



Public Meeting / Hearing

July 22, 2010
Grace Gouveia – Room 10
5:00 p.m.

Members Present: Jerry Anathan, Ken Janson, John Livingstone,
and Mark Phillips.

Members Absent: none

Staff: Brian Carlson Health Inspector
Jane Evans Health Agent

AGENDA

Public Comments

Clarence Walker told the BoH that this is a public meeting and he'd like to remind the Board to speak up. At the last meeting he attended the BoH were talking amongst themselves and he felt the audience should be able to hear what is going on.

Barbara Rushmore – not waiting for the public hearing section – said that she is against paying for public inspections – records can be kept by gallons. She thinks that this is putting us in a position of doing what we don't need. This is harassment. She went on by saying, "If you want to cut down on *e coli* – your simple remedy is to ban dogs on the beach all summer long. You may not like that but I feel that the dog waste that gets on the beach is the cause of this." She continued in this vein for awhile until she finally ran out of time.

Marcene Marcoux said that she's on the Historic District Commission and they meet in this room. Echoing her husband's comments, she said that it's important that when you're speaking by yourselves, we hear it.

Joan Marsh said that she was able to contact the Mass Association Board of Health attorney and requested they rendered an opinion – based on Massachusetts state law this “red dot delay” request has to be based on a definite law or the local BoH can be brought to court. (Ms. Marsh submitted the letter she had received). She also cited the revenue loss from the red dot people. To revise the article the inspections should be focused on all properties.

Announcement: Ken Janson who was running the meeting sadly announced to all that Duane Gregory, Chair of the BoH, has resigned. He and all the Board members thanked her for her many years of volunteer service to the town and wished her well.

Reorganization of the Board of Health:

Motion: Move to nominate Mark Phillips as Chair of the BoH.

Motion: Jerry Anathan Seconded: Ken Janson Vote: 4-0-0.

Motion: Move to nominate Jerry Anathan as Clerk of the BoH.

Motion: Mark Phillips Seconded: John Livingstone Vote: 4-0-0.

Mark immediately took over the Chairmanship.

New Business:

Public Hearing – Revision to Board of Health Regulation Part VII – Municipal Sewer System, Article 6 – Inspection of Existing Septic Systems for Properties Designated as Red Dot Delays.

Mark Phillips then read the rules of a Public Hearing. The hearing started with the proponents of the article, next the opponents, and then the Board’s thoughts. Each person was limited to 3 minutes with a 30 second warning.

Board of Health member John Livingstone recused himself.

Jane Evans, the Health Agent, opened the hearing with her comments saying that since we’re not requiring people to hook up right away we need a means to verify that the septic systems are functioning properly. She said that everyone seems to feel that their septic systems are operating properly so there should not be any concerns about having to inspect to verify.

The Chairman then read a letter of support from the Board of Selectmen (BoS) dated July 19th and signed by Michele Couture, Chair of the BoS.

Then Mark asked if there were any other proponents of the proposed regulation. Hearing none he then asked if there were any opponents to the proposed regulation. Their comments are detailed as follows:

Neal Hartman who lives at 607 Commercial Street said that his Title 5 is fine and we have not dumped raw sewerage into the street as has the sewer system. The BoS lost their integrity when they reneged on their agreement with us. Our Title 5's are there to protect the environment.

Astrid Berg of 371 Commercial Street agreed with the previous speaker and wanted to know how many Mass. certified licensed inspectors there are. The answer was 12 and Jane said that Astrid will be sent a list. Astrid maintained that her commercial property has an alarm system which hasn't gone off since she increased her leaching field. She also wanted to know if any other person has an alarm system. She continued by saying that the property owners are good citizens who want to maintain their property and to get an inspection she has to get her septic pumped out first and she can't do that in the summer. She concluded by saying that these proposed inspections are just a way to get money from taxpayers.

Jane Evans explained why alarms, pump-out records, etc. are not necessarily germane to the health of a Title 5. For example – a Title 5 may be sitting in ground water and may be flushed out with each high tide (twice a day) and thus the alarms will never go off, yet the harbor can be fouled by it.

Joan Marsh said that she's confused about the letter sent out by the BoS; I'm sure they're concerned about the environment. She feels all septic systems should get inspected. The BoS is just trying to raise money and we are the people who take care of not polluting; we're insulted by all of this. She ended by saying that this is just bad government!

Barbara Rushmore wanted to say again that she does not think that there's any better indication than to look at the pumping records and then make your judgment. She also said that the beach closures are not where the properties are and she thinks the regulation is way off base. She has her Title 5 pumped out every spring before her tenants arrive. She further said that she pays \$22K in taxes for her 10 bedroom house right on the water. She borrows money to pay all her betterments and she's done everything she can.

Elena Hall said that when she was at a Water & Sewer meeting she was told that the DNA testing of pollution is prohibitively priced. (This would be a process to determine the origin of fecal content – animal or human.) She wondered about state funding for the DNA testing. She also feels that they shouldn't have to pay for an inspection when the pumping records would indicate a failed system. (Jane's explanation of why pumping records alone don't determine the health of a title 5 seemed to pass most people by.)

Peter Demers – not a red dot person – said that he thinks this is a discriminatory action. He was on the Planning Board years ago and he found a clear violation. Planning decided to fine the person and the BoS totally ignored the issue so the Planning Board felt - why go through all the aggravation of being on a Board if the BoS doesn't back you up but he does feel that this article, if passed, would discriminate against certain people.

Marcene Marcoux said that she doesn't understand the 3 minute speech rule that the BoH has. You did all this and she said there was an agreement and it was based on trust and now the agreement is being abridged. Marcene continued saying that oral agreements become like contracts and our agreement doesn't count any more.

Clarence Walker said that when we agreed – along with the BoS to install the vacuum sewer system - it was specific to certain segments of the town. He disagreed with that – and the 2nd aspect of the system was so small that it would meet all our needs. One of the reasons for this mandate is that the Town needs the gallonage. We have a legal agreement with those people who signed up for the red dot delay and now we're reneging – it may be that it is human waste but he thinks that the entire town should be inspected. “If it ain't broke – why are we fixing it?”

Joan Marsh asked the BoH how they felt about it? She thinks it's a financial issue and that's why we want to know how all of you feel.

Jane Evans – once again – said that the pumping records don't tell the whole story because some title 5s get flushed twice a day by the tide. Title 5 allows a system to be pumped up to 4 times in a 12 month period before it is considered failed. Pumping records alone cannot determine if a septic system is failed. Many folks don't ever pump their systems until they fail by discharging to the surface or backing up into the facility.

The public hearing was closed at 5:45 p.m.

Ken Janson said that the BoS has voted not to mandate red dot delay properties to hook up. He knows it costs money to inspect but the amount of money is going to give those, with functioning septic systems, peace of mind that they're not going to have to hook up to the sewer at that time.

Jane Evans cited Bayside Betsy's as an example of how non-invasive a pumping and inspection can be to a business. Their system was inspected and pumped within two hours. The process was begun at 7:00 a.m. and didn't interrupt their business at all. She also said that cesspools need to be pumped for an inspection but Title 5s don't necessarily require pumping for inspections.

Jerry Anathan asked about the cost of inspection. Jane said that she has heard numbers from \$200 to \$500 depending on the property. That's just for the inspection and doesn't include the cost for pumping if it's deemed necessary.

Mark Phillips said that we're only looking at a certain segment of the town and not just red dot delays; there should be some criteria that we should look at.

Jane said that she totally supports the idea of mandatory septic system inspections for all onsite system. When she was first hired she was asked to set up a septic system inspection program. She created SSIMOD and suggested a septic system inspection and maintenance program that divided the town into five sections with each section being inspected every five years. She recommended that the environmentally sensitive areas should perhaps be the first ones inspected.

Ken suggested that the Board vote on the regulation that we have in front of us and then probably expand it and put together another regulation to do just that.

Motion: Move to not accept proposed Article 6 and to create a new regulation to address all properties – not just the red dot delays.

Motion: Jerry Anathan Seconded: Ken Janson Vote: 3-0-0.

The public reacted to the boards decision by making the following comments: Barbara Rushmore said that if you're trying to force everyone – have some heart to it. She's firmly convinced that it's an unnecessary expense.

Joan Marsh again. She feels that more needs to be done about what exactly is polluting the harbor.

Neal Hartman said he'd like to find out exactly what is polluting the harbor and he thinks, again, that this is a ridiculous waste of money. We're putting the cart before the horse.

Jane also thinks that it's important to find out exactly what is doing the polluting.

Clarence Walker finds it hard to believe that there isn't a DNA test that separates human from animal waste.

One woman who didn't state her name began talking about street run-off and asked - how about blaming that. She was told that Sandy Turner is the person to ask about that and you're getting into conservation issues.

After the conclusion of the public hearing John Livingstone returned to the meeting.

Discussion

Some of the members of the BoH wondered if it would be appropriate to invite the summer intern to the meeting. Everyone agreed that this would be a great idea.

Approval of Minutes for June 8, 2010

Motion: Move to accept the minutes of the June 8th meeting as amended.

Motion: John Livingstone Seconded: Jerry Anathan Vote: 4-0-0.

Any other business that shall properly come before the Board

John Livingstone – after reading the letter in the Banner regarding the bird feeder happening – wondered whose responsibility it was to make sure both parties know that they are on the agenda. It was agreed that the BoH is not culpable in a case like this and the onus is on the people involved to find out details of meeting agendas, etc.

Health Agent's Report

Jane said it was a very busy week for complaints. She also gave an update on conversations with town counsel regarding the smoking regulations – basically there's a state code and then there's a Mass. general law. The Mass. general law generally refers to the work place and the state code appears to be less restrictive than the general law. Jane will contact Gregg Corbo, the BoH legal council, to request an opinion and perhaps be at the BoH meeting where these two issues will be heard.

There was also a thought about private clubs who are excluded from the no smoking regulations.

John Livingstone wanted to know what Gregg Corbo had to say about members of the BoH presenting complaints to their board.

Health Inspector's Report

Brian Carlson said that every Monday there is a testing of our bathing beaches. There are a couple of beaches that were closed once again - Winston Ave. and the Breakwater Motel which have been closed several weeks in a row.

Board Members' Statements

None

Mark thanked everyone for placing their confidence in him by naming him Chair.

Adjournment happened at 6:35 p.m.

Respectfully submitted,

Evelyn Gaudiano

E. Rogers Gaudiano

Approved by the Board of Health on _____, 2010

Mark Phillips, Chair