



TOWN OF TISBURY

Office of

THE BOARD OF HEALTH

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Meeting Minutes – March 19, 2019 – 4:00 PM

The Tisbury Board of Health (BOH) met on Tuesday, March 19, 2019, at the Tisbury Town Hall Annex.

The meeting was called to order at 4:00 PM.

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

The meeting minutes from January 22 and February 8, 2019 were approved, as written.

APPOINTMENT (S)

4:15 Mike and Bob Sawyer / 317 State Road & 1 DeBettencourt

Ms. Valley explained that recent inspections at the subject parcels showed that both systems have issues according to the inspector, Mr. Griffin Gardner. Mr. Mike Sawyer has requested a postponement to upgrade the systems, which are on the future State Road Sewer District Plan. However, after reviewing the map, Ms. Valley stated that 317 State Road is not included in the project plan. She is uncertain if the omission is due to an oversight. If so, Commissioner Pratt suggested that the matter be addressed as soon as possible with the Sewer Board and before the upcoming April Town meeting when a vote to establish the State Road Sewer District is planned.

Commissioner Pratt further explained that establishment of the new sewer district is dependent on funding from the Town and the expansion of the sewer plant capabilities.

Chairman Loberg stated that there could be a significant time lapse before the sewer line along State Road is constructed.

Mr. Bob Sawyer informed the commissioners of a project, on which he is working, and this has prompted the request to postpone replacement of the current septic system(s). The project is of critical importance to the Town.

Chairman Loberg reiterated his concern over the compromised septic systems serving the dwelling. For housing purposes of the current tenants, he stated that the system needs to be fixed given that the sewer district could be 2-3 years before it is constructed. Mr. Sawyer asked for an 18-month postponement. Chairman Loberg suggested that a year delay may be available and offered a future appointment for the Sawyers to return before the board with the full details of what needs to be done once the system as State Road is fully inspected.

Ms. Valley confirmed that 317 State Road was a conditional pass, so that system will need to be pumped before the inspection can be completed. The system at 1 Debettencourt is a failed single cesspool. It must be pumped as often as necessary until information about availability to the sewer is obtained and the inspection of 317 State Road is completed. She suggested that treating the pits with Aidox or Septic Scrub may help prolong the life of the systems until additional information is known.

Chairman Loberg asked the Sawyers to return before the BOH at the end of April or early May with more information on the second system and if the sewer district will be available.

4:30 Aaron Zeender / The Stable / Main Street – No show

Ms. Blake reported that Mr. Zeender's plans for a restaurant on Main Street have been approved by Martha's Vineyard Commission and Tisbury Zoning Board of Appeals. Copies of the plan and menu have been provided to Ms. Blake. Given that no one involved in the project appeared for their appointment, unanswered questions remain. Without approval by the commissioners, Ms. Blake is unable to conduct an inspection of the premises.

4:45 Frank Daly / 166 Skiff Avenue

Mr. Daly requested an appointment to review the origin, purpose and legality of a *notice to abutter* requesting a setback variance and state his concerns since construction of the septic installation has commenced. The document requesting the variance was drafted jointly by Mr. Doug Dowling and Mr. Pedler.

Mr. Farley Pedler, general contractor for construction occurring at 164 Skiff Avenue, was also present.

Upon review, Mr. Daly stated that he accepts the septic plan specifications. However, use of and damage to his driveway is of concern and he requested that plans for access and restoration be documented.

Mr. Pedler confirmed that temporary use of his driveway for certain aspects of the construction will be needed and documented to Mr. Daly. Mr. Pedler agreed to accept responsibility for monitoring use of the driveway; thereby, minimizing damage and disturbance to Mr. Daly. Upon completion of the project, Mr. Pedler stated that he is committed to restoring the driveway to its original condition. A copy of Mr. Pedler's letter will be provided to Ms. Valley and the building department.

Given Mr. Daly's satisfaction of the review, he agreed to redact his original signature and re-sign and re-date the document with Ms. Valley signing as a witness.

Commissioner Pratt confirmed to Mr. Daly that he has asked Ms. Valley to reconsider the use of a letter in lieu of a public hearing for approving such variances.

HEALTH AGENT OPERATIONAL UPDATE

Eversource and POCCA: Glyphosate on Town-owned Properties

Ms. Maura Valley reminded the commissioners of Ms. Laura Kelly's from POCCA (Protect Our Cape Cod Aquifer), request of the Town to prohibit the use of glyphosate on Town-owned properties with a new regulation. Ms. Laura Kelly was unable to attend the current meeting as requested by the commissioners at their last meeting.

Ms. Valley restated her opinion against making such a ban a regulation; a regulation shouldn't be necessary to control what happens on Town property. Additionally, it may be beneficial to use glyphosate at the capped landfill, a controlled area with limited access, where ground water is not at risk of contamination, and spot application could be useful for controlling some of the vegetation. As requested, Ms. Valley confirmed that the Department of Public Works (DPW) does not use herbicides.

Ms. Valley stated that she had sent letters to abutters of the power lines requesting permission to test their private water supply for the presence of glyphosate. One resident has responded with interest to date. Ms. Valley is hoping to obtain additional approvals before she begins to test their wells.

While on the subject of testing wells, Chairman Loberg reminded the other commissioners and health agents of their commitment to monitor wells for the potential presence of total nitrogen. According to Ms. Valley, the cost is \$58 for 25 tests. The commissioners asked Ms. Valley to gather information and provide an update on this matter at the next meeting.

Kuehns Way

Ms. Valley reported that the Kuehns Way project was reviewed in land court last week. According to Mr. Philippe Jordi, Island Housing Trust are awaiting the Judge's decision.

Mayrand Disposal Works Applications (DWAs)

Ms. Valley reported that Mr. Michael Mayrand's attorney, Geoghan Coogan, provided updated documents showing that the properties for which disposal works applications had been received and denied, were indeed transferred to Mr. Mayrand's children. The

permits have been approved and were released to Mr. Mayrand's son. Mr. Mayrand has since submitted photos showing that he is digging to locate the access points of the three (3) non-compliant systems. He is away, but he has inspection appointments with Doug Cooper on April 30th and is asking for the accrued fines to be waived.

The commissioners voted to consider the requested waiver of fines once his other systems are brought in to compliance.

Short-term rentals

Ms. Valley reported that Chief John Schilling wrote Warrant Article No. 12 in preparation for the inspection component of short-term rentals if it is voted in and the Board of Selectmen choose to endorse the collection of the short-term rental tax. The inspection is not required by the State; the Town has a right, but is not obligated, to conduct inspections at the frequency deemed appropriate once the initial inspection is done. The intent of the article is to give the Town the ability to employ whatever tools are available under the law. Without adoption, local enforcement would not be allowed for inspections or registration, and the State will not divulge such registrations. The State will only reimburse the Town for a lump sum of levied taxes; no reporting will be provided.

Ms. Valley reported that Town Counsel changed the language of the regulation from (the Town) "may" to "shall" enforce registration and inspections of short-term rentals, which will be reviewed with the BOS and Mr. Donefski. Ms. Valley and Chief Schilling believe the language should reference "may" to maintain alignment with the State's regulation.

April Meeting Schedule

Due to Town meeting and elections in April, the commissioners agreed to meet on April 2nd and 16th. Chairman Loberg will not be available on the 2nd and Commissioner Boyd will not be available on the 16th however there will be a quorum for both meetings.

ASSISTANT HEALTH AGENT OPERATIONAL UPDATE

Golden Bull Brazilian Steakhouse

Ms. Blake reported that she conducted a recent inspection at Golden Bull. Renovations of the space are nearly complete.

Food Service Inspections

Ms. Blake reported that several restaurants in the Town are for sale or have sold and are under new ownership. Ackee Tree wishes to install a commercial kitchen. Black Dog Bakery will be re-opening soon as renovations are nearing completion.

Camps

Ms. Blake reported that the Island Children's Theater Camp is relocating from the Sailing Camp in Oak Bluffs to the Unitarian Church in Tisbury.

Tisberry Frozen Yogurt

Ms. Blake reminded that Tisberry Frozen Yogurt is under new ownership, but as the same business model serving frozen yogurt with toppings. She asked the commissioners if they would like the new owners to come before them, to which they responded it is not necessary.

DWA(s) REVIEWED AND APPROVED BY THE COMMISSIONERS

4181 Brian Welch / Canterbury Lane / 20-A-24 - Approved

NEW BUSINESS

Continued postponement of septic upgrade – 34 Edgartown Road / 8-O-5

Approved until sale/transfer, including creation of, or changes to, family trust.

Continued postponement of septic upgrade – 129 Winyah Circle / 14-A-15

Approved until sale/transfer, including creation of, or changes to, family trust.

Citation appeal – Sandra Healy / 17 Martin Road / 8-E-26

Reduced to amount of the citation; per day fines are being waived.

Rabies vaccine exemption – Willoughby Hadley – Approved

Rabies vaccine exemption – Mercedes Maciel - Approved

Rabies vaccine exemption – Sasha Lau – Approved

OLD BUSINESS

Compliance status of Earle (Sandy) Ray's properties

Ms. Soushek reported that compliance of Mr. Ray's properties is pending confirmation of pump-outs at 12 Surveyors Lane, 128 Franklin Street, and 67 Lambert Cove Road, from Edgartown Wastewater. Permits have been issued to Mr. Ray's son for pump-out by Jay's Septic.

BILLS AND PERMITS FOR APPROVAL

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With no further business to conduct the Board of Health commissioners adjourned the meeting at 5:52 PM.

Respectfully submitted,

Valerie Soushek
Administrative Secretary

Document(s)

The Board of Health accepts the meeting minutes, dated March 19, 2019, as presented.

Date: 4/16/19

Signed: 