



## **TOWN OF TISBURY**

*Office of*

### **THE BOARD OF HEALTH**

PO Box 666, 66 High Point Lane

Vineyard Haven, Massachusetts 02568

Telephone (508) 696-4290

Fax (508) 696-7341

#### Meeting Minutes – March 27, 2018 – 4:00 PM

The Tisbury (Town) Board of Health (BOH) met on Tuesday, March 27, 2018, at the Tisbury Town Hall Annex.

Commissioners in attendance were Chairman Malcolm Boyd, Michael Loberg and Jeff Pratt. Maura Valley, Health Agent, and Valerie Soushek, Administrative Secretary, were also in attendance.

Catie Blake, Assistant Health Agent, was absent.

Chairman Boyd presided and called the meeting to order at 4:00 PM.

The commissioners approved meeting minutes, dated February 13, 2018.

- Commissioner Pratt asked about the status of the bid process for NitROE installers. Ms. Valley confirmed that the second RFP garnered one additional response, but the project team chose the original bidder.

Commissioner Pratt motioned to approve the meeting minutes of February 13, 2018. Commissioner Loberg seconded the motion and it was approved unanimously without further discussion.

There were no appointments.

There was no assistant health agent report.

There was no old business to report.

Health Agent Operational Updates

NitROE Pilot Program

Ms. Valley stated that three (3) NitROE pilot systems had been installed to date. She will be preparing documents for Mr Jay Grande's signature so that the Town can receive the second payment of \$75,000 from the State. The project team has nearly finalized the selection of ten (10) program participants. John Smith has developed an Excel spreadsheet for tracking and recording all deliverables required by the State. Test America has confirmed their preparedness for testing the samples to be provided by Mr. Paul Ernst and his team at the Waste Water department. Mr. Ernst has ordered test kits from Test America.

Commissioner Loberg asked if Dan Seidman had withdrawn his participation from the pilot program. Ms. Valley confirmed that he had due to insufficient elevations between the leaching field and tank. The tank would need to be raised at an additional expense of \$4,000-6,000 to Mr. Seidman and the tank could be damaged in the process of raising it.

Commissioner Loberg noted that Mr. John Smith is meeting with Martha's Vineyard Commission (MVC) regarding nitrogen-reducing technology. He added that Mr. Smith has been piloting technology that may serve a cluster of condos and he suggested that the commissioners and health agents attend a brief presentation at MVC on Thursday, March 29, 2018 at 7PM – 8:30PM.

Rental Regulations Bylaw

Mr. John Schilling, Tisbury Fire Chief, was in attendance and Mr. Schilling and Ms. Valley informed the commissioners that house bill H.4314 (Bill), an act regulating and insuring short-term rentals, passed in House and is expected to pass at the Senate level. Ms. Valley distributed printed copies of the Bill to the commissioners and explained that in addition to the State's tax assessments for such rentals, there are incentives of up to 2.7% for the Town. Such reimbursement incentives can be used for Town waste water issues. As part of the Bill, the Town will be required to adopt regulations or bylaws to conduct inspections and accept provisions.

Ms. Valley and Chief Schilling agreed and stated that it doesn't make sense to proceed with the Town's proposal given that changes could occur with the enactment of the State bill; however, they would like to have some oversight for maximum occupancy based on sewer or septic system capacity and for avoiding potential overcrowding opportunities. Ms. Valley added that oversight can be addressed by the Town as a new BOH regulation or by revising a current regulation. Ms. Valley agreed to research the options.

Ms. Valley reminded the commissioners that this proposed bylaw is on the agenda for the upcoming Town meeting. Chief Schilling asked the commissioners if they would like to keep the BOH-sponsored bylaw on the agenda or pull the warrant article in light of the recent house vote. In the meantime, he offered to research ideas for regulating long-term rentals.

Chief Schilling noted that the State Bill lifts some of the burden from the Town, but it also adds tasks, i.e. the State will require site inspections whereas the Town bylaw allows for the right to inspect at the rental site. After the initial inspection, the Town must determine the frequency of subsequent inspections. The State Bill also mandates that the rental hosts register their rental property with a State commissioner and notify their homeowners' insurance provider.

Commissioner Loberg asked how the State defines a short-term rental, to which Chief Schilling responded by reading directly from the Bill. It is a rental of less than 28 consecutive days for a fee. Ms. Valley commented that the definition makes sense given that the State defines legal residency as 30 days or more.

Commissioner Pratt asked if there is a provision if the host is a resident landlord. Chief Schilling cited a definition on page 4 of the Bill.

Commissioner Loberg asked if the Bill specifies an estimated income for the Town. Commissioner Schilling confirmed that since the Town will be able to impose a local excise tax up to 5% for a residential host, 6% for an investment host, and up to 10% for a professionally managed host. This income can be assigned to offset some of the expenses for the additional tasks, i.e. site inspections, required by the State of the Town. The income presents an opportunity for cost sharing between the Town and property owners for funding O&M and may allow the Town to establish a bond issue for low-cost septic loans. He noted that officials of towns on the Cape worked to make this opportunity available.

Commissioner Pratt asked what is expected of the site inspector and who will be responsible for enforcing the State regulations. According to Chief Schilling and Ms. Valley, the Town will be responsible for conducting a safety inspection before a dwelling is rented. The Town will have 60 days to inspect after the rental is listed as available. The host is responsible for the cost if a fee is imposed.

After discussing, Chairman Boyd stated that he believes the Town should withdraw their bylaw proposal.

Ms. Valley noted that the Town can choose not to participate in proposed wastewater fund tied to the house bill; however, the Town won't share in any of the tax assessments.

Chief Schilling confirmed that he would prefer to follow the State's lead and have their support available at the Town level.

Commissioner Loberg recommended making an official announcement to residents by way of island-wide meetings with Julian Cyr presenting.

Commissioner Pratt motioned to retract the warrant article from the agenda for the upcoming Town meeting. Commissioner Loberg seconded the motion at hand and it was approved unanimously. No additional discussion was requested.

Eversource Vegetation Management

Ms. Valley presented a draft of a letter to the State Pesticide Bureau for the commissioners to sign. The intent of the letter is to (re)state the Town's opposition of the application of herbicides, especially Triclopyr, at the Eversource rights of way within Tisbury. In the event of spraying, the letter requests that Eversource be required to provide a list of the actual chemicals being applied and a time and date when the property owners can safely return to their property following application.

Commissioner Loberg requested that an additional letter be drafted to Eversource asking them to meet with the commissioners to review the use of herbicides in the vicinity of the Manter Well.

Fertilizer Regulations

According to Ms. Valley, Kenny Maciel, Department of Public Works (DPW), has requested a waiver to apply fertilizer at Veteran's Park prior to the start of soccer season at the end of March.

Commissioner Pratt asked about the frequency of the waiver and if the nitrogen content of their fertilizer complies with the regulations. Ms. Valley agreed to confirm these details. Commissioner Loberg recalled an allowance for earlier fertilizer applications on sports' turf. Ms. Valley also agreed to confirm this existence of such a clause.

Commissioner Loberg motioned to authorize Ms. Valley's approval of the requested waiver as long as it is consistent with the definition of sports fields in the regulations. Commissioner Pratt seconded the motion. Commissioner Loberg added a discussion point and stated that it will be Ms. Valley's responsibility to determine and approve the proposed fertilizer product in accordance with the regulations and as requested by the commissioners. All commissioners voted in favor of the motion.

Landfill Monitoring

Ms. Valley reported that Mr. Michael Navabi, our new Wright-Pierce representative, recently visited and walked the landfill to identify areas that need to be replenished with loam and grass seed.

Ms. Valley also noted that Wright-Pierce had been operating without a contract for approximately two (2) years; therefore, Mr. Navabi had presented a (very reasonable) renewal proposal. Unfortunately, the BOH cannot sign in acceptance at this time due to inadequate budgeting, which was based on actual prior year spend. Ms. Valley will discuss possible options for additional funding allocations with Ms. Suzanne Kennedy.

Commissioner Loberg recalled a recent reduction to the frequency of landfill monitoring, to which Ms. Valley responded that the State will be increasing the frequency where wells are located within a certain perimeter to the landfill. Mr. Tim Silvia, Tisbury Water, is researching this as it applies to the Town. Additionally, the previous Wright-Pierce representative did not submit the request for the reduction. Ms. Valley confirmed, though, that Mr. Navabi will submit the request. In the meantime, Wright-Pierce is addressing the budgeted services for the Town. Ms. Valley noted that she will be

working with Mr. Navabi to identify possible reductions and new requirements to Wright-Pierce's services.

Commissioner Pratt suggested submitting a request for a reserve fund transfer to cover the proposed contract renewal if necessary.

Commissioner Loberg noted that some time within the 15 years, the landfill will no longer be regulated as it will have exceeded the capped requirement period, to which Ms. Valley responded that she would confirm this information. Ms. Valley also agreed to confirm the amount of acreage included in this current regulation for Chairman Boyd.

DWA(s) approved by the Board

4113 Tristan Atwood / Ashton's Way / 31-B-6

According to Ms. Valley's summary of the project, Mr. Atwood is proposing installation of a FAST system for new construction, a 4 bedroom dwelling in the Tashmoo watershed. The septic plan meets all setbacks, requirements, and calculations. No variances are requested and an operation and maintenance contractor has been identified.

Commissioner Pratt motioned to approve the proposed septic plan for parcel 31-B-6 on Ashton's Way. Commissioner Loberg seconded the motion and it was approved unanimously with no discussion.

DWA(s) approved for the NitROE Pilot Program

4112 Joao Barbosa / Tashmoo Avenue / 26-B-19.9

Ms. Valley noted that Mr. Barbosa's proposed plan will take the place of Mr. Seidman's participation in the program. Ms. Valley mentioned that she still has questions regarding Mr. Barbosa's plan, but requested the commissioners' approval to prevent a delay in submission of the application to the State. The proposed plan is for a 4 bedroom dwelling; however, the floor plan only shows 1 bedroom. An ejector pump is proposed, but no estimated percentage of flow has been provided.

Commissioner Loberg motioned to approve Mr. Barbosa's proposal for parcel 26-B-19.9 subject to Ms. Valley's finalization of the plan. Commissioner Pratt seconded the motion and it was approved unanimously with no discussion.

New Business

Rabies vaccine exemption for O B Rogers

Valerie Soushek noted that this is the first request for an exemption for O B Rogers.

Commissioner Loberg motioned to approve the Rabies vaccine exemption for O B Rogers. Commissioner Pratt seconded the motion and it was approved unanimously with no discussion.

Rabies vaccine exemption for Sasha Lau

Valerie Soushek noted that this is the first request for an exemption for Sasha Lau.



Commissioner Loberg motioned to approve the Rabies vaccine exemption for Sasha Lau. Commissioner Pratt seconded the motion and it was approved unanimously with no discussion.

DWA 4116 / Directory of Directors / 77 Passamaquoddy Avenue / 66-A-7

Ms. Valley explained that the property owners, Directory of Directors, have submitted a plan to replace a (failed) single cesspool for a four (4) bedroom dwelling in the coastal district. Due to limited space, variances are requested and Ms. Valley recommended approval by the commissioners.

Commissioner Pratt motioned to approve the proposed septic plan for 77 Passamaquoddy Avenue. Commissioner Loberg seconded the motion and it was approved unanimously with no discussion.

Extension of deadline for single cesspool upgrade / Maria Elena Perez / 59 Paula Avenue

Ms. Valley explained that Ms. Perez has qualified to receive a loan to upgrade her septic system from The Resource Inc. (TRI); however, TRI does not expect to receive additional funding until later in the year. Ms. Valley confirmed that the system had been inspected without issue by Tom Pachico so Ms. Perez is requesting a postponement of the upgrade until funding from TRI becomes available. As the property is not transferring ownership, installation of an advanced treatment system is not required under the current regulations.

Commissioner Pratt motioned to grant the requested postponement until December 31, 2018. Commissioner Loberg seconded the motion and it was unanimously approved. No further discussion was required.

Missing inspection report / Arba Maria Clark / 398 Main Street / 5-E-9

Ms. Valley explained that Ms. Clark recalls having her septic system inspected in 2013 by Arsen Hambardzumyan as ordered by the BOH at that time; however, no inspection report is on file with the BOH and Mr. Hambardzumyan has been unresponsive to Ms. Clark's requests for a copy. Shortly before the inspection, Ms. Clark had her system pumped out by Jay's Septic, for which the BOH has a record of issuing a permit. In speaking to Tom Pachico and his recollection of this matter, Ms. Clark is requesting that the next septic inspection at her property be rescheduled for on or before April 14, 2020, seven (7) years from the last inspection.

Based on Ms. Clark's recollection and the notes she provided, Commissioner Loberg motioned to allow Ms. Clark to remain on the regularly scheduled seven (7) year rotation for her next septic inspection. Commissioner Pratt seconded the motion and it was unanimously approved. No further discussion was required.

Approval of well application / Susan Leland

Ms. Valley recommended approval of Ms. Leland's application to install a well for new construction on Mayflower Lane.

Commissioner Loberg motioned to approve the Ms. Leland's application. Commissioner Pratt seconded the motion and it was approved unanimously with no discussion.

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Payables and Permits for Approval

MV Times / Advertising / \$27.90

Catie Blake / Training / \$350

Catie Blake / Travel / \$65

Catie Blake / Training / \$65

Maura Valley / Travel / \$89.60

NEIWPC / Training / \$75

VNA/Cape Cod / Public Health Services / \$722.50

April Meeting Dates

Due to Town Meeting and Voting Day, the next BOH meeting will be held as required for emergency matters.

The meeting was adjourned at 5:20 PM.

Respectfully submitted,

Valerie Soushek

Document(s)

The Board of Health accepts the meeting minutes, dated March 27, 2018, as presented.

Date:

3/27/2018

Signed:

[Signature]