TOWN OF LAKEVILLE
Board of Health Meeting Minutes
April 6, 2016

The Lakeville Board of Health held a meeting on April 6, 2016 at the Lakeville Town Office Building. Board of Health Members present: Robert Poillucci, Derek Maxim and Christopher Spratt. Health Agent Lawrence Perry and Health Inspector Bernardo were also present.

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

Reorganization of Board of Health Members
Chairman Poillucci said the first thing they needed to do was the reorganization of the Board of Health members:

Robert Poillucci was re-elected for a three year term and Christopher Spratt was elected for one year, finishing off a previous members term. Member Poillucci stated that some boards rotate every year and said unless other members felt strongly he would like to be re-appointed Chairman for one more year because he has a lot of things going on that he would like to see through.

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

VOTED: To re-appoint Member Poillucci as Chairman until the next election. Two in favor, one abstention, (Poillucci).

Upon motion made by Member Poillucci and seconded by Member Spratt, the Board:

VOTED: To appoint Member Maxim as Second Member until the next election. Two in favor, one abstention, (Maxim).

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

VOTED: To appoint Member Spratt as Third Member until the next election. Two in favor, one abstention, (Spratt).

115 Staples Shore Road – Abutter cards were submitted and a signed well waiver from an abutter from 113 Staples Shore Road. Homeowner Robert Arneson was present as well as Engineer Jaime Bissonnette from Zenith Consulting Engineers as agent for Foresight Engineering. Members reviewed plans dated February 17, 2016 and associated request letter dated February 24, 2016. The board voted unanimously to approve all of the variances as requested in the letter.

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

VOTED: To approve the sewage disposal system upgrade design and 12 Local Upgrade Variances at 115 Staples Shore Road. Unanimous vote in favor.

Enforcement Issues - 38 Pickens Street
Chairman Poillucci called Agent Perry to the table. He asked if the property was being foreclosed on. Agent Perry said that he was told by the homeowner he estimated it would be four to six months. Chairman Poillucci said they were going to start fining and going to court but the homeowner offered to pump the system every few weeks until he

is thrown out. He said he was fine with that. Members agreed. Member Maxim suggested putting a six month time table on this. Chairman Poillucci suggested possibly pumping the system once a month for the next six months and the first month he doesn't, the house will be condemned. After further discussion Chairman Poillucci asked Agent Perry to obtain proof of the foreclosure and to use his judgment on how often the homeowner should be pumping the system. He said members can wait to see what happens before voting to waive the fines.

Appointment new representative from Board of Health to Emergency Planning Committee – After some discussion, Chairman Poillucci stated that Nate Darling (Director of Inspectional Services) is technically an advisor on the Board of Health and he thinks he may be able to go represent the Board of Health since he goes anyway. Tabled to next meeting.

Seasonal Food Establishments (Snack Stands) – Inspector Bernardo was present for discussion regarding compliance at the park snack stands. Wash stations were brought up. Members and Inspector Bernardo agreed they should all be compliant and permitted. Inspector Bernardo said he can't do an inspection without them applying for a permit. He said he can coach them along, but he can't do any official inspections. Chairman Poillucci recommended attending one of the Park Dept. meetings and asked Agent Perry to see if the Board of Health could be added to the Parks Dept. next meeting agenda to continue the discussion.

Loon Pond Lodge – Member Maxim asked for an update on what was being done. Chairman Poillucci asked Inspector Bernardo to make sure they were managing their logs with regard to caterers. Inspector Bernardo said he was told they currently had a list of 11 caterers and have their record keeping. Bernardo said they were managing the Lodge and were liable should anything happen. He said that he would follow up.
There was some discussion with regard to water. Health Agent Perry said that at least Ted Williams property has an approved public water supply, the other two (Clear Pond and Jon Paun Parks) the board would have to determine whether to test at the beginning of the season or not. He said the state standards are that hand washing is considered human consumption. He said VOC's (Volatile Organic Compounds) can be absorbed through the hands/skin. Chairman Poillucci said once we get to the point where we are testing for VOC's in water he will be very happy, but said they should start with the big stuff first.

Discussion on proposed Local Regulation forwarding and authority with regard to all enforcement and fines – Health Inspector Bernardo was present to propose a new Board of Health Regulation. He said this would address health nuisances and the responsibilities of property owners or occupants. He stated the proposed regulation would read as follows:

Chapter II Land, Building, Environmental Regulations

1. **Health Nuisances**

   A. Examination & Regulations

   The Board of Health shall examine all nuisances, sources of filth and causes of sickness within the town, or on board vessels within the harbor of the town, which may, in its opinion, be injuries to the public health. The Board shall take action to remove, prevent or destroy and/or eliminate all nuisances and

shall make necessary regulations for the public health and safety relative thereto. Whoever violates any such regulation shall forfeit not more than one hundred dollars. (General Laws, Chapter III, Section 122)

B. Responsibilities of Property Owners

Any person or persons owning, or having control of any buildings or premises shall keep the same in a clean and sanitary condition and any person or persons owning or having control of any building or premises, in or upon which there is any substance, material or condition, which is or is likely to become a danger to the public health or a nuisance shall, when ordered by the Board of Health in writing, remove or abate the same within the time specified in said order.

C. Enforcement

Any person or persons who shall violate any provisions of this regulation will be prosecuted to the full extent of the law, and upon conviction, shall forfeit a sum not to exceed one hundred ($100.00) dollars. Each violation shall constitute a separate offense and shall be punishable as such hereunder.

Inspector Bernardo was also requesting that the Board of Health adopt the following Sanitary Codes and Local Health Regulations of the Commonwealth in its entirety:

Under the authority Chapter 111: Section 31 Health regulations; summary publication; hearings; filing sanitary codes and related rules, etc. Local Boards of health hereby may make any reasonable health regulations in regards to public health matters. As part of the regulations the Board of Health may be enforced by non-criminal disposition in the manner provided by General Laws, Chapter 40, Section 21D and Section 1-4A.

1.2 The Sanitary Codes and Environmental Codes of the Commonwealth are hereby adopted in its entirety with additions as adopted by the Board of Health if noted.

(A) Sanitary Code: General Application and Administration

105 CMR 410 Minimum Standards of Fitness for Human Habitation.

105 CMR 435 Minimum Standards for Swimming Pools.

105 CMR 590 Minimum Sanitation Standards for Food Service Establishments.

105 CMR 123 Tanning Facilities

(B) Local Health Regulations:
Regulations Body Art Establishment and Practitioners (revised) 2006

1.3 Violation - Penalty.

1.4 Criminal Disposition
Whoever violates any provision of these Regulations may be prosecuted in a court of competent jurisdiction.

1.5 Non-Criminal disposition.

Violation of any of the regulations of the Board of Health may be enforced by non-criminal disposition in the manner provided by General Laws, Chapter 40, Section 21D and Section 1-4A ("Non-Criminal Disposition") of the Town of Lakeville By-Laws. This does not limit the Town in any way from seeking criminal or civil remedies at a court of competent jurisdiction. The specific noncriminal disposition penalty which shall apply to a violation of these Board of Health regulations shall be: $100.00.

Each day any violation shall continue shall constitute a separate offense. **State law reference** G.L. c. 40, sec 21D.

Chairman Poillucci asked Agent Perry if there were any issues with this. Health Agent Perry said for him, this brought up more questions than it answered. He said he wasn't clear on whether any CMR's the Board of Health had been enforcing were ever adopted. He said the question is do they have to be adopted before they can be enforced. He said this is why he had suggested talking to Town Counsel. He showed members a list of items that were adopted in 1999 that he was given by Administrator Garbitt. A lengthy discussion ensued. Inspector Bernardo stated it was his understanding that you can cite a CMR, but if you went to the court, you could not give out a non-criminal disposition, if it's not in your by-law. He said you have to reference something, and the town clerk has to true attest the copy of what is being cited. There was some discussion with regard to how, when and if what is being proposed needs to be advertised. Inspector Bernardo said that a hearing was not required but it does need to be advertised.

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

VOTED: To adopt the following CMR's under:

(A) Sanitary Code: General Application and Administration:

105 CMR 410 Minimum Standards of Fitness for Human Habitation.

105 CMR 435 Minimum Standards for Swimming Pools.

105 CMR 590 Minimum Sanitation Standards for Food Service Establishments.

105 CMR 123 Tanning Facilities

(B) Local Health Regulations:
Regulations Body Art Establishment and Practitioners (revised) 2006

Unanimous vote in favor.

Board of Health Hours of Operation – Chairman Poillucci said that he felt the office should be open to the public whenever an employee is working. Member Maxim mentioned that the website differed from what was posted on the door. Agent Perry said he would have it updated. He said the office hours have been 8:00 to 4:30, but the door is usually open until 5:00. Chairman Poillucci said however the employees work their 40 hours; the office should be open to the public.

Part-Time Clerk – Chairman Poillucci said he just found out recently from Building Commissioner Darling that the Board of Health Part-Time Clerk who has been employed by the Town for four years does not get paid vacations or holidays. He felt it

was wrong and if members agreed he wanted to change the Board of Health budget to appropriate some funds to cover this. Member Maxim asked if her working less than 20 hours have something to do with it and why not bump her up to 22 hours. Chairman Poillucci said over 20 hours an employee is entitled to retirement, health insurance and other benefits. Member Spratt asked if the Town offers an accrual rate. Chairman Poillucci said no, part-timers get nothing. He said this is a decision that the Selectmen would make because it's under Wage and Personnel. He said Clerk Lawrence has been a good employee and deserves a vacation without having to take it without pay. Member Maxim said he understands why it's done this way, but he doesn't agree with it.

Upon a motion made by Chairman Poillucci and seconded by Member Spratt, the Board:

VOTED: To ask the Selectmen to increase the Board of Health Budget the amount necessary to give the part-time clerk two weeks vacation at her weekly rate of 19 hours and whatever holidays they give employees, give her holiday pay at whatever the proportionate rate would be. Unanimous vote in favor.

Acceptance of March 2, 2016, Board of Health Meeting Minutes – Tabled from last meeting. Members reviewed the minutes.

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

VOTED: To approve the Board of Health Meeting Minutes from March 2, 2016 as typed. Unanimous Vote in Favor.

Acceptance of the March 16, 2016, Board of Health Meeting Minutes – Members reviewed the minutes.

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

VOTED: To approve the Board of Health Meeting Minutes from March 16, 2016 as typed. Unanimous Vote in Favor.

MEHA Annual Meeting and Educational Seminar, May 4, 2016 – Members reviewed the agenda. Agent Perry said the Housing Court and the Arbovirus might be interesting. Board Members opted not to attend due to their schedules and did not elect to send anyone.

Not on Agenda

Old Business – 2 Morrison Way

Agent Perry advised Members that the homeowner has not done anything with regard to this property. She has not applied for a betterment loan. It has been two years. He has sent her a ticket which she ignored. He doesn't know if he should keep sending her tickets, file a criminal complaint, go to housing court or give her a notice to vacate. He said her front yard is the beach and each time she uses her system, it's affecting groundwater. Until all the systems get upgraded, they will continue to have problems down there. Chairman Poillucci recommended, if other members agree, to send her a letter and contact her to invite her to the next meeting or to tell her to come in and start the betterment process. Agent Perry advised members that she has approved plans on file. Chairman Poillucci said if Agent Perry does not hear back from her, another letter

will be sent stating that the Board of Health is seriously going to consider condemning her house. Member Spratt stated that he knows he is new and a lot of this has been on going, but when you hear about wells being contaminated and beaches closed, while he doesn't want to be throwing someone out of their house, someone is going to get sick at some point. Tabled to next meeting.

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

VOTED: To adjourn the meeting at 7:51 pm. Unanimous vote in favor.

Accepted as Typed
5-4-16JL