

WALTER R. WOLF, DPM, Chair
DIANE DIETZEN, MD, Vice-Chair
JESSICA COLLINS, Clerk

SHARON HART, Director of Public Health

BOARD OF HEALTH MINUTES

February 6, 2019

As Approved March 6, 2019

Present: Walter Wolf, DPM, Chair; Diane Dietzen, MD, Vice Chair; Jessica Collins, Clerk; Sharon Hart, Public Health Director; Jennifer Jernigan, Assistant Public Health Director; Harriet Finkle, South Hadley; Robert Pleasure, South Hadley; Vern Blodgett, South Hadley; Kathleen Davis, South Hadley; Jim Canning, South Hadley; Stephen Frantz, South Hadley

The Board of Health Meeting was called to order at 4:35 p.m. by Dr. Dietzen.

1. Director's Report:

Dr. Dietzen asked if there was anything Director Hart and Jennifer wanted the Board to focus on. Director Hart responded that it was up to them.

Director Hart reviewed the report with the Board:

- The Natural Gas letter and Vegetation Management Plan were discussed.

(Dr. Wolf arrived at 4:37 p.m.)

- The DPW Emergency Order on the Queensville Dam was reviewed.
- Invasive Meningococcal Disease and HIV increases found among the homeless population was discussed.
- Jessica Collins sent out the information regarding the bill ensuring safe drinking water. The Board stated that they had all reviewed it. Dr. Dietzen asked if Jessica Collins knows where the bill currently stands. Jessica said that she didn't. Dr. Dietzen stated that the focus of the bill is on schools and that the lead level is different. Jessica then asked if the State overrides Local? Director Hart stated that we can be more restrictive, not less. Then Dr. Dietzen stated that she doesn't know that it would change anything then with what they are doing. There were no further comments.
- Lots of Title 5 reviews were covered as well as storm water drainage.
- Director Hart explained the MVP Grant that the town will probably apply for regarding climate change preparedness. A team will be put together of various town department heads. Fuss & O'Neil will guide them through the grant.

- Director Hart met with the new Police Chief. It was a very good meeting. The Health Department had put together a program to accept no longer needed prescription drugs from residents. Some medications from our lock box, however, can't be put together with other drugs in the program so there was an issue with where to store those drugs that can't be combined because they are considered hazardous waste. Complaints were coming in about the lock boxes being full. The program will be on hold for a few days while things get ironed out. The program has the highest number of drugs taken in because we can take them in any form.
- The plan reviews on the Talk of the Town and Yarde Side Pizza were discussed. Also covered was that Cozy Oaks has closed down. They self-closed. It wasn't due to health violations.
- Various housing issues that were encountered since our last meeting were covered by Director Hart as well as a demolition.

2: New Business:

(a): Emergency Orders to Vacate:

Housing condemnations were reviewed. The issues with 22 Lamb Street were reviewed. A tenant complaint concerning egress issues, basement flooding from a broken pipe on the first floor and flammables found in the cellar were discussed. First floor follow-up is to be done in the future.

The temporary housing issue at 16 Spring Street was also discussed.

22 School Street – Ratify

Dr. Wolf motioned to ratify the emergency order to vacate. Jessica Collins seconded. All were in favor.

16 Spring Street – Ratify

Dr. Wolf motioned to ratify the emergency order to vacate. Dr. Dietzen seconded. All were in favor.

22 Lamb Street - Ratify

Dr. Wolf motioned to ratify the emergency order to vacate. Dr. Dietzen seconded. All were in favor.

3: Minutes:

The Board reviewed the January 2 and January 14 minutes. Dr. Dietzen motioned to approve the January 2, 2019 minutes. Dr. Wolf seconded. All were in favor. Jessica Collins motioned to approve the January 14, 2019 minutes. Dr. Wolf seconded. All were in favor.

4: Old Business:**(a): Water Testing Regulation:**

Jessica Collins wants to see the Director's Report include a thread about old business in terms of what the Board has requested the Director to do and what she has done with that request. For example, where the gravel pit and water testing issues stand. Director Hart stated that she has heard back from the Town Attorney and he wants to meet with her tomorrow on the content of the Water Testing Regulation. The Town Attorney had stated to Director Hart that the format was good.

Dr. Wolf stated that he wants a public hearing in March for the Water Testing Regulation. He hopes that the Town Attorney will put in writing what he says at the meeting with Director Hart so that the Board of Health can review it. Director Hart responded that she has to ask the Town Administrator in order to be able to meet with the Town Attorney. Typically, she said, the Town Attorney reviews the regulation and then sends it to his ListServ for review. This is most likely what the new Town Attorney will do but she is not sure. Director Hart will let the Board know about the results of the meeting with the Town Attorney and they will go from there, it was decided.

(b): Gravel Pit Business Expansion:

Dr. Dietzen asked for a summary of the situation. Jessica Collins went to the January 28, 2019 Planning Board Meeting and gave her summary of the meeting to the rest of the Board. At the January 2, 2019 Board of Health Meeting, the Board of Health said that they forbid the expansion and then the Town Attorney said that the Board of Health can't do that. At the January 14, 2019 Board of Health meeting, the Board of Health wanted a second opinion on that finding. Director Hart then responded that the issue of the second opinion then went to the Town Administrator. Dr. Wolf then added that the Town Administrator said okay, you can do that, but they will kick it back.

Dr. Dietzen wanted to know where they go for education on not being able to forbid things and

also, where do they go now in terms of the gravel pit land use. Jessica Collins responded that in a meeting Mark Aiken from Water District #2 said that Zone 2 could be reduced. Kathy Davis then stated that Mark Aiken brought up a separate issue. They have property that they are not using right now and want stricter control of it. The water protection overlay could be shrunk, a man in attendance at the meeting then stated.

Robert Pleasure then spoke. He stated that the Water District #2 got its water years ago from Lithia Springs. The water there was open to the air and required more treatment and had a limit for how much could be pumped out, however, so the operation was moved to the aquifer for cleaner water. There are still 60 acres belonging to Lithia Springs. A solar farm or housing plans are being discussed for it. Water District #2 wants income from this land but solar farms use pesticides and also the solar equipment is considered toxic equipment once the technology changes. Robert Pleasure stated that there is a network of springs over there. He feels that this land was given to the Town to care for and that there are concerns about what will happen to it. Robert Pleasure added that Mark Aiken was asked to get all the different groups together who have concerns about the property and then to determine the common view of the citizens about what happens to this land. The full coordination and participation of all agencies is needed.

Jessica Collins stated that a hydrogeological study was requested by both the Board of Health and the Planning Department. She wanted to know if this idea was dead in the water now. Director Hart asked if an article on the warrant for Town Meeting for funding could be done. Dr. Dietzen thought maybe a broader article on the warrant should be done. A broader review of things impacting our water sources. Director Hart stated that she agrees that there is a need to do a broader study. Jessica Collins would like all department heads to get together on their concerns. Dr. Wolf stated that he liked the Know Your Town coordination when there were landfill issues and that the Boards need to talk too. He stated that they need a joint meeting and asked if Know Your Town would coordinate it. He felt that this would be an excellent forum and that the Board of Health should invite the Chair of the Planning Board to their next meeting to answer questions on what happened on their January 28 meeting with the gravel pit.

Jessica Collins asked what occurred with the company withdrawing their application and when could they potentially apply again? Robert Pleasure stated that if the Planning Board had dismissed the Special Permit application, then the Gravel Pit couldn't refile it for two years but if the Planning Board dismissed the application without prejudice they can now refile it within 5-6 months if they so choose.

The Master Plan was then discussed as well as how it would apply to this issue. A man then stated that there was a letter put out regarding the status of the withdrawal along with a letter stating that the company would work with the town to develop a new proposal. So, they are definitely applying again, he stated. Vern Blodgett stated that if it is not in the bylaws, then it

As Approved – Board of Health
Meeting Minutes
February 6, 2019

is not law, he was told by Mike Sullivan. Mike Sullivan wants to see the bylaws before town meeting. Robert Pleasure stated that the Planning Board doesn't respect and follow the Master Plan.

Kathy Davis encourage the Board of Health to follow through to get a clear understanding of the Board's power. She commends the Board of Health on their work and efforts. The Board of Health discussed their frustrations around communication between themselves and other Boards in town. Director Hart stated that she can't email all 3 of the board members to deliberate. Dr. Wolf stated that he doesn't understand why the Subcommittee can't talk to the Town Attorney. Mike Sullivan shot it down. Dr. Dietzen offered that when communicating by email to all 3 board members about what is going on, state in the email "Don't Reply."

Jim Canning spoke of how he thought Dr. Wolf, as a M.D., had authority to understand what the risks of the gravel pit expansion are. He felt that the State Board of Public Health and the Department of Environmental Protection (DEP) should be consulted if Dr. Wolf can't do this on his own.

Jessica Collins stated that she believes they are trying to put together a proactive bylaw like Director Hart offered to protect the water shed area.

A man spoke up and stated that there needs to be a bylaw added in addition that the actual **Board** of Health be consulted when there are any special permits. The Board stated that there already is one. The man stated that it wasn't followed then.

Director Hart asked the group about what actual health data needs to be looked at. She stated that this gets to be a difficult thing with so many variables involved. Jim Canning mentioned the U.S. Geological Study that was done. He feels that if there is any risk at all – the expansion shouldn't be done. He feels that the Board of Health is the one to stop it in that case. Dr. Dietzen then spoke and stated that they need data as to why the Board feels this a bad idea to allow the expansion. Jessica Collins asked who would draft up a bylaw? The man in the back of the room stated he could send her what Mike Sullivan sent him.

Vern Blodgett stated that he is a member of the Bylaw Review Committee and that Mike Sullivan said zoning belongs to the Planning Board. If the Planning Board wants a new zoning bylaw, they put it in for Selectboard review only. Vern Blodgett stated that the Planning Board is powerful in the zoning area. DEP provided a model Bylaw #25535 for protecting groundwater and that the public water supply shall not be harmed. Maybe this should be re-looked at. The Bylaw Review Committee can be pushed aside when it comes to a zoning bylaw. Town Meeting is also very powerful. Look at the plastic bag ban.

As Approved – Board of Health
Meeting Minutes
February 6, 2019

Another man spoke and stated that they should look at the amount of material being removed and how what is being removed is no longer acting as a filter in the catching area. He stated that if the recharge is not at a certain level, then we are getting more river water and the river water would need to be looked at.

Robert Pleasure stated that DEP Bylaw #25535 needs to be re-looked at and backed up. They have asked for permits and minutes and have had a hard time getting them and also some information on violations. There are problems the same as with the actual **Board** of Health not getting notified. They still have questions and are not getting the information. When they question the project, the answer they get is that they are focusing on zoning and not health impacts. “You gotta choose the lesser of two evils,” he said, paraphrasing, “basically septic tanks versus a gravel pit.” The stewardship that should have taken place over the years, looks like it didn’t happen, Robert Pleasure stated. The Zoning Department only focused on town development. Robert Pleasure feels that they need mandatory participation of other agencies involved. He stated that they turned to the Board of Health because they were told that the Board of Health has emergency powers.

Jessica Collins asked about doing a multi-policy approach. They could have one group work with the Town Attorney to understand the Board of Health’s power. Another group could work on the bylaw approach. This all needs to be done by the first week in March. The bylaw approach was Director Hart’s idea to begin with, Jessica stated. Director Hart asked if there have been any thoughts on purchasing the property. Someone responded yes.

Dr. Dietzen asked what the bylaw would be about: Zoning? Drive or Kill? A Water Quality Impacts Study? Jessica Collins responded that the team needs to determine that. Vern Blodgett added that there is nothing to prevent 2 or 3 warrant articles on the warrant.

Jessica Collins wants to meet with the Town Attorney to understand the power of the Board of Health. She asked if maybe Kathy could go with her or Director Hart. Dr. Wolf okayed this and she will go with Director Hart.

Joan Hamilton then stated that she thought that the Board of Health ultimately shut down the landfill. She stated that maybe the new Town Attorney just doesn’t know that. Director Hart stated that the permit for the landfill was through the Board of Health so that the Board of Health had the power to do it. Director Hart also stated that with the water supply, DEP oversees the District #2 water. The Board of Health has jurisdiction over septic systems so also has the control over a housing development going in there. The Zoning Department has the law to regulate the use of the property, the Board of Health doesn’t. If there is a health impact, then the Board of Health could possibly regulate.

As Approved – Board of Health
Meeting Minutes
February 6, 2019

Robert Pleasure stated that there were factors that led the U.S. Geological Survey to say

that risks were involved. We are entitled to have stricter standards, he feels. Water District 2 is very concerned as well, he stated. They came to the Board of Health on it. Director Hart agreed that minimum standards may need to be changed.

Jim Canning stated that he likes the emergency feeling of this project. He feels that with a multi-team, group think approach, the energy will be lost. It's emergent - concerns on the toxicity of the water supply. He really liked how Dr. Wolf ran with this project in the first meeting.

A man spoke up and stated to ask the Town Attorney to recuse himself if he has any fiduciary relationships at all to the project, if you like that way to handle the issue. This has been a problem in the past with the prior attorney. Dr. Dietzen made it clear that we don't currently know that any of these relationships exist, however. The man agreed and stated that that is the problem. We don't know.

Stephen Franz stated that the Board of Health does have power over drinking water. The attorney is wrong. Stephen stated that no one can find the permit for Chicopee Concrete when he went to ask Richard Harris for it. He couldn't get one at any of the meetings either. He stated that he is not sure that there is even a permit to allow them to be there. Kathy has written a letter asking for a copy of the permit and hasn't received one. Dr. Wolf said that these items need to be pointed out to Richard Harris' boss – Mike Sullivan, Town Administrator, in a special meeting. Dr. Wolf stated that if someone is not doing their job and clearly withholding information that you as a citizen have a right to, then their boss should know.

Dr. Wolf stated that this is an urgent matter and the Board of Health is frustrated and that they have acted and will continue to act and their letter stands that forbids the special permit. Dr. Wolf feels that regulations have been laid in place, not followed and ignored. "We all know this to be a fact," he stated. Unless they find something from the Town Attorney that is so convincing, that says we don't have that power, we believe we do and our letter stands, the letter that forbids the special permit, and the State of Massachusetts, the Commonwealth of Massachusetts backs that up (what law? _____). He doesn't know what else they can do at this point. Dr. Dietzen questioned if they could then focus on a blanket regulation for all water situations or just one to deal with the current gravel pit situation. Dr. Wolf then stated that the Board was supposed to get notification by mail and didn't get notified that way about the special permit request. The Planning Board has disregarded the law. Dr. Dietzen stated

As Approved – Board of Health
Meeting Minutes
February 6, 2019

that she doesn't disagree with that but if they all feel like this is an emergency, is there another way that they all can express it in terms of other uses for the land? A man suggested they try the Attorney General. Stephen Frantz stated that it is a risk. It was discussed that there are risks even if it is housing versus a gravel pit there. Robert Pleasure pointed out that they have some time now. That the Board of Health is asserting that they have power. There is a lack of inspections and records and you don't know where they are digging, whether it is too deep, etc. You can assert your authority to say "Stop" but at the same time we can together work for a solution that balances water protection with reasonable development in the town and whatever other issues there are. Robert Pleasure's Subcommittee will be working on some drafts for Town Meeting to consider. He'd like to work with others on that. He doesn't think the answer is turning this over to a staff committee – who only reports to one person because, with all due respect, we know what happened. The staff didn't alert the members of the various Boards and willy-nilly this moved ahead and the staff, with all due respect, continues to say you don't have any power, you can't do this, you can't do anything. So Robert doesn't think turning this over to a staff committee would be the answer. The Boards need to be active themselves, working together, and he thinks that Martha Terry would be a wonderful person to help convene such a thing but he doesn't think that there is anything like an elected official who really represents the town doing that as opposed to staff who have to do what they are instructed by their superiors ultimately. He was a staffer for most of his career and knew where the bottom line was. He urges the Board of Health to work with the Conservation Committee and Water Department simultaneously. You are holding the line for us. It is a two-track task. Robert stated that without the Board of Health, they'd have 80 new acres being developed and strip mined.

Dr. Dietzen stated that it still doesn't feel like they have a plan. Jessica Collins agreed. It was reviewed that Jessica Collins will meet with the Town Attorney along with Director Hart and Kathy. Dr. Wolf stated that it was his understanding that they could have one Board member and as many representatives as they want. But with the interdisciplinary by-law with A, B, and C, who is doing that, Jessica asked? And we need to pick our strategy by the end of March? So she thinks we need a kind of multi-prong approach that needs to happen at the same time. And the third thing that Jessica thinks we should do, and she is happy to draft it up, is we should send a letter, with our letter, directly to the Attorney General, with our context. She thinks it is really helpful with all this context. She asked Dr. Wolf if he wanted to draft it up and he said sure. Jessica thought that if we could do those three things, and come back here on March 6... Dr. Dietzen stated that hopefully we are voting on the water regulation then. Dr. Wolf stated that this month is very busy for him and he is gone a lot. It was decided that Jessica Collins will draft a letter to the Attorney General, using Planning Board meeting minutes and our Board of Health meeting minutes from the last 3 meetings. Dr. Wolf will sign the letter. The Board of Health will meet again on March 6, 2019.

As Approved – Board of Health
Meeting Minutes
February 6, 2019

It was decided that Hattie Finkle will be the one to contact Martha Terry about Know Your Town. Hattie Finkle stated that she is concerned about the safety of Moody Corner and had dealings with the Planning Board before on it. She also tapped with the Planning Board. She also stated that she was told by the Planning Board that Moody Corner is private property and not any of her business, even though it is an apparent public health concern and her own concern. So, she agrees with the sentiment that the Planning Board is not agreeing with the Master Plan. It seems to be on a completely different planet. She has been frustrated for years by this. She doesn't know who is asleep on the switch. My apologies, but the Planning Board seems to be either asleep at the switch or whatever, would be given that responsibility when it should be someone else. The permit should be in your hands right now. There should be some way of measuring this. She hates to say anything because she doesn't know all the information but this is ridiculous that there is this whole disparity. It doesn't make any sense to her at all. She says its crazy.

Robert Pleasure and Subcommittee will meet with Mike Sullivan on the lack of respect they are receiving by the Planning Board.

Stephen Frantz mentioned that the Green New Deal and Water Protection Act in government are being worked on. It all applies, he stated.

5: Adjournment

At 6:26 p.m., Dr. Wolf motioned to adjourn. Dr. Dietzen seconded. All were in favor.

Respectfully submitted,

Jennifer J. Jernigan
Assistant Public Health Director

As Approved – Board of Health
Meeting Minutes
February 6, 2019

DOCUMENT**RECORD LOCATION**

Email dated 1/23/19 from Don Rainwater Regarding allowing dogs into Drunken Rabbit	BOH File
Email dated 1/9/19 to rdszew regarding the Handling of Deceased Animals	BOH File
Senate Docket No. 1991 – Act Ensuring Safe Drinking Water in Schools	BOH File
Senate Docket No. 922 – Strengthening Local and Regional Public Health System	BOH File
Cancer Incidence in Mass 2010-2014 and 2011-2015	BOH File
Letter from Dr. Wolf regarding the MVP	BOH File
Emergency Certification – Queensville Dam	BOH File
Complaint Form on 16 Brigham Road	BOH File
Emergency Order to Vacate – 16 Spring Street	BOH File
Notice of Compliance – 16 Spring Street	BOH File
DPH Update on Invasive Meningococcal Disease among People Experiencing Homelessness	BOH File
Letter from Office of the Governor regarding Natural Gas concerns	BOH File
Letter dated 12/24/18 from Green Seal Environmental regarding 4 Cypress Drive Permanent Solution Statement.	BOH File
Records Request on 81 Hadley Street - Septic Information	BOH File

As Approved – Board of Health
 Meeting Minutes
 February 6, 2019

System Pumping Records	BOH File
Notice from Department of Agricultural Resources regarding	

Vegetation Management Plan