



TOWN OF TISBURY

Office of

THE BOARD OF HEALTH

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Meeting Minutes – April 11, 2017

The Tisbury (Town) Board of Health (BOH) met on Tuesday, April 11, 2017, at the Tisbury Town Hall Annex.

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

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

Minutes

Chairman Pratt moved to accept the minutes of March 28, 2017. Commissioner Boyd seconded the motion. The motion was approved, unanimously, with no further discussion.

Health Agent Operational Updates

Eversource Vegetation Management Program 2017

Ms. Valley reported that she has not received any response to the Town's letter of opposition to spraying. In the meantime, she has checked on the possibility of property owners maintaining the right-of-way with mechanical means, to no avail; no such deeds were discovered. Chilmark has a section for Squibnocket Pond district regulations for the use of herbicides and other treatments. She suggested that regulations should be written for herbicide spraying by Eversource. The BOH would like to have a list of the agents being sprayed by Eversource as Garlon 4 would be an unacceptable agent to the BOH. The Board of Selectmen would like to revisit the use of goats for controlling the vegetation, which Eversource has not opposed in past preliminary discussions. With Eversource's approval, property owners may use their preferred method of management.

Landfill Issues

Ms. Valley reported that the most recent landfill inspection report had been received. The report cites issues with erosion. Wright-Pierce is putting together a proposal to lay more topsoil and re-seed the area. The Solar Array Project Team uses a temporary measure of spreading netting to control erosion in their area of the landfill.

Ms. Valley has talked Ms. Suzanne Kennedy about funding for erosion control. A future meeting with Ms. Kennedy and representatives from the Department of Public Works (DPW) is planned to discuss funding from the Finance Committee, warrant articles, or DPW's budget for routine maintenance.

Chairman Pratt requested clarification on the departmental areas of responsibility for landfill matters, to which Ms. Valley confirmed that maintenance of the capped portion of the landfill falls under the jurisdiction of the BOH and routine maintenance is the DPW's responsibility.

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Based on ongoing gas monitoring testing results, Wright-Pierce has submitted a modification request to the state to reduce sampling from quarterly to semi-annually.

Septic Pilot Programs

Ms. Valley reported that a meeting with John Smith was held on 4/10/2017 to discuss the pilot program processes if the grant is awarded. To date, seven (7) Tisbury property owners are potentially interested in participating.

Dr. Loberg reported that the review process is looking favorable for the town and the next phase would be written contract negotiations.

May Meeting Schedule

Ms. Valley reminded the Commissioners that May 9th is Election Day for the Town so the regularly scheduled BOH meeting will not be held. All Commissioners agreed that one meeting should be held in May, on the 16th, with the condition that another would be added if deemed necessary.

Assistant Health Agent Report:

License for Head High Tea (fermented tea)

Ms. Becky Bonds was heard before the board to request a license to produce/brew and bottle fermented tea (Kombucha) at The Larder, a commercial kitchen space for lease in Vineyard Haven. At this time, Ms. Bonds' current business plan will include distribution directly to consumers at the West Tisbury Farmer's Market, Wednesday mornings.

Commissioner Loberg enquired about the protocol for recalling a "bad" lot and how lots/batches are tracked. Ms. Bonds confirmed that she monitors lots, primarily visually, but she also checks the pH levels, and will note batch numbers on bottles in the event a recall is ever necessary. Ms. Valley requested clarification of the refrigeration requirements and if the label will be noted with such details, i.e. must keep refrigerated. Ms. Bonds assured the BOH that refrigeration requirements will be printed on the label.

Ms. Fuller recommended the approval of a *Permit to Operate* for Head High Tea. Commissioner Boyd motioned to approve a license. The motion was seconded by Commissioner Loberg with a final discussion point: he requested a follow-up appointment with Ms. Bonds after the summer season, in 6 months. All commissioners voted to approve the license, unanimously.

Increased seating for Not Your Sugar Mama's

Ms. Fuller updated the BOH on a request from Not Your Sugar Mama's for additional seating, 20 seats (at most) but more likely 12-15 seats, for serving chocolate, smoothies, salads, and soups to their patrons. Ms. Fuller confirmed that there is ample septic flow at the Tisbury Market Place to accommodate the said request.

Commissioner Loberg moved to approve additional seating for Not Your Sugar Mama's. The motion was seconded by Commissioner Boyd, and approved unanimously by all.

Training for new position

Ms. Fuller and Ms. Valley are scheduled to attend a seminar for soil evaluator's on Thursday, April 13, 2017. Ms. Fuller is also scheduled to attend a (public) pool certification course for 2 days, April 27 and 28, 2017.

Appointments

4:30 PM, Public Hearing:

Florin Gafencu / Nitrogen-reducing septic system at 12-G-8.2 / Harding Street

No attendees from the public were in attendance.

Mr./Ms. Gafencu is planning the construction of a nitrogen-reducing septic system within the Lagoon Pond Watershed. The BOH staff notified all of the abutters, as required by the previous BOH in a policy statement; however, Ms. Valley recommended a revision to the policy since abutters are not permitted to approve or disapprove applications for advanced treatment systems. Additionally, such systems should not

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encroach on an abutters' property. Ms. Valley continued by stating that abutter notifications should only be necessary if a variance with impact to an abutter's property is required.

Commissioner Loberg moved to restrict and eliminate the BOH policy requiring notifications to abutters when applications for the construction of advanced treatment septic systems are submitted to the BOH. The motion was seconded by Commissioner Boyd. Commissioner Loberg added a discussion point: to propose the septic pilot program in such instances if the grant is approved. The motion was unanimously approved by all.

4:45 PM Reid Silva, Agent for Pokedam Partners

Mr. Silva has designed a septic plan for a property that sits within and out of the Lake Tashmoo Watershed district: the leaching field will be located in the portion of the property outside the watershed and the pump and tank will be installed within the watershed. Mr. Silva assured the BOH that his goal is to design septic systems that can be installed outside of watershed and coastal zones.

Commissioner Loberg requested that Mr. Silva and Pokedam Partners consider participating in the septic pilot program, to which Mr. Silva requested specifications and advised the BPH that the property owners need to install the system within 2 months.

Commissioner Loberg suggested that Mr. Silva become versed on the pilot system program. Mr. Silva was also encouraged to speak to John Smith, Septic Engineer and Consultant.

Otherwise, Chairman Pratt confirmed that the BOH has no justification for denying a permit to construct the current septic design for Pokedam Partners.

5:00 PM License for Vineyard Caribbean Cuisine

Mr. Anthony Foster and Ms. Kristen Brown were heard by the BOH at 5:12 PM, when they presented several details of their plans with a 3rd business partner, Mr. Newton Waite: they hope to be open by Memorial Day weekend at their location at 5 corners; they will be sharing a building and kitchen, with exclusive hours, with Tropical as negotiated in the contract with Robert Sawyer; the menu will consist of 24 items and specials for mostly take-out in disposable containers; Tropical is providing outside and (3) indoor counter seats; and no beer or wine will be sold.

Ms. Valley and Ms. Fuller recommended the approval of a *Permit to Operate* for Vineyard Caribbean Cuisine. Commissioner Boyd responded with a motion to approve, Commissioner Loberg seconded the motion, which was unanimously approved with no further discussion.

DWAs approved by the Board

4029R Pokedam Partners 225 Bigelow Road 28-A-2

The Commissioners agreed to delay a decision and requested that Mr. Silva speak with his clients about the possibility of participating in the septic pilot program, to which Mr. Silva concurred. This would change the original septic design of bypassing the watershed property/avoiding the installation of an advanced treatment system. Mr. Silva requested a copy of the specifications for the proposed pilot system.

4032 Florin Gafencu Harding Street 12-G-8.2

The Commissioners agreed to table a decision and requested that Ms. Valley speak to Mr./Ms. Gafencu's agent, George Sourati, regarding the possibility of his clients participating in the septic pilot program where the system would be installed as designed with Title 5 requirements for the tank and leaching field, and allow enough space for one of the nitro pilot systems if the grant is approved.

Payables

The Commissioners approved payment of the following bills:

- Martha's Vineyard Times, \$72.90
- Office Depot, \$15.99
- Town of Tisbury-Soil Evaluators registration, \$135
- Town of Tisbury – Comcast, \$99.21

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5:30 PM Public Hearing: Septic Plan Review for Kuehn's Way

Chairman Pratt called the hearing to order at 5:28 PM, after it was confirmed there were no objections to starting early.

Introductions were made by the following:

Board of Health Commissioners and staff

Michael Ciancio, Constable, Town of Tisbury

Five (5) representatives from Island Housing Trust (IHT) were in attendance.

Dennis Murphy, Esq., and Scott Horsley, consulting Hydrogeologist, represented the abutters.

Seven (7) Tisbury residents and abutters were also present.

NOTE: A sign-in record, with attendees' names and email addresses, is available for reference.

Ms. Valley opened the hearing with a discussion regarding the septic system proposal designed on behalf of the IHT, by Holmes and McGrath for a 40 bedroom affordable housing project. A Bioclere system with a ground penetration carbon (GPC) filter, rather than a leaching field, is being proposed. Ms. Valley reported that the plan, as presented, meets state requirements; however, it is being applied for as a pilot project so if the BOH approves, State review and approval of the site specific pilot system, is also required. And proof of a contract for operation and maintenance will be required by the BOH.

IHT presented first with two (2) key speakers, Mr. Michael McGrath and Mr. Stephen Smith.

Mr. Michael McGrath, a professional engineer specializing in denitrification since the "80s", presented data and details of the proposed system design at length. Reference the attached presentation.

According to Mr. McGrath, the modified Bioclere system in his proposal produces a release of 15 milligrams per liter of nitrogen, which is below the regulations standard of nineteen (19) mgs per liter of nitrogen. This data was provided by the manufacturer; however, it is not guaranteed. Mr. McGrath will add Micro C to a denitrification tank, which will further reduce the nitrogen release to 7-8 mgs per liter, and with an add-on of two (2) GPC filters, Mr. McGrath believes the nitrogen release will drop to far below 5 mgs per liter. He also confirmed that the proposed system is designed to meet the DEP's standards. Testing data will be provided to the DEP and will be provided to the Town every time a McGrath & Holmes operator collects a sample.

Mr. Derrill Bazy confirmed that MVCS has approved the system design based the aforementioned data, and all testing results will also be shared with the BOH. MVCS requires monthly tests for the first six (6) months after installation of the Bioclere system. Thereafter, the testing can stop if every third consecutive test meets the 19 mgs/liter or below. If the requirements are not met, then MVCS, in partnership with the BOH, will hold IHT accountable for resolving the issue(s). Additionally, four (4) existing monitoring wells, 2 each on the east and west boundaries, are down-gradient from the "system" and will be tested. The results cannot exceed 9 mgs per liter of nitrogen released.

Commissioner Loberg enquired on the mitigation protocol for higher than expected releases resulting in 10 parts per million in a well, for example, to which the IHT and their subject matter experts did not have a response.

Mr. Steve Smith, Civil Engineer, Groundwater Hydrologist, and Graduate Professor at UMass at Lowell, spoke next. He was tasked with performing groundwater modeling for looking at the mounding from the leaching field, as well as a nitrogen loading analysis. Mr. Smith's report is attached for further information.

At Chairman Pratt's request, Ms. Valley confirmed: Title 5 regulations require installation of a septic tank at least 50 feet from any well, and the leaching field must be 100 feet from any well. The closest well is 108 feet from the leaching field for the proposed septic system.

Mr. Scott Horsley, Hydrologist and Professor at Tufts and Harvard Universities, spoke for the abutters. Mr. Horsley focuses on water resources protection, i.e. analysis, modeling, and regulation. He performed a similar analysis as Mr. Smith, but using different data, i.e. 19 mgs per liter as the effluent standard, which is authorized for provisional I/A systems by the DEP. Another variable considered in his report is the direction of groundwater flow, which is based on 5 efforts at mapping water tables in this area. According

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to Mr. Horsley, the flow generally moves easterly and northeasterly, and will fluctuate with seasonal changes, dry years, wet years and the large pumping well field. Mr. Horsley's analysis shows a nitrogen release of 12 mgs per liter at the Gale well, and 13 mgs per liter at the Dias well, when using 19 mgs per liter as the effluent standard. Mr. Horsley also believes that as the septic system is discharging in a 6 month period, the recharge assumption rate is very little or not all. This would create fluctuating slugs of contaminants that could impact a number of six (6) private drinking water wells, which are down-gradient from the septic site. He further believes: this is not an appropriate location for a pilot project; a mitigation protocol for malfunction of the system is an important question from the perspective of a health agency; data for IA systems fluctuates quite a bit. He recommended obtaining a groundwater discharge permit from the DEP to hold IHT accountable for 5 mgs per liters, which is not easily attainable.

Commissioner Loberg stated that the methodology for the nitrogen releases is comparable from both sides; however, the nitrogen release assumptions differ. The groundwater discharge is still questionable.

Public comments were allowed at 5:35 PM.

Mr. Robert Diaz stated that he is concerned about the reserve area putting every well in the flow direction and in danger of contamination. He is most concerned with septic releases and contamination by pharmaceuticals, household chemicals, and personal care products. Mr. Diaz stated that dealing with the repercussions of well contamination after the fact could put the abutters in a position like the Church across the street, as their potable water is contaminated. He believes it is foolish to use MVCS's requirements, as they are dated, admittedly by the MVCS.

Ms. Janet Woodcock stated that her biggest concern is that the abutters have singularly been dismissed, in terms of their health, the impact to their neighborhood and what "might" happen; thereby, creating a distrust of the BOH, in general. She is concerned about the quality of her drinking water.

Mr. Frank Pitts believes the salient point of IHT's presentation is the formula assumption used for nitrogen releases for an "early" system. Mr. Pitts believes that the state advisory maximum of 19 mgs per liter should be used from the perspective of impact to adjoining wells.

Commissioner Loberg agreed with Mr. Pitts point.

Mr. Crawford stated that his well is not located as shown on the plot plan provided by IHT; it is closer to the septic site on the south side. He also believes that the system is experimental and no one can guarantee that it won't cause his well to become contaminated.

Another abutter (name not announced) is also concerned about contamination from phosphates, fertilizers car oil leaks, not just nitrogen.

Chairman Pratt assured the residents that the BOH Commissioners and Agent have worked exceptionally hard on a series of provable data as to the efficacy of advanced treatment systems. They will take a look at the water flow and the location of the private wells very closely.

On behalf of the IHT, Mr. McGrath emphasized that this is not an experimental system and he has documented proof that the proposed system reduced releases of many pharmaceuticals, fire retardants, and personal care products.

Commissioner Loberg reminded Mr. McGrath that he would like to review data for their two (2) in-ground systems.

Mr. Dennis Murphy mentioned that he is expecting to receive additional data, supporting the abutters' position, from Mary Beth Chub, Department of Environment Protection.

Mr. Kenneth Bilzerian suggested that Mayflower Lane residents, along Lake Tashmoo, could be in the path of contamination from the proposed septic system for Kuehn's Way.

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Mr. Pratt closed the public hearing, and with no further business to conduct, the Board of Health meeting adjourned at 6:54 PM.

New Business: N/A

Old Business: N/A

Next meeting: April 25, 2017 at 4 PM

Respectfully submitted,

Valerie Soushek

Documents

Head High Kombucha; proposal, dated March 28, 2017; Becky Bonds, author
BOH; e-mail, dated April 11, 2017, Subject: Kuehn's Way info; Maura Valley, author
BOH; Agent's Notes for Kuehn's Way, dated April 11, 2017; Maura Valley, author
Holmes and McGrath, Inc.; letter w/ attachments, dated March 29, 2017; Michael B. McGrath, author
Holmes and McGrath, Inc.: Illustration of Soil Bacteria; Michael B. McGrath, author
Hill Law; letter w/ attachments, dated April 11, 2017; Author: Dennis A. Murphy, Esq.
Kenneth Bilzerian; Site Plan, dated March 7, 2017
GeoHydroCycle, Inc. (ghc); letter w/ attachments, dated April 11, 2017; Stephen W. Smith, author
Sign-in record, Public Hearing – Proposed

The Board of Health accepts the meeting minutes, dated April 11, 2017, as presented.

Date: 5/16/17

Signed: 