



Town of Provincetown

Meeting of the

BOARD OF HEALTH

Thursday, April 9, 2015

Community Development Conference Room, Provincetown Town Hall,
260 Commercial Street, Provincetown, MA

Board Members Present: Mark Phillips, Chair; Dr. Janet Whelan, Steve Katsurinis, and Joseph Freitas, Alternate

Board Members Absent: Ken Janson and Elizabeth Williams

Other Attendees: Morgan Clark, Director, Department of Health and Environment, David Gardner, Acting Town Mgr., Jonathon Sinaiko, Chair, Water & Sewer Board

Recording Secretary: Susan Leonard

Call to Order: Mark Phillips called the meeting to order at 4:02 p.m.

I. Public Comments:

There were no public comments.

II. Old Business:

There was no Old Business raised.

III. New Business

a. Discussion of Regulations to Administer the Remaining Gallons of the Provincetown Sewer System

Discussion:

To provide background information, Mr. Phillips explained that in December the Board was advised by the Administration that remaining sewer gallons were limited. Since that time, a list of priorities for distribution of the remaining gallons has been determined with input from the Board of Selectmen, the Water & Sewer board and the Board of Health. With these limitations in mind, the Board will take under consideration draft regulations for the Water & Sewer board to approve. The Board of Health needs to determine what “public health failure” actually means.

Ms. Clark informed the Board that she and the Director of Public Works, Rich Waldo worked together on the draft regulation taking into consideration the policy set by the Board of Selectmen. What is being requested is that the Water & Sewer Board builds into its regulations the authority to

declare a “State of Limited Capacity”. Once the declaration has been made, the distribution of remaining sewer gallons will be allocated according to the priorities agreed on by the Board of Selectmen, Water & Sewer Board and Board of Health. It will go to Town Counsel and then be published for a Public Hearing.

Mr. Katsurinis asked how many gallons are available excluding the DPW reserve? Ms. Clark replied that until the work is done to expand the sewer plant capacity, there are very few gallons available only for “public health failures”. Once the expansion is complete, there will be approximately 50,000 gallons available. Mr. Sinaiko added that the permitting for the additional capacity would probably come through sometime in September.

Mr. Gardner stated that the threshold of capacity has been reduced because of the unknown potential likelihood of extraordinary use similar to what occurred over July 4th and 5th year of last year. The 50,000 gallon figure is what the Board of Selectmen is comfortable with issuing. We will be rationing these gallons over the next four or five years. The capacity of the system is nearing its limit.

Mr. Phillips asked if the Board should be considering this for the foreseeable future? Mr. Gardner reminded the Board that the system was not built to cover everyone. Mr. Katsurinis stated that conceivably, it will reach a state of zero capacity and if there is a “public health failure”, then what could we do about it? Mr. Gardner said that most environmentally sensitive areas are already being served. Those that lie outside the service area will have to either resolve it on site or invest in an expensive alternative.

Ms. Clark informed the board that she is currently working on the analysis of which properties could possibly hook up to the system that are unable to install a compliant Title 5 system. Mr. Gardner said we would be in the position of reserving capacity for these properties and possibly denying service to others who want to connect.

Mr. Katsurinis has questions about how the regulation will work. How do the priorities fit together? What do we do with what’s left? It would be a mistake to think that once the new gallons come on line that everything is back to normal. He suggests that the Water & Sewer Board tell the Town how many gallons will be available each year, taking in consideration what usage may be coming in the future. The Board of Health defines what is a “public health failure”. Public health failures will be given priority. Ms. Clark explained that if it is a failed system and the property owner can fit a compliant system on the property, then it is not within the Board of Health’s list of “public health failures”. Change of use is in the regulations and triggers a review of a compliant Title 5 system.

Mr. Gardner stated that the Board of Health defines what is a “public health failure”, the Board of Selectmen defines what is “economic development” and the Water & Sewer board has defined what is a “public service” use; for example 100% affordable housing.

Ms. Clark asked if the Board wants to change the process as outlined in the draft? Mr. Phillips reminded the Board that this is not their regulation and can only make suggestions for changes. Mr. Sinaiko replied the Board of Health, however will be determining by its criteria how many gallons it wants to reserve and informing the Water & Sewer Board. Mr. Katsurinis recommends that once a quarter people will be able to apply for gallons that are available in their particular category on the list of priorities.

Mr. Phillips asked the Board if they have any further comments? Mr. Katsurinis suggested there be criteria that could be applied by anyone so the Board doesn't have to go property by property. The Board should figure out what the risk is and determine how many gallons might be needed for "public health failures". Ms. Clark thinks the "public health failures" should continue to come before the Board for review. The Water & Sewer Board relies on the Board of Health expertise. Mr. Phillips clarified that what a "public health failure" is should be published in the board of Health regulations. Ms. Clark said most cases she sees come from an enforcement perspective. Mr. Katsurinis is concerned that the number of gallons that will be retained for "public health failures" it will significantly diminish the gallons available for the other priority categories. Mr. Gardner added that it will have to be reevaluated it every year. Mr. Sinaiko stated that it is the Town's responsibility to make sure that gallons are held in reserve for the potential "public health failures" of properties with cesspools.

In regards to the Draft Regulation:

E. Procedures During State of Limited Capacity

Section 1. Authority To Declare a State of Limited Capacity

Mr. Katsurinis suggested the following language change: "The Provincetown Water and Sewer Board *shall* declare a State of Limited Capacity ..."

Mr. Gardner was of the opinion that as long as the State of Limited Capacity is defined it would not be necessary to use the word "*shall*".

Section 2. Priority Categories

The following language change was offered by Mr. Gardner: During a State of Limited Capacity, *only the* properties receiving designation as one of the following Priority Categories ...

Mr. Katsurinis stated that the non- priority properties should be defined and suggested the addition of a "**subsection e.**" which should read "*Every other use is not a priority.*"

Section 3. Process of Allocation of Municipal Sewer Gallons in a State of Limited Capacity

Ms. Clark suggested the addition of a new "**subsection a.**" to read "The Board of Health will inform the Water and Sewer Board yearly of the approximate number of anticipated "public health failure" gallons.

"**Subsection a.**" as written, is now designated as "**subsection b.**"

"**Subsection c.**" will now read "The Water and Sewer Board will announce annually the number of gallons that will be available."

Ms Clark also suggested the addition of a final "**subsection g.**" describing the queue process that may arise.

IV. Any Other Business That Shall Properly Come Before the Board

Ms. Clark distributed the Dog Dining placards that the Board requested.

V. Approval of Minutes

There were no minutes considered by the Board at this meeting.

VI. Health Department Report

There was no report presented

VII. Board Members' Statements

There were no statements made by the Board members

Adjournment:

There being no further business, Mark Phillips moved to adjourn the meeting at 5:36 pm.

Respectfully submitted,

Susan Leonard

Approved by _____ on _____, 2015