

CITY OF GLOUCESTER
Board of Health
Minutes of the Meeting
July 5, 2012
CATA Training Room
3 Pond Road
Gloucester, MA 01930

Board members present: Chairperson: Claudia Schweitzer; Vice–Chairperson: Dr. Richard Sagall; Robert Harris, Fred Cowan, and Joe Rosa. Present from the Health Department: Public Health Director: Noreen Burke; Manager of Environmental Health: Max Schenk; Jason Dustin, Sanitarian. Public Health Nurse: Chassea Robinson.

PUBLIC ORAL COMMUNICATION

There was no “Public Oral Communication”.

MOTION by Mr. Harris that the Gloucester Board of Health approve the Minutes of the Meeting of June 7, 2012 as written. **Seconded** by Mr. Rosa. **CARRIED**.

PUBLIC HEALTH DIRECTOR’S & PUBLIC HEALTH NURSE’S REPORT

Presented by Noreen Burke & Chassea Robinson

PUBLIC HEALTH NURSING CHANGES ON CAPE ANN/POTENTIAL TO DELIVER REGIONAL PUBLIC HEALTH NURSING SERVICES-

Ms. Burke stated that Essex and Manchester will both be looking for Public Health Nurses sometime in the next few months. She stated that recently there has been discussion regarding a regionalized public health nurse. She stated that they do not have any backup persons, so it would be beneficial to create formalized relationships.

Ms. Burke reported that she and *Ms. Robinson* facilitated a meeting with their health partners in Manchester, Essex, and Rockport to discuss shared services. She stated that it was a preliminary meeting and that Hamilton-Wenham is also interested in the discussion. She stated that they gathered information from the other Health Departments. She stated that she is going to contact someone from the State to get some assistance. *Mr. Cowan* asked if Ipswich was deliberately omitted. *Ms. Burke* responded that Ipswich was not deliberately omitted. *Ms. Robinson* stated that Hamilton-Wenham is part of the 15 communities that they interact with in the Emergency Preparedness group.

Mr. Rosa commended *Ms. Burke* and *Ms. Robinson* for taking the initiative on regionalization. He stated that getting someone from the State involved could be very useful.

NOAA AWARD- *Ms. Burke* congratulated *Mr. Schenk* for receiving an award from NOAA, the National Oceanic and Atmospheric Administration, Marine Fisheries Services Restoration Office, for the excellence in restoration for the work on the Mill Pond tide gate.

COMMUNITY LEADER AWARD- *Ms. Burke* stated that Joan Whitney, the Director of the Healthy Gloucester Collaborative, received the Community Leader Award a few weeks ago.

EMERGENCY PREPAREDNESS PLANNER- *Ms. Burke* reported that they have a new Regional Emergency Preparedness Planner, Brian Murphy. She stated that it is a consultant role. She stated that Miles Schlichte submitted his resignation as the current Emergency Management Director.

FOOD INSPECTOR- *Ms. Burke* commended Mrs. Nicaastro for her work at the Fiesta. The Health Department did not receive any complaints from vendors or residents during the event.

CHICKENS- *Mr. Schenk* stated that there have been a few complaints regarding health issues around chickens. He stated that the Health Department does get many inquiries regarding the keeping of chickens. He asked if the board would like to do some exploration as to what regulations other communities have regarding chickens. The board agreed that it would be beneficial to be proactive and look into what other communities are doing with chickens and health issues.

BMI FOR STUDENTS- *Ms. Robinson* reported that the intern, Sara Baird has been compiling the BMI data from the schools. She stated that they should have a presentation completed for the board in the fall.

HEPATITIS C- *Ms. Robinson* submitted a testing protocol to board members for any comments. She stated that she submitted a copy to the North Shore Health Project as well. She stated that they sent a letter out to all physicians in the area.

Mr. Cowan requested an **amendment** to the Health Director's report to include the Minutes of the Septic Review Subcommittee Meeting of June 28, 2012. *Chairperson Schweitzer* agreed to add the Minutes of the Septic Review Subcommittee Meeting of June 28, 2012 to the report.

OLD BUSINESS

6A & 8 LINCOLN STREET

Map 237, Lots 52&54
Owner: Mark Stevik
Engineer: Mill River Consulting

Request for variance

Mark Glovsky, attorney appeared before the board on behalf of the owners. He stated that present at the meeting were Dan Ottenheimer, with Mill River Consulting and Mark Stevik, owner of the property. He gave board members a brief overview of the request for variance. He stated the owner to this property is looking for a variance to allow the existing system to be located on a lot other than which it serves. He stated that the Planning Board has approved the plan.

Mr. Cowan asked if the prior building on the other lot could be rehabbed. *Mr. Stevik*, owner, responded that the building could not be rehabbed. Future building on the site will be considered "New Construction".

Mr. Dustin stated the Health Department finds no reason from a public health standpoint to deny the variance request provided that they record the property easement and precautions are taken if they access the system from Lincoln Street. He stated that the Board has the authority to grant the variance so long as a properly recorded easement is recorded.

Chairperson Schweitzer asked if there was anyone in the audience that would like to speak in favor of the request for variance that did not already speak. There was no one.

Chairperson Schweitzer asked if there was anyone in the audience that would like to speak in opposition of the request for variance.

6A & 8 LINCOLN STREET. CON'T-

Patricia Johnstone, attorney for Mark Hubbard, an abutter to 6A & 8 Lincoln Street appeared before the board. She stated that she doesn't see how denying this variance would be substantially unjust. She stated that the applicants currently have an approved functioning system. She stated that they want to divide the lot to use it for a retirement property and that does not meet the standard for manifestly unjust. She stated that her client is concerned that they will be driving over this system which will put the system at risk. She stated that if the system fails there won't be enough land to repair the system. She stated that her client would like the board to deny the request for variance.

Dr. Sagall stated that it is unclear why Mr. Hubbard is objecting the request for variance. He stated that it seems Mr. Hubbard is objecting based upon potential problems that the property may run in to.

MOTION by Mr. Cowan that the Gloucester Board of Health approve the request for variance to locate subservice sewage disposal system components beyond the property line for facility which it serves Title 5, CMR 15.211.1.5 for 6A & 8 Lincoln Street to be contingent upon an easement for providing access for maintenance of the system. **Seconded** by Mr. Harris. **CARRIED**.

PROPOSED AMENDMENTS TO GLOUCESTER BOARD OF HEALTH RESTRICTING THE SALE OF TOBACCO & NICOTINE DELIVERY PRODUCTS -

The board discussed the proposed amendments to Gloucester Board of Health Restricting the Sale of Tobacco and Nicotine Delivery Products.

Ms. Burke gave a brief overview of the amendments proposed.

Dr. Sagall stated that the two issues regarding the sale of tobacco products are straying from the State Regulations and that the pharmacists he spoke to stated that this would be a tremendous burden on them.

The consensus of the board (3-2) was to ban tobacco products in pharmacies. The consensus of the board (3-2) was to allow pharmacists to sell tobacco products behind the counter. The consensus of the board (5-0) was to send the proposed regulations to the City Solicitor and Joyce Redford to review.

NEW BUSINESS

6 OLD SALEM ROAD

Map 215, Lots 23

Enforcement Order

Mr. Dustin stated that the system at 6 Old Salem Road is a failed system and the owner has been in non-compliance since May of 2002. He stated that the owner has been trying to do a private sewer connection for some time. He stated that there have been numerous complaint letters from the last twelve years regarding the failed system at the address and the owner is refusing to upgrade the system. He stated that four Title 5 Inspectors have witnessed breakout at the property. He stated that there have also been letters imposing fines, but the board has to hold a public meeting to enforce those fines.

Theresa and James Whittmore, owners of 6 Salem Road appeared before the board. *Mr. Whittmore* stated that Jim Doyle has been working with him to put pipes in the street. He gave a history of the system that is on the site. He stated that they had the tank pumped on Friday, June 29, 2012. He stated that they hope that the neighborhood project to create a private sewer connection will happen after Labor Day.

6 OLD SALEM ROAD, CON'T-

Mr. Dustin stated that they are not against the Whittmores connecting to City sewer, but there is an eminent health risk that must be remedied immediately.

Mr. Cowan suggested that the present holding tank be used as an initial remedy to get the system out of failure. He stated that a tank on the property should be closed to leaching and that someone should be on contract to pump it out. He suggested that they find an engineer to assist in that process.

Mr. Schenk stated that under Title 5, once breakout has been observed, that is the trigger towards a series of events that must follow. He stated that Mr. Dustin and Dave Sargent are both certified Title 5 inspectors and they both witnessed the breakout at the site. He stated that they want to be sympathetic but they cannot wait for a City sewer connection.

Tom Webster appeared before the board on behalf of the owners. He stated that he is not a certified Title 5 Inspector but he is a licensed septic installer in the City. He stated that you cannot deny that the system is in failure. He stated that they could clean the system. *Mr. Dustin* stated that Title 5 states that you cannot clean a failed system.

Dr. Sagall asked what a temporary solution would be. *Mr. Rosa* stated that at the Septic Subcommittee meeting it was discussed that a temporary tight tank be used and an engineer should be obtained to make that decision.

Chairperson Schweitzer stated that several Title 5 inspectors have deemed that the system is in failure.

Mr. Schenk recommended that the owners can do consistent pumping or they take the existing tank and close it off from the leaching field.

Michael Faherty, attorney on behalf of Garret Lansing of Western Avenue, appeared before the board. He stated that there are six neighboring properties trying to tie into the City Sewer. He gave a history of the problems that the properties have encountered trying to connect to City sewer. He urged the board to support the connection of City sewer in the area.

Ms. Whittmore asked the board for a continuance to do further research at the site. The board agreed that an immediate solution needs to occur.

Councilor Verga appeared before the board. He stated that he agrees with Mr. Faherty's thoughts.

Dr. Sagall suggested that the owners have two goals, a short term goal and a long term goal.

Mr. Schenk stated that if the owners decide to use a temporary tight tank they have an alarm that goes off if the tank fills to 3/5 capacity. *Mr. Dustin* suggested that pumping occur once a month.

6 OLD SALEM ROAD, CON'T-

The board ordered that:

- Property owner is to have their septic system pumped on or before July 20, 2012 and, at minimum, every 30-days thereafter, or at such frequency as to protect health and human safety.
- Property owner is to immediately hire an engineer, or Registered Sanitarian, to determine if the current settling tank can be utilized as a temporary holding tank.
- If viable, on or before July 20, 2012 the settling tank is to be capped and used as a temporary holding tank and an alarm installed to prevent possible overflow.
- If the current settling tank cannot be used as a holding tank, another temporary solution for preventing waste from entering the existing leaching area must be determined.
- A permanent, Title 5 compliant plan for waste water treatment must be provided to the Health Department on or before September 15, 2012.
- Any plan to connect to the municipally funded sanitary sewer system must be implemented on or by September 15, 2012.
- A fine of \$50.00 per day shall be levied, but enforcement held, unless the property owner fails to comply with the order of the Board of Health to provide a permanent plan for waste water by September 15, 2012, at which time the full total of the fines will be due.

Ms. Whittmore submitted a letter from abutters, Gary and Margaret Rudolf of 205 Western Avenue, in favor of allowing the Whittmores the necessary time to connect to City sewer.

13 CEDARWOOD ROAD

Map 242, Lots 30

Enforcement Order

Mr. Schenk stated they received an anonymous complaint regarding 13 Cedarwood Road. He stated that the report was that the owners were throwing human waste out in their trash. He stated that he and Mr. Dustin did a site visit and he discussed the observations that were made at the property with the board. He stated that they did observe trash bags on the property which did appear to have human waste in them. He stated that under Housing Code if the tank cannot be pumped, the property will be deemed uninhabitable and a condemnation order will be triggered. He stated that they have been working with the Housing Authority to find housing for the tenants. He stated that the property is in the foreclosure process. The Department did send the property owner a certified failure letter on July 3, 2012.

The board ordered that:

That the Health Department is to perform a follow-up site visit to the property to investigate as to whether the overflow/back flow pipe has been removed from the main waste water line.

That should it be discovered that the situation has not changed, the property owner is notified verbally and then in writing that they have 14 days to provide documentation that they have a regular pumping schedule to prevent breakout of their system and that they are in the process of upgrading their system.

That if at the end of the 14 days they have not done any of the work to mitigate or repair their failed system, that the Department is directed to deem the house uninhabitable per Sanitary Code and begin the process of condemnation of the building.

CONCERNS OF BOARD MEMBERS

GLOVES IN RESTAURANTS- *Dr. Sagall* stated that he is concerned about the misunderstanding about the proper use of gloves in restaurants. He stated that he will call Mrs. Nicastro about his concern.

FIRST AID AT FIESTA- *Dr. Sagall* stated a resident approached him about first aid at the Fiesta. *Ms. Burke* stated that the Cape Ann Emergency Response trailer was there on Friday evening.

HOUSE BOATS- *Mr. Cowan* stated that he is concerned regarding wastewater from house boats in the Annisquam River and Jones Creek. He stated that boats and island communities utilize mobile pump out stations, but he is unsure if houseboats that can have many people onboard for parties use the stations. He stated that house boats fall under the vessel category so they are legal on private moorings. He asked who monitors the pump out of these vessels. *Mr. Schenk* stated that the Waterways Board oversees house boats. He stated that Mr. Dustin has been working with Dave Sargent, the Shellfish Constable on the issue. *Mr. Dustin* stated that they are working on a voluntary die tablet program to detect overboard spill. Some communities have this as mandatory.

BOARD OF HEALTH MEETING- *Chairperson Schweitzer* stated that the next meeting is on August 2, 2012 at 6:15 at the CATA Training Room.

MOTION by Mr. Rosa to adjourn.
Seconded by Mr. Cowan. **CARRIED.**
MEETING ADJOURNED – 8:40 p.m.

Respectfully submitted,

Bobbi Orlando

Accepted by:

Claudia Schweitzer, Chairperson