

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To approve the Board of Health meeting minutes from July 28, 2014 as typed invoking the rule of necessity. Member Flynn was absent from this meeting. Unanimous vote in favor.

Board Members reviewed the Board of Health meeting minutes from August 27, 2014.

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To approve the Board of Health meeting minutes from August 27, 2014 as typed. Unanimous vote in favor.

**Memo from Town Administrator Garbitt regarding resignation of William Garvey and Board of Health Member Vacancy**

A memo dated September 9, 2014 was received from Town Administrator Garbitt regarding the resignation of Board of Health Member William Garvey. Member Flynn announced that any letters of interest should be sent to the Board of Selectmen until September 25, 2014. M.G.L. Chapter 41, Section 11 states that the remaining members of the Board of Health will meet with the Board of Selectmen to appoint a replacement until the next upcoming local election.

**New Business:**

**Board of Appeals Petition - Matheson – 9 Third Ave, (041-013-017)**

On April 9, 2014 Board of Health Members had previously reviewed and approved the razing and reconstruction of a three bedroom dwelling at 9 Third Ave. provided that an official Title V Inspection was performed to prove the system is passing prior to any reconstruction. Agent Perry said a Title V Inspection has not been witnessed at this property and the board recommends that no building permits are issued until such time that the Board of Health has received a passing report. Agent Perry will email the ZBA.

**Old Business:**

**Update on Temporary Stable Permit – Wing. 130 County St, (014-004-006)**

In a memo dated September 17, 2014 from Board of Health Administrative Assistant Jo Lima, she stated that on June 18, 2014 Board Members voted to issue a temporary stable permit to expire on September 18, 2014. In an email dated September 16, 2014 from Inspector of Animals Jared Darling, he recommends that the stable permit continue with its “temporary” status throughout the remainder of the year. He said the horses appear to be ok, and will continue monitoring the situation.

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To extend the temporary stable permit until December 31, 2014. Unanimous vote in favor.

**60 Taunton St.**

**(021-004-007)**

**Harrison Lee**

Board Members reviewed a letter and sketch dated August 1, 2014 from Engineer Brad Fitzgerald from SFG Associates, Inc. requesting an “Out-of-Season” percolation test.

Homeowner Harrison Lee was present for discussion. Mr. Lee proposes to raze the existing house and build houses on both lots A and B and would like to start the project before winter. He explained that he would use the existing septic system on lot A for the new house and new septic on lot B. He said new wells will be installed for both houses. Soil logs were done unofficially on June 17, 2008 by SFG, but no water elevations were shown. Board Members stated they don't recall ever approving an out of season perc. Mr. Lee asked what the risk was for not allowing it. Member Flynn said many wet lots will perc in the summertime. He said the engineer didn't list groundwater level and in that area, soils perc faster in wetland, but the wastewater doesn't get treated. It just goes right into groundwater. Vice-Chairman Poillucci said that there were people doing percs when it was dry and putting in septic systems and they were failing. He explained to Mr. Lee that if he was repairing his system in his existing house, he could do an out of season perc, but not allowed for new construction.

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To deny the request for an out of season perc. Unanimous vote in favor.

**195 Rhode Island Rd**

**(026-001-002B)**

**Whitney**

Board Members reviewed a letter dated September 9, 2014 from Darren Michaelis from Foresight Engineering. He was requesting on behalf of his client who he said is purchasing the vacant property, both an out of season perc and/or to allow the expired test holes and percolation tests to be deemed valid for the septic installation. There was no discussion on the out of season perc request because it wasn't done during the wet season. Registered Professional Engineer Mark Tisdale who is working with Darren on this project was present for discussion representing the potential home buyer. Member Flynn said the perc has water elevations on it and was witnessed by the Health Agent at that time so they will be considered valid.

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To grant the variance request to use the two existing deep holes for the septic system design pending an open hole inspection and two additional observation holes are witnessed by the Health Agent at the time of construction. Unanimous vote in favor.

**139 Staples Shore Rd**

**(064-03-008)**

**Stanley**

Board Members reviewed a letter dated June 4, 2014 from Engineer Jason Youngquist from Outback Engineering, Inc. who was present for discussion. Abutter cards were submitted for Taunton and New Bedford Water Depts. He was requesting multiple variance requests for a proposed septic repair/upgrade on an existing two bedroom home. He said the existing cesspools are on the parcel closest to the pond and plans to move the septic to the other parcel to get separation from the pond. They will be installing a commercial filter and a retaining wall that goes around three sides of the SAS.

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To approve the following:

**Local Upgrade Approval Divergences:**

- 1) Reduction from the required setback from a BVW bordering a tributary to SWS from 100' to only 40'
- 2) Reduction from the required setback from a SWS from 400' to only 125'
- 3) Reduction from the required number of deep test holes for repair from 2 to 1

**State Variances:**

- 1) Reduction of vertical separation from tank inlet invert from 12" above groundwater to approx. 3" below groundwater elevation
- 2) Reduction of vertical separation from tank outlet invert from 12" above to almost 6" below groundwater elevation
- 3) Reduction of horizontal reduction from tank to SWS from 400' to 60'
- 4) Reduction of horizontal reduction from SAS to tributary to a SWS from 200' to 70'
- 5) Reduction of horizontal reduction from tank to SWS from 400' to 60'

**BOH Regulation (2.9) Variance:**

- 1) Requiring a 2 compartment septic tank but only 1 compartment tank will be used

Unanimous vote in favor.

**9 Charbonneau Ave.**

**036-002-014**

**Lyman & Vivianne Lokken**

Homeowners Lyman & Vivianne Lokken were both present for discussion and submitted abutter cards previous to the meeting. Board members reviewed a letter dated July 29, 2014 from their Project Manager, Robert Rogers from Tibbetts Engineering Corp. who was also present for discussion. They were requesting multiple variances for a voluntary septic upgrade for their existing two-bedroom dwelling. Mr. Lokken asked if the board ever approves the use of a garbage disposal. Agent Perry said you would need a two compartment tank and the leaching has to be 150%. Member Flynn said the board could approve it, but a lot more space is needed. Vice-Chairman Poillucci asked Agent Perry if the two foot reduction is fine with a de-nite and Agent Perry said it's automatic when you do a fast tank and Mr. Lokken is doing an additional treatment system. He said you can do the same type of variance with the Elgin as you can with a Presby. Member Flynn then asked if a variance can be granted on a well that is in a different town because the well in Freetown. Agent Perry said it is in Freetown, but the owners live in Lakeville. After some discussion, the board voted the following:

- 1) Vertical reduction from the SAS from the required 4' to only 2'
- 2) Horizontal reduction from the SAS to the property line from 10' to 1'
- 3) Horizontal reduction from Septic tank to the property line from 10' to 2'
- 4) Horizontal reduction from SAS to basement foundation from 20' to 10'
- 5) Horizontal reduction from septic tank to basement foundation from 10' to 5'
- 6) Horizontal reduction from SAS to the abutting well (8 Paul Ave.) from 100' to 72'
- 7) Horizontal reduction from SAS to the onsite well from 100' to 89'

- 8) Horizontal reduction from SAS to the SWS from 400' to 98'
- 9) Waiver for the requirement of performing 2 test holes for repairs to only 1

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To approve the advanced treatment Micro FAST septic tank with the Eljen alternative leaching system along with all associated requested variances listed above with an appropriate monitoring contract in place. Unanimous vote in favor.

**Discussion Regarding Radionuclide in Drinking Water**

Vice-Chairman Poillucci began the discussion by filling everyone in who wasn't aware of the reason for this radionuclide discussion. He said that about a year ago the board began requiring water analyses for gross alpha on new wells because it was showing up in some water analyses that were submitted to the Board of Health. He said the Board of Health is getting conflicting opinions from DEP officials and various Engineers on what various treatment system options there are for these wells. Present for this discussion was Engineer Jamie Bissonnette from Prime Engineering, Inc, and Licensed Site Professional Susan Jason. Several audience members were also present that included builders, property owners, well drillers and a realtor. Bissonnette began the discussion by saying that he was present hoping to get a building permit signed off for Lot 64 Joshua Lane and was hoping to put together some type of chain of events for them as professional engineers who need to design a system (should radionuclide testing continue to be required in Lakeville) to treat this. A very lengthy discussion was held.

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To approve well analyses submitted with high radionuclide; pending receipt of a Professional Engineered treatment system design. A deed restriction must be recorded stating an annual requirement for testing of gross alpha as well as an operation and maintenance contract for the type of system is in place. The engineer must submit in writing that a system design will be submitted to correct water issues and then the Health Agent will sign off on the building permit. The occupancy permit will only be signed by the Health Agent once a passing/acceptable water analysis for gross alpha is received to the Board of Health. Unanimous vote in favor.

Engineer Bissonnette asked Board Members what they required for the sign off on Lot 64 Joshua Lane. Member Flynn said they would need to retest for the gross alpha and the occupancy permit will only be signed by the Health Agent once a passing/acceptable water analysis is received to the Board of Health.

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** A retest for gross alpha is required. The occupancy permit will only be signed by the Health Agent once a passing/acceptable water analysis is received to the Board of Health. Unanimous vote in favor.

Builder Greg Maroney stated that he had a well test come back at 190 for gross alpha. He asked Vice-Chairman Poillucci what his next step would be. He said that three other tests came back undetected. He said he needs to get the adjusted gross alpha down. Well Driller Doug Mann said that what Maroney is wondering is if he could get a building permit. If he has an engineer state that they can design a system so he has clean water for his occupancy, the building permit will be issued.

### **Tobacco Regulations Discussion**

Tobacco Control Director, Sarah McColgan from the Massachusetts Health Officers Association and Kathy Wilbur from Seven Hills Behavioral Health Tobacco Food Coalition were present. Kathy would provide the Board of Health with community support and publicity for new tobacco regs that get passed. Health Inspector Kevin Bernardo began the discussion. He said he thought a public hearing wasn't necessary. Ms. McColgan said it isn't, but it is recommended. She said it's just a good idea especially if you are making the regs more stringent. Vice-Chairman Poillucci said the meeting is considered a public hearing because it was on the agenda and posted. Bernardo said that at the last meeting he had gone over all 17 policy decisions with the board. He said he wasn't clear on question #6 on whether or not to cap and/or reduce number of permits. Vice-Chairman Poillucci said he was not in favor of it. Bernardo wanted to go over some of the questions that the board had previously said "no" to.

#8-Blunt Wraps – Ms. McColgan said there were 83 communities that have banned these. They are flavored and the flashy package looks like a fruit rollup and it comes with a straw used to roll the cigars which also gets used to snort cocaine. She showed the board a sample. She was hoping to change the board's mind to "yes". Vice-Chairman Poillucci was in favor, but Member Flynn was not. Vice-Chairman suggested they wait until there is a third member to vote on this.

#13-Ban Tobacco Sales in Health Care Institutions – Ms. McColgan said there were 101 towns that passed this ban. Pharmacies are the only remaining health care institutions that sell Tobacco products and they believe it's counter intuitive to be able to pick up ones blood pressure medicine and buy a pack of cigarettes on the way out. It's a health motivated strategy. Vice-Chairman Poillucci said he will not restrict any business in the town from selling tobacco because it will just cause people to go to another town that does sell tobacco and pick up what they need in addition to the cigarettes. He said Walgreen's is like a convenience store for people in Lakeville and they would lose business. She said there are 97 Walgreen's that have passed the ban. Member Flynn said they both feel they should but neither one of them want to "make" them.

### **#7- Minimum Cigar Packages**

Member Flynn said he had said yes to this, but wanted her to elaborate a bit. Ms. Wilbur explained that one cigar is approximately 69 cents, which is affordable to any kid. If this was voted as a regulation, businesses would be able to actually make money by charging \$2.50 per cigar which would make it more cost prohibitive for kids to buy. Basically by requiring minimum package quantities, little cigars and blunt wraps will be less affordable and accessible to young people.

Sarah discussed the \$25 fee for a Tobacco Permit in Lakeville. She said it is

exceptionally low and that tons of towns have a fee of \$100. She said that \$25 fee doesn't even cover the Board of Health's costs for inspections and preparing permits. Inspector Bernardo said it makes sense if members accept this regulation; we need the funds to cover what we are trying to do.

Sarah asked where the board stood on raising the minimum legal age. Vice-Chairman said he was not in favor of it. Sarah said it's not something the Dept. of Public Health has as a priority. She said a lot of towns are doing it, but any compliance checks by the FDA or DPH in Lakeville would be done on 18 year olds as long as state and federal law is 18.

#### #15 Fining Structure mirrors state law

Sarah said that in the draft tobacco regulations, the fining fee mirrors state law. Member Flynn asked why we need to enact this regulation if it's already a state law. Sarah said the state does not enforce it. When Member Flynn asked where the funds from the fining fee go to, she said the Town. She said the Board of Health Inspector would fine them if they were in violation and the state would not fine them in addition. Inspector Bernardo said this all came to be because the state was doing compliance checks and saying that no further action was needed, but Inspector Bernardo feels the Board of Health should institute further action. Sarah said the letters she sends out are federal and based on FDA compliance checks and that the state doesn't have the funding to do these checks. Vice-Chairman Poillucci said for the record he is against selling to minors and said he doesn't think they agreed to anything that would affect any local businesses in town. He said members included the smokeless cigarettes as tobacco. Sarah said that they are included as tobacco but the board hadn't spoken to where they can be used. Vice-Chairman Poillucci said wherever regular cigarettes can't be used, these should not be used. He said he was under the impression that that was why they were discussing this at this meeting to enact all of this. Sarah said that the draft regulations prohibit selling to minors, but that there is a different regulation that is the States Smoke Free Workplace Law. She said without that regulation, she could vape (use an e-cigarette) right now if she wanted. Member Flynn said it would probably be added to state law. Sarah said that's what they had thought too, but it didn't last legislative session. She said whether it happens this legislative session or not, she doesn't know. Agent Perry asked if vaping was harmful. She said that it's not known because the FDA hasn't done studies. She said she could send us regulation that will mirror the states smoke free work place. Vice-Chairman Poillucci said to go with what we have for now and at some point when the new member is appointed, they will revisit the blunt wraps. Sarah said she would also send the environmental smoke tobacco regulation.

Vice-Chairman Poillucci asked if there was anything else. Inspector Bernardo said the permit fee should be discussed because if this is put in place the kids need to be paid for their services. Sarah asked the board if they were planning on voting on the draft regulations and prepared to sign it. Vice-Chairman Poillucci asked Member Flynn what he thought. Member Flynn asked how much would the license fee need to be increased. Inspector Bernardo said that the youths would have to be paid for their services. They are 16 and 17 year olds who are trained to act as adults. So any increase in the fees should cover the cost of what we are trying to accomplish. Vice-Chairman Poillucci said we need to have a process approved in order to be able to pay these kids, because right now the money just goes into the general fund.

Sarah said you have to have a dedicated fund for this. She said to sell cigarettes, businesses are averaging about 80 cents per pack in profit, so if your fee goes up to \$100 it's not too many days into January where that business's permit fee is paid and for the rest of the year it's all profit. What you are doing is raising the fee to be another indication to show that as a board you are serious about businesses not selling tobacco products to minors. Lakeville had three out of seven stores sell to minors. Vice-Chairman Poillucci basically said that if they raise the Tobacco Vendor Permit fee to cover the cost of the compliance checks and what needs to be done to get a procedure implemented, he would agree, but he would not be in favor of raising the license fee just to have the funds go into the towns general fund and not be used specifically for what we are trying to accomplish. This will be addressed at a later meeting once the third member is acclimated to his new position. Sarah said she would send a template over to Inspector Bernardo for review at the next meeting before they vote.

Inspector Bernardo brought up the violations. He said that after the second violation they want to have a hearing with the individual. Sarah said that is normal because you have a 7 day permit suspension on your second violation and you can't pull a permit without having a hearing. Member Flynn said we don't plan on doing a lot of inspections so it's not a big deal to have them come before the board if they fail two inspections. Vice-Chairman Poillucci agreed. Sarah said they should come before the board to explain what happened and what they are doing to prevent it from happening again. She said she can conduct retail trainings as a group for owners and managers but not individual stores, but Inspector Bernardo could if the board wanted him to.

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To accept the check list for tobacco policy decisions and have it incorporated into the Lakeville Board of Health Regulations restricting the sale of tobacco/nicotine delivery products. Unanimous vote in favor.

Upon motion made by Member Flynn and seconded by Vice-Chairman Poillucci, the Board:

**VOTED:** To adjourn the meeting at 8:36 p.m. Unanimous vote in favor.

ACCEPTED AS TYPED 10-15-14JL
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