

Board of Health Meeting Minutes November 4, 2015

The Lakeville Board of Health held a meeting on November 4, 2015 in the Lakeville Town Office Building. Present at this meeting were Board Members, Robert Poillucci, Terrence Flynn and Derek Maxim. Health Agent Perry and Recording secretary Jo Lima were also present.

Chairman Poillucci called the meeting to order at 6:00 p.m. and noted that this meeting was being recorded by the Board of Health and LakeCAM.

38 Old Main St. – Homeowner Brandon Richard was present for discussion on a new stable permit. Chairman Poillucci began by saying the Health Agent Perry had a question with regard to the how big the lot was. Brandon stated he had a 5.5 acre lot. Health Agent Perry stated that it needs to be upland. Animal Inspector Jared Darling said that he didn't believe it was classified as such in the Stable Regulations. Agent Perry stated the stable regulations state suitable land and the intent of that was upland. Brandon said he can show the upland on a plan if it's needed and said 4.4 acres was cleared and has existing paddocks. Inspector Darling stated he was at the property last night. He said he felt there was plenty of upland and said the only thing he did notice was that Bates Brook is his property line but where it is in relation to what he has he doesn't see it as being a problem. Because it's close to Assawompsett Pond, he said he looked it up on Taunton Watershed; which does not list Bates Brook as a tributary. Jared said the corner of the closest point to his paddock is seven feet and his manure pile is well over that. Member Maxim asked if there were any area wells. Jared said no and that his well is over on the other side of the property. He said the stable is pre-existing as well as the fence line. Member Maxim asked if all the abutters were notified. Abutter cards were then submitted.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

Voted: To approve the stable permit request for 38 Old Main St. Unanimous Vote in Favor.

9 Charbonneau Ave. – Homeowner Lyman Lokken was present to discuss modifications to his approved proposed septic plans as discussed at the October 21, 2015 Board of Health Meeting. He said the septic is going to be exactly where it was before plus or minus a foot. He said the approval he is now requesting is a two-inch line to go to a seldom used toilet in a new shed. He said he is not moving the tank now because they couldn't make the grades work, so he is reverting back to original proposal. He said he redid the plumbing because conservation's issue was whether the shower should be connected to the septic drain or into a french drain. More discussion was held. Member Maxim advised Mr. Lokken that he should have nine inches minimum of soil cover over the septic tank to meet code.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

Voted: To approve the variance for the water line within 10 feet of the sewer line pending sleeving of the water service to the shed. Unanimous Vote in Favor.

New Food Establishment Application

Lakeville Senior Center - Members reviewed the application.

Upon motion made by Member Flynn and seconded by Member Maxim, the Board:

Voted: To approve the application and waive the fee. Unanimous Vote in Favor.

Continued Discussion on Domestic Animal Defecation on Streets – Chairman Poillucci stated the advisory that was mailed with the applications probably could have been worded differently and set a different tone. He said this started when the Board of Health received a couple of complaints where horses had made a mess in residential neighborhoods. He said that the board just wanted to ask people to be good neighbors, and let them know what worst case scenario would be. He said there are no new rules or regulations. Carriages for hire were also discussed. Selectman Powderly was present and said that the only known person who has carriages for hire in Town have purchased the bag system and said this should be a non-issue. Agent Perry said the carriage needs to be permitted. He said he has a number for the chief inspector to make sure the carriage meets the standards. Animal Inspector Darling was also present and said he understood the intent but was disappointed with the wording in the advisory. He suggested another letter be mailed to all the stable owners clarifying the intent of the advisory. Agent Perry revised and clarified the advisory which members agreed to keep on file should anyone come into the office.

Planning Board Review & Comment

1. **260 Kenneth Welch Drive** – Board Members reviewed a Proposed Industrial Building Addition Plan dated October 15, 2015.

Upon a motion made by Member Flynn and seconded by Member Maxim, the Board:

Voted: To send a letter to the Planning Board stating that a perc test was performed on October 28, 2015 and that septic plans have not yet been submitted to the Board of Health for review. With the limited information they were given, they saw no health issues involved. Unanimous Vote in Favor.

2. **County St., Julia's Way**– Board Members reviewed a Preliminary Residential Subdivision Plan dated October 26, 2015.

Upon a motion made by Member Flynn and seconded by Member Maxim, the Board:

Voted: To send a letter to the Planning Board stating that with the limited information they were given, they saw no health issues involved. Septic Plans have not yet been submitted to the Board of Health for review. Unanimous Vote in Favor.

Not on Agenda

18 Plymouth St. - Members reviewed a letter from Homeowner Kevin Dixon dated November 3, 2015 requesting After-the-fact local variances for existing well installed years ago. Bank is requiring owner to provide Board of Health Approval for non-conforming well location. Folder shows no documentation for any variances.

Upon a motion made by Member Maxim and seconded by Member Flynn, the Board:

Voted: To approve well variances for front setback from 20 ft. to 11 ft. and side setback from 10 ft to 5 ft. Unanimous Vote in favor.

Acceptance of Meeting Minutes

Board Members reviewed the meeting minutes from the October 7, 2015 meeting. Chairman Poillucci said there was a question that he thought was cleared up, but heard November 4, 2015

that it wasn't. He stated that when they voted at a previous meeting (on 26 Dunbar Road) the vote was to leave the six bedroom design but limit it to a five bedroom flow and that the installer is being told they need to redesign the septic field; which is not what was voted. He wanted to clear that up because the installer is already half way done with the system. He wanted to confirm with Member Flynn that what they had voted, (which was on the October 21, 2015 minutes which were not yet presented) which was to leave the plan for a six bedroom design as it was, and put in a five bedroom flow dividing it up whatever way they wanted.

Upon a motion made by Member Flynn and seconded by Member Maxim, the Board:

Voted: To approve the October 7, 2015 meeting minutes. Unanimous Vote in Favor.

Letter dated October 21, 2015 from FEMA regarding upcoming Risk Mapping, Assessment and Planning Discovery Meeting – Board Members reviewed the letter.

Discuss recommendation of Appointment of a Special Assistant Health Agent

Chairman Poillucci began the discussion by saying that something came up last week that put an elected official in some type of jeopardy. He said until the Selectman and Town Counsel work it all out, board members have been advised it's safer to appoint a "Special Assistant Health Agent". He said he got the Selectman to ask Highway Supervisor Jeremy Peck to fill for the interim and begin doing inspections right away. Chairman Poillucci said it could be someone from the Board of Health from another town, Jeremy or anybody; there are no qualifications. He asked if anyone had a better candidate and said that the intent is Jeremy will just be temporary until they have time to find a permanent solution. Members were fine with Jeremy. Chairman Poillucci said they would recommend Jeremy to the Selectmen following this meeting. Member Maxim asked if it was up to the Board of Health to find a future full time candidate or up to the Selectmen. Chairman Poillucci said the Board of Health could try to find someone, but Town Administrator Garbitt had been in contact with the Middleborough Board of Health Agent. He said Jeremy should be left on as a back-up in case the office is ever in a jam. Administrative Assistant Jo Lima asked if the person had to be a soil evaluator. Chairman Poillucci said not according to Town Counsel who said there are no qualifications necessary; the person just needs to be appointed.

Nursing Services Update

Health Agent Perry said he hadn't heard back from the contact that he received from Health Inspector Bernardo. He said he was told she is interested, but they are playing phone tag. Member Maxim asked if was willing to do part time/as needed. Agent Perry said yes and she would be doing all the infectious disease and possibly the tattoo shop inspections. Chairman Poillucci said to continue to the next meeting and get another update.

38 Pickens St. – Agent Perry noted that over the past few months this duplex dwelling has had a failed septic system which he has been documenting with enforcement letters and fines/fees. To date they have been fined three times. They have not requested a hearing nor have they paid any fines. He stated the process then requires him to file a criminal complaint affidavit against the owner. He gave the owner a courtesy call to remind him of this process and he requested that Agent Perry ask the board, on his behalf, if they could waive his fines so he could use the money to pay for the first step of the process, soil evaluation/perc test and associated excavation rather than have a criminal complaint on his record. Member Maxim asked how long this had been going

on. Agent Perry said for about a year. To date, no percs have been scheduled. Member Maxim said he would be fine with it if they actually go ahead with something; but a time frame needs to be put on it. Agent Perry said almost every time he was there it was over flowing. Members agreed all fees (including any additional) would be waived if the system is completed by April 1, 2016. Agent Perry said there probably won't be any variances. Chairman Poillucci told Agent Perry to make sure the homeowner is aware of the betterment program and Agent Perry said had already done so.

Upon a motion made by Member Flynn and seconded by Member Maxim, the Board:

Voted: To send a letter to homeowner stating that fees and criminal proceedings will be put on hold as long as a schedule for completing the work is submitted and the installation is completed by April 1, 2016. Unanimous Vote in Favor.

Not on Agenda

At a previous meeting it was decided that the Board of Health would meet on the first and third Wednesday of each month. In a memo dated November 3, 2015 from Administrative Assistant Jo Lima, she stated that she and Health Agent Perry were asking the board to consider modifying the meeting schedule to meet less frequently as they are finding more time is needed to prepare letters, minutes and conduct thorough plan reviews. She stated this would also provide more time to efficiently prepare for upcoming meetings. Member Flynn was in favor. Chairman Poillucci felt that it didn't matter how often they met, that the workload would still be the same. Administrative Assistant Jo Lima disagreed because she felt while the workload would be the same the time frame in between to prepare all these tasks is just not feasible. She explained that a meeting can always be scheduled in between if necessary. Health Agent Perry said he tries to drop everything to review plans that he knows will be on an upcoming meeting, but it's not always that simple with other things going on i.e.: perks, Title V Inspections etc. Lima stated the part-time clerk is only scheduled to work three days a week. She said if the clerk could come in an extra day, it would really help. Member Maxim said having the clerk in another day isn't even an option. Lima said the meeting minutes should be available within 10 days after a meeting should the public request a copy and how she takes pride in having them done on time, but if members are content meeting the first and third Wednesday of each month, that's fine, but minutes will not be prepared as promptly as in the past. She said she was just asking members to consider meeting every three weeks. Member Maxim stated he thought it was better to have a set schedule so the public knows the meetings are the first and third Wednesday of each month. Members agreed to continue meeting on the first and third Wednesday of each month.

Chairman Poillucci read a memo from Town Administrator Garbitt with regard to **Long Range Personnel/Space needs**. Health Agent Perry said it was sent to him this morning as the Department Head and he forwarded it to members. The Board of Selectmen are interested in projections regarding staffing needs, additional space and equipment or technology needs that the Board of Health anticipates in the next five to ten years. Chairman Poillucci asked Agent Perry to do some research with regard to how much growth has occurred over the past ten years. Member Maxim asked staff to think about this as they are the ones in the office and would have a better idea as to what is needed. A vehicle was also discussed because the current blazer has had more issues.

Not on Agenda

Health Agent Perry said he had an anonymous complaint about chickens and a crowing rooster. He said the complainant said their neighbor had two or three dozen chickens brought onto their property and placed on the property line. He said the Board of Health has no setbacks for chicken pens. Chairman Poillucci said he asked Agent Perry earlier if a rooster complaint could be handled under a nuisance complaint and that Agent Perry had said yes and that he had told him to deal with it. Chairman Poillucci asked what has changed since then. Agent Perry said he spoke to the Wareham Health Agent whose office adopted a crowing rooster rule. He said he also found out there is a barking dog rule in Lakeville through the Animal Control Officer David Frates. He said he is just trying to be consistent. He said he could get members a copy of the crowing rooster regs from Wareham which states the rooster has to be in a covered cage at night, which stops them from crowing. He told the complainant that he would ask the Board. He said this person is also worried about his well which would not fall under nuisance. Chairman Poillucci said there are state laws that govern all this when towns don't have local regs. Agent Perry said he knows Title V has nothing about animal pens to wells. He said any well setbacks would be in local regs. Member Maxim said he believed Animal Inspector Jared Darling should be inspecting all animals in town for the state. Agent Perry said that is about making sure the animals are ok; not protecting someone's well. He said that would fall under the Board of Health if they wanted to adopt a setback instead of just to a horse paddock it would be to any kind of domestic animal. Member Maxim asked if the Board of Health could legally fine someone under a nuisance complaint. Agent Perry said yes, but they want to remain anonymous in fear of retribution from a neighbor. Member Maxim said he feels that if someone wants to complain, it should be known who it is. He said it may be as easy as Inspector Darling going out and asking these people to move their pen. Chairman Poillucci said that it does not apply to nuisance complaints that it is only for public health complaints. He said he believes there are state laws that govern farm animals if the town hasn't adopted any of their own regs so before we start reinventing the wheel he felt Agent Perry should take the time to look into it. He said nuisance isn't a public health issue so we don't need to act on it as an anonymous complaint. Agent Perry said he would talk to Animal Inspector Darling since he doesn't know if Board of Health has any authority to enforce the Mass Dept of Agriculture Regulations. Chairman Poillucci asked him to look into it.

6:35 p.m. Meeting continued in the Board of Selectmen's Office.

Meet with Board of Selectmen to discuss Appointment of a Special Assistant Health Agent

Board of Health Chairman Poillucci was present for the discussion along with other members of the Board of Health. Selectman Burke allowed them to speak. Chairman Poillucci began by saying they have had members do one another's inspections because the Health Agent could not. He said "one of our people" went around us and went to Town Counsel and so thanks to Selectmen Burke and Town Administrator Garbitt and their support, they helped to get this fixed or one of our members would not be able to work on Monday. He said he found out that the Board of Health can have someone special to do inspections. He said this is not a big demanding job. It was discussed to appoint Superintendent of Streets Jeremy Peck temporarily as a Special Assistant Health Agent until the Board of Health can make other accommodations.

Town Administrator Garbitt said she did speak with Town of Middleboro Health Agent Robert Buker who said he would like to help out and asked to put together an agreement and fee schedule. Discussion ensued about a dollar amount for agreement, \$50? Selectman Burke said maybe the Board of Health can have some input on that. Chairman Poillucci said he thinks that fee is reasonable to go out on an inspection. Selectmen Powderly said that you don't always have to go by Town Counsel opinion. If someone objects then that person can start a personal lawsuit. He said he was not against past practice. Selectmen Hollenbeck said the problem is because the Health Agent is under the direction of the Board of Health and cannot perform the inspections; this is why an independent is needed. Chairman Poillucci said if Member Maxim installs a system and the Health Agent goes out and fails it, there could be repercussions, and felt that if he himself did the inspection, then it was fine. He said this all kind of blew up. BOH Members want to appoint Superintendent of Streets Jeremy Peck until they find out what they can do. He said some people thought it was only for former BOH Member Peter Panettieri, but it was for all Board Members. He said right now the BOH is in crisis mode and do not want Member Maxim to resign. Town Administrator Garbitt said the statute is clear. Selectman Powderly said he did not want to use a Town employee and not compensate them; he would rather allow an employee to do inspections. Town Administrator Garbitt told Chairman Poillucci there will have to be two separate contracts for the Town. Selectmen Powderly said he would prefer to pay someone to do it so we should pay Jeremy. Selectman Burke said he feels people should be compensated for their time and that this is just an interim thing to do before they have a better solution. Chairman Poillucci said the BOH needs a system inspected tomorrow. Member Maxim said he had more questions about that. Town Administrator Garbitt said this is only with regard to septic system inspections. Member Maxim asked who signing off on them? Jeremy? Town Administrator Garbitt she has it in her notes. Chairman Poillucci said whoever witnesses it will have to sign off. Town Administrator Garbitt said the Health Agent can review the plans. Member Maxim asked about perc tests and if the Health Agent or Jeremy can witness. Jeremy said he is not a certified soil evaluator. Town Administrator Garbitt said if Member Maxim forwarded her all the questions then she will get him the answers. She said Attorney Greg Corbo is an expert on Title V. Selectman Powderly said there is still going to be the same conflict; anything that the Health Agent does that Member Maxim is involved in will be a problem if that is how they want to flip it. Selectman Hollenbeck mentioned what if the Health Agent reports to someone else and is not an employee of the Board of Health. Town Administrator Garbitt said that is a question for Town Counsel. Chairman Poillucci said the BOH day to day operations could go under Building Commissioner Darling then, to monitor everything like conservation did. He said he was just speaking for himself and not the other members. Selectman Burke said the Board of Health Office does not have someone to oversee the day to day operations and it forces a board member to do it and it is not a board member job. He said the Board of Selectmen made Building Commissioner Darling the Inspector of Inspectional Services so that there would be a one stop shop for people on inspections and said they are in support of that. He said if it were to fall under Building Commissioner Darling they would have to appoint him and if it did not work out then they can rescind and the BOH can do their own thing again. He said it makes sense to have that one office be the point for inspections for building trades. Chairman Poillucci stated that there are no qualifications necessary for this position, but Jeremy is the best option or Building Commissioner Darling if he Jeremy is busy. Selectman Powderly said he would like to do it and attach a fee if it is legal.

Town Administrator Garbitt said they will have to vote a separate disclosure. Chairman Poillucci said he does not want Jeremy in the position where he has to do it indefinitely.

Upon a motion made by Selectman Burke and seconded by Selectman Hollenbeck, the Board of Selectmen:

Voted: To appoint Jeremy Peck as Special Assistant Health Agent until December 31, 2015. Unanimous in favor

Meeting adjourned at 6:52 p.m.

Accepted as Typed 11-18-15JL
