

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

SHARON HART, Director of Public Health

## BOARD OF HEALTH MINUTES

**May 6, 2019**

**(As Approved June 5, 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; Stephen Frantz, South Hadley; Kathleen Davis, South Hadley; Robert Pleasure, South Hadley; Rudy Ternbach, South Hadley; James Canning, South Hadley; Nate Therien, South Hadley; Joanna Brown, South Hadley; Sandy Zieminski, South Hadley.

*The Board of Health Meeting was called to order at 5:04 p.m. by Dr. Wolf.*

### 1. **Acceptance of Minutes:**

Dr. Wolf requested that the minutes of the April 3, 2019 meeting be resent to all Board members. The Board hadn't read them. All were in favor.

### 2. **Director's Report:**

The Board reviewed the report.

- The rabies clinic, opioid trainings and the MRC training on basic sheltering were discussed.
- The Yarde House fire and closing of the restaurant because of it was reviewed.
- The Tobacco Coalition Conference was discussed as well as vaping.
- The Self-Defense training that was part of Professional Development Day was put on with Director Hart's help. The Board learned about what when on in this class.
- Director Hart discussed how she met with the Town Counsel on the subdivision regulations.

### 3. **New Business: Board Reorganization**

Dr. Wolf expressed his desire to step down as chair.

It was discussed how the bylaw for the 5-member Board of Health won't affect the Board until next year.

Dr. Wolf made the motion that Dr. Dietzen be Chair, Jessica Collins Vice-Chair and he be Clerk. The motion was seconded by Dr. Dietzen. All were in favor.

#### 4. **Old Business:**

##### **(a): Water Testing Regulations**

Director Hart started the conversation by stating that the Public Hearing on this topic was closed and the bylaws were approved at the last Board of Health meeting. Typos were asked to be reviewed and corrected. That was all. Director Hart then went on to say that they must go by DEP standards, however, and Jessica Collins agreed as per her email dated this past weekend. She stated that she just learned that the state will be changing the standards for the schools only and if we change the regulations to meet DEP standards this sets the town up to be able to take advantage of grants coming down the road. “The town bylaw would be for all municipal buildings, however.” added Director Hart and it needs to meet DEP standards as was discussed at the very beginning. Robert Pleasure agreed that they shouldn’t go beyond what DEP states.

Director Hart stated that we must advertise again for a public hearing to go with the original draft regulation. This original draft includes everything but the yellow highlighted areas of the last one. We can check copper limits in it and copper references. It was then asked by the Board to have that original draft sent to the Board and then to advertise for a public hearing on it for the next meeting.

##### **(b): Gravel Business Expansion – Chicopee Concrete Services**

###### **(1) Preliminary Design for North Pole Estates**

Director Hart stated that she had got invited to view the site. There is an abandoned apartment building site that the gravel pit owners want to be used for refueling. Director Hart went with Bill DeLuca from the Conservation Commission for the tour. Director Hart said that she had seen the three areas that are part of the gravel pit.

Dr. Wolf asked Director Hart for her findings. Director Hart responded that for Area 1 they have excavated out of the area 225 or 230 feet. The road base is at 214 feet for the subdivision. There is no cease and desist for this area – it is grandfathered.

Director Hart went on to explain that for the Area 2, there is a cease and desist. The gravel pit owners are going on May 9, 2019 to the Zoning Board of Appeals on it and the third area.

Director Hart explained that with the third area, it doesn’t look like it has been excavated much at all. This is the area in the back. The owners can go to land court or another court about the second and third areas if the cease and desists aren’t removed.

A man in attendance asked Director Hart if she had seen any vehicles parked in improper areas when touring the site. She stated that she did not see any parked improperly. The man then stated that he had seen some on Friday. Director Hart told this man that the Building Commissioner enforces improper parking. He could check with the Planning Board first and then the Building Commissioner as this is not the Board of Health's permit to enforce. The man did not have any photos of improper parking to share. Another man spoke up and stated that improper parking was occurring on Lot 43.

Director Hart told the Board that she has been called to do perc tests by the applicant. The Planning Board requires this via their town subdivision regulation and also requires designs be done on all the systems. Questions about the process were then taken and answered.

Jessica Collins then asked if the Board still needs to comment on the preliminary plan of the subdivision. Director Hart said that they do. Dr. Wolf okayed Director Hart to continue to do the review, so she will continue to do that. Richard Harris' review was also discussed.

Robert Pleasure spoke and stated that he wants to review and comment on the preliminary plan. Dr. Dietzen then stated the summary of the attorney's comments on the Board of Health's purview. The Board of Health can comment outside of Title 5 but must have good reasons on their concerns. Dr. Wolf mentioned that it is now close to the 45-day review deadline. Dr. Wolf said that his letter was reviewed and comments were made that it could set the Board up for being sued, according to the Town Attorney, Mike Sullivan and Director Hart. Dr. Wolf stated that he thinks the Board should approve the plan as it meets Title 5 regulations.

Jessica Collins wanted it stated for the record that she had emailed that she didn't want the letter sent because it could be stronger and then the next day, she got notified that she could be personally sued. Jessica stated that she looked into it with Cheryl Sbarra, attorney at the Mass Association of Health Boards and Cheryl stated that they had never seen this happen. Public officials can be sued for criminality, fraudulence and intent to harm, which they aren't doing. Director Hart then discussed the safety items she puts in as a requirement. Jessica then asked about the excavating and slope requirements for the project. She asked if Chicopee Concrete will be getting the sand and gravel they want and the subdivision? "Correct." stated Director Hart. A man in attendance stated that the Board of Health would be approving the mining and development if you approve this.

Dr. Dietzen asked if there were any items that they should add to the Planning Board letter. Dr. Wolf asked about what had prompted the SWAP report they had read. A man stated that his neighbor who worked for DEP said that you must have really good reasons to deny

May 6, 2019

the permit. “What was the driving force for the SWAP report?” Dr. Wolf asked again. Jessica Collins stated that sand filters the aquifer water so that based on that alone, how can we allow this? “There are monitoring wells already out there.” Director Hart stated. But she is not sure that they are being checked. Stephen Frantz stated that he doesn’t believe the Boards involved have checked them. A man in the audience stated that the applicant has said that all gravel will be exported. You could require them not to export it. Robert Pleasure added that design standards state that due regard must be given to natural assets. He then read a paragraph from the OSRP report on the recharge area (Section 4). The Board of Health is not constrained because the Planning Board has made a decision, according to Robert. He feels that it is up to the Board of Health whether they approve the preliminary plan or not. Chicopee Concrete can then send the definitive plan in. A man in the audience stated that they need to think about what they want to add to what the Planning Board already has. It was mentioned that Dry Brook Hill is a Heritage Site. Dr. Dietzen responded to that statement indicating that topic is a conservation commission concern, not the Board of Health’s. Concern was then discussed over the size of the septic systems being put in, even if a stipulated size was set.

A man in the second row of the audience stated that 5 hydrogeologists were consulted. One wrote an article in the Gazette about how fragile sand and gravel is and how the aquifer is exposed to risk.

Stephen Frantz spoke about contaminants from the drugs people ingest and then enter into the wastewater systems. Director Hart added that none of this gets treated and the effects it can have on people, pets and plants were discussed.

Dr. Dietzen stated that she is concerned with the timeframe. James Canning from the Conservation Commission stated that in the first paragraph of their letter they mention that the plan is inappropriate and have asked the owner to work with the town for a new use of the land. They also condemned it in the last paragraph. The middle paragraph gave their reasons for condemning it. Dr. Dietzen then asked the Board for their thoughts on how to proceed with “approve with restrictions.” The Board came up with:

- 1: Want assessment done and time with the assessor.
- 2: If doing monitoring wells, are they then checking nitrogen levels? See what DEP requires.
- 3: Want hydrogeological assessment (look at Planning Board Letter #12). Owner pays, Board of Health selects?
- 4: Excavation: Road is at 214 feet and current excavation is at 225, 230 feet per Director Hart. Preserve Dry Brook Hill’s natural filtration system for the aquifer.

In summary, add to the letter:

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

- #7 - testing for specific items
- #8 - original concern for excavation
- #9 - dust control/contamination control

Dr. Wolf brought up that the proposal was to write a denial letter. Jessica Collins will prepare the letter before Friday and get it to Director Hart. The downside of denying, stated a man in the first row of the audience, would be the applicant could sue the Town. Jessica Collins disagreed. She stated that the preliminary plan can be denied and the Board of Health not be sued, according to Cheryl Sbarra.

A man in the back of the audience asked about who will pay for the hydrogeological study, wastewater treatment review etc. Director Hart reminded the room that DEP states that septic systems are okay, if they meet Title 5 regulations. Dr. Dietzen questioned about Chicopee Concrete getting a plan in now, within 7 months. If they do so, any new regulations won't apply to them. Director Hart stated that this was correct.

Stephen Frantz said to request a hydrogeological study. He said that the Planning Board did and the owner of the land said no to the request. Joanna Brown felt that it is important to approach the Attorney General on a scope of authority. She stated that this is not a standard project. She doesn't feel that Town Counsel knows enough about the historical importance of the area. Robert Pleasure added that when doing the denial letter, you should find subdivision regulations that this plan is not meeting. Director Hart stated to include the eight items whether you approve or disapprove.

Jessica Collins wanted to disapprove using the original letter and include in it the eight items. Stephen Frantz stated that concerns will continue on the stewardship of the land. Jim Canning stated that they should point sharply to the factual risks in the letter. He felt they should make a strong denial of the whole project.

Dr. Wolf then stepped in and stated to use the first two paragraphs of his original letter. Then mention: storm water damage, septic systems, nitrogen levels, household hazardous material, automotive waste, paints, solids, pesticides, fertilizers and other substances in combination with excavation and compromise of the natural filtration system. **Jessica would type it up with other information to include and then Director Hart would send it if all are in agreement.** It would need to go certified mail and to the Town Clerk and have both the Conservation Commission and Water District 2 copied in on it.

Dr. Wolf then asked about Anne Capra applying for grant money to purchase the land. Jim Canning responded that he doesn't think she has yet. Dr. Wolf then asked Jim to check with

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

Anne to see if she has some expertise and to see if she will apply for some.

**(2) Letter to the Attorney General – Dr. Dietzen**

All three members of the Board were in agreement to send the letter out that Dr. Dietzen wrote to the Attorney General. It was agreed as well that Dr. Dietzen make a few changes to the letter and then give it to Director Hart to send out.

Director Hart asked the Board if they were interested in listening to a speaker on Gun Safety at the next Board meeting. They indicated that they would be interested and asked Director Hart to get more details on the time and date.

The next meeting of the Board of Health was set for Wednesday, June 5, 2019 at 4:30 p.m.

**6: Adjournment**

At 7:23 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  
May 6, 2019

**ATTACHMENT A**

**DOCUMENT**

**RECORD LOCATION**

Letter dated March 5, 2019 from Dept. of Agricultural Resources to Eversource Energy Regarding Notice of Approval of VMP	BOH File
Letter dated March 15, 2019 from Eversource Energy To Municipal Official Regarding Applying Herbicides Along Power Line Rights-of-Way.	BOH File
Letter dated March 19, 2019 from Eversource Energy To Municipal Official Regarding Applying Herbicides Along Power Line Rights-of-Way (includes Map)	BOH File
Letter dated March 19, 2019 from Eversource Energy Regarding 45-day Yearly Operational Plan Comment Period	BOH File
Letter from the Department of Agricultural Resources regarding A Notice to apply Herbicides along rights-of way	BOH File
Letter to the Mass Dept. of Public Health Dated April 12, 2019 Regarding Complaint Received from Wingate at South Hadley	BOH File
Complaint Received from Maintenance Director at Wingate at South Hadley Dated April 12, 2019	BOH File
Letter Dated April 3, 2019 From The Manufactured Home Commission Regarding a Meeting	BOH File
Town of South Hadley Standard Contract for Contractors	BOH File
Email Dated April 16, 2019 from MHOA Regarding the Agricultural Composting Program	BOH File
HG&E Letter Dated April 18, 2019 Regarding 21-Day Notice Of Herbicide Application	BOH File

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

**DOCUMENT**

**RECORD LOCATION**

Assistant Town Administrator Report Mentioning RAD Program Coordinated By Director Hart	BOH File
System Pumping Records: 327 River Road 171 Pearl Street 33 Old County Road 316 Hadley Street 4 Cove Island 28 Linda Street 10 Bach Lane 4 Cove Island	BOH File
Picture of 3 Hadley Street, above Yarde Tavern, after Fire	BOH File
BOH Testing Drinking Water Regulations Email dated May 2, 2019 from Kathleen Davis	BOH File
Letter Composed by Dr. Dietzen to the Attorney General Dated April 15, 2019	BOH File