistry involved. That was attended by Water District 1 Commissioners. There is money approved in the budget of Water District 2 to study chemicals in the water. It requires ten days of pumping the water at high volume per Water District 2. It most likely will occur in the summer. Qualifications of testers were discussed.

Kathy Davis spoke regarding drinking water. The Superintendent of Schools told Kathy that they were installing water bottle filling stations in February at Mosier. She wanted to know if that happened and if they were properly installed. Kathy also wanted to know if the sinks were shut off or if people are not allowed to drink from them. Also, all town water outlets were to be tested yearly. When are they being tested, other than the schools? Is there still money in the budget to do this? She was told that the water bottle machines used all the money up. Can a budget be set at next Town Meeting?

Robert Pleasure spoke next and has procedural issues that can be taken up when you do the Peer Review, but it is sort of prior to that. He wondered if there needs to be a meeting with the Planning Board, the Board of Health, Building Commissioner and Conservation Commission before any decision of this proposed North Pole Estates Sub-division application are made.

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Pleasure cited E360-12 of the Subdivision Regulations/Zoning Bylaws. He stated that prior to the meeting, a whole bunch of departments were to discuss this and this is stated in that document. Richard Harris says to not do this meeting? Pleasure stated that there needs to be a meeting that includes all the Board members of the various departments, not just staff. Ternbach said that the Board of Health had stated at the last meeting that there would be a meeting. Dr. Dietzen said that she wasn't aware of this being said. Pleasure then stated that they are now represented by legal counsel and will move forward if this doesn't happen. The reviewer has found hazards in their review. The Board of Health members said they would go to the meeting.

**Director Hart entered the room at 4:50 p.m.**

Pleasure stated that he was deeply compelled to have the Board of Health cite this provision and say that they are prepared to go to a joint meeting before any action is taken. Jessica Collins stated that she loves this idea and it seems to her that Mike Sullivan would be the one to convene that. Collins asked Pleasure about who is making the invitation. Pleasure stated that E360-12 states "There shall be a joint meeting." So, it seems to him that if we don't receive word either the Board of Health or Conservation Commission could ask for the meeting.

Jessica Collins would like a formal request be put together that the Board of Health would like Mike Sullivan, Town Administrator to convene these various players together with regard to reviewing the definitive plan as stated in E360-12. This request was not specifically stated in the last meeting minutes, per Jessica. That was about the wells.

Dr. Dietzen asked Director Hart on the Coronavirus situation, wondering if there was anything she needed the Board to help with or take action on. Director Hart stated that she is good right now. She stated that office is getting daily updates on the situation from MEMA, FEMA, CDC and MDPH, for example. There will be weekly conference calls with MDPH.

Director Hart, working with the Town Administrator, has been putting together a protocol for the town. She discussed how the protocol affects town hall and its employees. The protocol will go out to the Town as part of Director Hart's Emergency Management Director function. She also has ready a Continuity of Operation plan.

The differences between quarantine, social distancing and isolation were reviewed. Director Hart stated that there are currently no cases in town. Director Hart discussed how to access the information on the town website. Director Hart has been working with various town departments on workflows and supplies.

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Linda Duguay asked Director Hart to consider wall-mounted hand sanitizers that a company comes in to refill. Director Hart reviewed the type of hand sanitizer machines that we have.

### **3: Director's Report:**

No questions at this time.

### **4: New Business:**

#### **(a): Emergency Order to Vacate – 110 Mountainview Street**

The case was reviewed with the Board as Director Hart had condemned the house for hoarding. There were prior hoarding issues as well in 2014. Director Hart updated the Board on the current situation. The owner is in the hospital currently. The owner had stated that she might appeal. If you appeal that means the situation doesn't exist. The owner is trying to get this order removed but we didn't receive the letter the owner stated they had mailed to us on March 9, 2020 to discuss with the Board at this very meeting.

Director Hart discussed the conversation with the Attorney General that she had with the Board as well as the conversation with Greater Springfield Senior Services. She told the Board that the house is not a safe place currently. Dr. Dietzen motioned to ratify the condemnation order. Jessica Collins seconded. All were in agreement.

#### **(b): North Pole Estates: Peer Review**

Director Hart stated that she asked three companies for prices to review the septic plans. Only one company was interested. The review proposal was then sent to Chicopee Concrete and a check was asked for to pay for the review. There is a ten-day grace period. There has been no word yet from Chicopee Concrete. This is purely for septic systems. That is all we review, per Director Hart.

Ternbach asked how a septic can be permitted if the well locations aren't known. Director Hart stated that it doesn't matter in this case because the wells in question are monitoring wells, not drinking water wells. The Health Department permits drinking water wells, not monitoring wells. Chicopee Concrete has until tomorrow to either appeal the review or send the check. It is Hart's understanding that the Planning Board can't approve the subdivision plan until this review is done. The Planning Board has asked for an extension of their own peer review to March 23.

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Pleasure wanted to comment further on the citation he had made to the subdivision regulations. He had a hard copy of the regulation which he wanted to leave with the Board. The same set of sections talk about the authority of the Board of Health as to the suitability of the land for the subdivision, drainage and a variety of other issues as well as the septic systems that the Board of Health must approve before the Planning Board can do anything with their own permit. No building permit can be issued either until the Board of Health signs off. Dr. Dietzen responded that the Town Attorney is stating that the Board of Health's focus is the sign off on the septic plans. Director Hart added that the suitable soil that is being referred to may be the soil that you are putting the septic system into. She would have to see the document. Pleasure feels that the Board of Health has far more authority. He was in attendance and participated in the discussion that involved Dr. Wolf, when he was chair, and the Board of Health and Director. The Board was trying to determine what authority they had from the Attorney General and some concerns were expressed by Dr. Wolf about the SWAP report and contaminants. The peer review that has now been submitted to the Planning Board refers directly to the SWAP report and raises a concern that the hydrogeological study is not adequate that was submitted by the applicant because it does not consider all the contaminants highlighted in the SWAP report. He asks the Board of Health to read the document that he is giving the Board because it covers both the necessity of a meeting between the Planning Board, the Building Commissioner, the Conservation Commission and Board of Health – all of this needs to happen before final approval. Pleasure is concerned that if this doesn't happen the developer is going to have an error if it is decided not to approve the application. Procedurally he wants to make sure this is done properly and he is sure that the Board of Health wants this too. The number of the document is 360.23.

Pleasure gave the Board hard copies. Dr. Dietzen said again that this is not the Town Attorney's interpretation of the Board's abilities and she is not sure what to do about that, except to continue to talk with her. Pleasure respectfully believes that the authority of the Board is more extensive than they are agreeing to with Town Counsel. Pleasure added that our regulations on subdivisions are really quite clear. Collins stated that the board should get the Planning Board review off the town website and read it. Pleasure wants to the Board of Health to insist for a meeting with all the departments and to read this document. The Planning Board has incorrectly expanded their authority over the Board of Health and the Board of Health has more power than they think. Jessica Collins stated that she is requesting the meeting and thinks the Board should read the Planning Board's Peer Review by accessing the town website.

Director Hart stated that because the Board is getting new members, she asked Mike Sullivan if we could have our town counsel come to a Board meeting. Director Hart was told it was not up to her to train the Board. When the Board comes on, they should be knowledgeable as to what is going on. But Director Hart has pamphlets of the laws that she wanted to give out at the next meeting for everybody and she would like the Board to come up with questions on

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what they would like to know to give to Mike and the attorney. The attorney will come to a meeting and she wants to prepare. This is for the Board. It may be a public meeting that people listen to but it is for the Board's questions to the Attorney – not the residents. So, after the next meeting, Director Hart will hand out that packet to the Board members.

Kathy Davis spoke and cautioned the Board about the timeline because the next meeting of the Planning Board is the 23<sup>rd</sup> of March. It is still on the agenda to decide on the definitive plan. So, she wouldn't delay this conversation until April. She would have the meeting really soon so as to not run out of time. Director Hart stated that right now the Health Department hasn't reviewed the septic plan. Jessica Collins asked how they could approve the definitive plan if we haven't approved the septic plan yet. If we haven't reviewed it by that time then we can't approve it. This is Director Hart's understanding as well.

Dr. Dietzen shared her concern on how trying to do two meetings in the next few weeks will be difficult. Pleasure said that state law provides the town 120 days to reply. Richard Harris asked for mutual written consent that have till April sometime because the applicant at first refused to pay for the peer review. And he got that consent in writing from the applicant. Harris and Town Counsel must approach the applicant to ask for another extension.

Jessica Collins asked Director Hart to communicate with Richard Harris that we need more time. Please ask for an extension – we might need more time. There are two things at play here: our request and the request from Water District 2 to have an understanding of the water analysis. Collins stated that we shouldn't be making any decisions about that definitive plan until we understand this. That is going to push us back to the summer. Richard Harris should be communicating this to Chicopee Concrete on behalf of us and Water District 2, that we are going to need more time. Director Hart replied that she will need to communicate with Richard about our septic systems. Director Hart has been in communication with Richard and let him know requests for RFQ's went out and that we have so many days. Dr. Dietzen stated that the other piece of this is that we have a good conversation with the town attorney about whether we can go beyond septic systems.

Jessica Collins stated that it is also the Board of Health's job to understand the analysis of this new geochemistry analysis that District Water 2 is doing. We need to understand the water quality now. Director Hart stated that Mark Aiken has said that the water quality was fine. Collins stated that they are paying for another analysis now. Hart stated that this could be a DEP requirement. She is not sure. A man spoke up and said that they talked to the people who wrote the SWAP report and were told that towns can go beyond the minimum

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requirements by DEP. Director Hart replied that we were probably not informed of this geochemical analysis because we don't have oversight of the public water supply, only the private. Jessica Collins requested that Director Hart ask Mark Aiken or Richard Harris to make us aware of these items going forward. Director Hart stated that she can request it and she will. Unfortunately, she can't require them to do this.

Jessica Collins stated that she thinks that we should be asking Richard Harris to please let his applicant know that there is a couple of things at play here and that these items may both delay the Board of Health's decision on the septic plan for the subdivision. She asked Director Hart to do two things: Ask Mike Sullivan to convene us all and the second is to ask Richard Harris about the extension of the timeline. Director Hart got the Boards approval to do this in an email and carbon copy everyone in.

Dr. Dietzen wants a call made to Dr. Wolf and all Board Members (new and current) regarding questions they may have for the town attorney. We can just collect them. Director Hart stated that she can ask Mike Sullivan on this as the Board members don't have copies of the information to review first. But we can pass that information off to them.

Walter Hamilton stated that he had heard from the Town Clerk on election night that new members start April 14, 2020.

Stephen Frantz stated that in Mass Practice of Municipal Law - Health Regulations, it states that regulations that Boards of Health adopt may deal with land use if there is a solid connection between the use and a health-related issue. This is a very broad concept. DEP regulations are pretty weak and you can go beyond it. Director Hart states that we need evidence to do that and right now we don't have it. Frantz states that we have a process to get it. Robert Pleasure stated that he would recommend sharing the Planning Board review with our plan reviewer. He went on to share concerns.

Jessica Collins asked everyone to remember the letter they created with five points on it that went to the Planning Board. Director Hart believes that Dr. Wolf must have sent it. Collins will find it to review for this subject and for questions for the Planning Board.

### **(c): Glyphosate Regulation Update**

Revisions to the regulation from the town attorney were discussed. The most important comment from the attorney was that the regulation is only for town properties. The other changes were just moving paragraphs around. Some background information was also eliminated by the Health Director or attorney.

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The Board can now approve the regulation, with changes. A public hearing is not needed to do so. Dr. Frantz asked about exemptions. Director Hart confirmed that to request exemptions they would have to now come in front of the Board of Health to request them. We can work on policy going forward. The regulation goes into effect June 1, 2020 so we have till then to get the policy together.

Jessica Collins made a motion to approve the regulation, with changes. Dr. Dietzen seconded. All were in favor. The Health Department staff will make an arrangement for the Board members to come into the office and sign the regulation.

**The next Board of Health meeting was set for April 8, 2020 at 4:30 p.m.**

**7: Adjournment:**

Dr. Dietzen adjourned the meeting at 5:50 p.m.

Respectfully submitted,

Jennifer J. Jernigan  
Assistant Director of Public Health

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## ATTACHMENT A

DOCUMENT	RECORD LOCATION
Application completed by DPW to Transport Garbage Through Streets of Holyoke	BOH File
Letter of support to SPIFFY	BOH File
Letter from Commissioner of Public Health, Monica Bharel on Tobacco Control	BOH File
MAHB email dated 2/7/20 regarding proposals from Boards of Health to Support Public Health Cross-jurisdictional Sharing Arrangements	BOH File
Email from Kristin Maher dated 2/3/20 regarding Eversource work.	BOH File
Letter dated 2/20/20 from Office of the Attorney General regarding Case #9699 Warrant Article #6 (General)	BOH File
DPH email dated 1/14/20 regarding Letter to Long Term Care and Assisted Living Residences and Illness Cluster Reporting	BOH File
Western MA HMCC Newsletter March 2020	BOH File
New CDC Guidance for Healthcare Personnel Involved in the 2019-nCoV Response – email dated 2-8-20	BOH File
Update Email dated 2-18-20 from MDPH – Coronavirus Webinar with Boards of Health	BOH File
Email from Sharon Hart dated 2-25-20 regarding Guidance for School Health Personnel from MDPH.	BOH File
Mass.gov Press Release from Governor Baker Declaring State of Emergency	BOH File

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Email Dated 3-4-20 from MDPH regarding Local Board of Health

Traveler Guidance	BOH File
Advisory from MDPH Regarding Online Dashboard to Record Cases of COVID-19	BOH File
Letter Dated February 12, 2020 from Chief Gundersen Regarding CoronaVirus Pre-Dispatch Call Procedures	BOH File
System Pumping Records 255 Pearl Street 16 Upper River Road 416 East Street 66 Amherst Road 4 Cove Island 55 Alvord Street 310 Amherst Road 3 Stewart Street	BOH File
Letter from Director Hart to Mike Sullivan, dated 3-9-20 regarding Drunken Rabbit Brewery's food trailer: El Gringo	BOH File
RFQ for North Poles Estates – Email dated 2-14-20 to Board Members	BOH File
Emails to Companies to review RFQ and notify Health Director Of Interest	BOH File
Letter of Interest dated 2-22-20 from D Cubed Engineering Regarding RFQ.	BOH File
Email from Jessica Collins dated 2-26-20 to Board members and Health Director regarding Septic Designers in the Area	BOH File
Email from Stephen Frantz dated 2-19-20 regarding Glyphosate Fines Examples	BOH File

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Email Dated 2-28-20 from Sharon Hart to Board of Health and Stephen Frantz regarding Glyphosate Regulations	BOH File
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