

**Town of Dartmouth  
Board of Health  
Minutes of the Meeting of  
02 October 2013**

Approved  
Roll Meeting  
November 13, 2013

RECEIVED

The meeting notice was duly posted.

This meeting was called to order at 7:00 p.m.

2013 NOV 20 P 3:55

Thomas W. Hardman, Leslie E.J. McKinley and Lynne Brodeur were present. Wendy Henderson, Director of Public Health was also present.

The Minutes of the meeting of September 04, 2013 were accepted as corrected by Thomas W. Hardman, Leslie E.J. McKinley and Lynne Brodeur.

RE: State Road Cement Block/Plat 164, Lot 46, 656 State Road – Dust Complaint – 7/21/2010 – Wendy Henderson, Director of Public Health informed the Board that John Wheaton of 14 Connecticut Avenue called the office today and spoke to Christopher Michaud. The complaint was about dust. Christopher Michaud, Health and Sanitary Inspector will be investigating.

RE: Cecil Smith Landfill Capping and Closure/Plat 72, Lot 6 Old Fall River Road – 02/06/2013 – The Board perused a report from Wendy Henderson, Director of Public Health relative to a site visit at 452 Old Fall River Road. Ms. Henderson also noted that she had spoken to Attorney Chip Mulford about the two remaining farmers on site. Attorney Mulford informed her that if the tenants are not gone by November 01, 2013, they will be forced out. Ms. Henderson further noted that there is another large mobile camper next to the home; however it does not appear to be occupied or connected to any utilities. The trailer that was there and subject to the Director of Inspectional Services eviction was removed; however there is another mobile trailer in the same approximate location. There is no evidence that the trailer is connected to the cesspool or an alternate wastewater disposal system. The existing cesspool has not been abandoned. Ms. Henderson will be forwarding this matter to Town Counsel for enforcement, along with the solid waste accumulation around the house. The camper trailer is connected to a propane tank and to a water hydrant via a loosely insulated water line. Ms. Henderson also noted that there are at least six unlicensed cars and six camper type trailers which do not appear road worthy. Some of the farmers have taken and or partially dismantled their former animal shelters. Ms. Henderson also spoke to Attorney Mulford about the need for demolition permits for the larger buildings, a prerequisite being the assurance rodent control and asbestos issues are addressed before major site disruption ensues.

In a related matter the Board perused an article from the Standard Times relative to town officials meeting with DEP and the Attorney General's office to discuss the Cecil Smith landfill project. The Board also perused an email from Colleen Noseworthy relative to the status of the letter sent from Town Counsel to DEP. In addition, Ms. Noseworthy sent a letter the Conservation Commission, Board of Health and the Select Board questioning if there is a legitimate and effective plan in place to stop the BEC proposal.

RE: Compost Situations & Complaints/Wilfred Francis Plat 37, Lots 36 & 27 Fisher Road – 02/06/2013 - At this time, Thomas W. Hardman recused himself from the discussion. Wendy W. Henderson, Director of Public Health informed the Board that she has been in contact with DEP relative to this matter and has asked about the process for the compost permitting. Ms. Henderson also was informed through another source that there is a DEP Odor Hotline for residents to call in with their complaints. The telephone number is 1-508-946-2828.

Kathy Costa of 794 Fisher Road spoke to the Board about the horrendous odor emanating at night. Ms. Costa states it smells like decomposing material. Ms. Costa

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further stated that the odor has been around for some time and that she started documenting (logging) the odors around September of 2012. Ms. Costa asked if the Board had the authority to gain access to property relative to complaints. The Board explained that they do not have the authority to enter people's property without their authorization.

Ms. Costa called the Police Department at 3:30 a.m. on September 28, 2013 relative to the smell. The Police Department investigated and went to Mr. Wilfred Francis property. In addition, Ms. Costa heard that the Environmental Police visited the site along with King Fisher site.

Ms. Henderson stated that the composting facilities need to balance the carbons and nitrogen so that there is not a foul odor and to facilitate complete decomposition.

The Board would like a letter to be sent to DEP – Boston, SERO and the DAR asking that in the permit conditions of composting that they authorize the Board of Health to have reasonable access to inspect in response to complaints if they would like the Board of Health assistance.

Gloria Bancroft of 748 Collins Corner Road had concerns about composting and what regulations it is governed that the Board of Health cannot enforce. Ms. Bancroft feels that the Board of Health needs access to these sites and questioned DEP's process.

The Board would like copies of the reports from the Police Department, DEP and the Environmental Police relative to the incident. In addition, the letter should be sent to DEP and addressed to Sumner Martinson as well as the DEP Solid Waste Chief and Bill Blanchard of DAR. The Board would like to see the draft before it is sent.

RE: Dartmouth Motel & Guest Cabins Regulation – Draft – 01/09/2013 – A request for Town Counsel Services was sent on September 10, 2013 to review the regulations and incorporate Chief Lee's and Fire Chief Rick Arruda's comments. To date, no comments have been received from Town Counsel. In addition, Wendy Henderson, Director of Public Health informed the Board that the Select Board is in the process of adopting Inns, however the Board of Health will still be inspecting them.

RE: Adelino Cordeiro/Plat 138, Lot 182 Gorham Street – Animal Complaint – 10/04/12 – Wendy Henderson, Director of Public Health informed the Board that no new information has been received by Conservation Commission and she will be in contact with Ferreira Engineering and Mr. Cordeiro to get this process moving.

RE: School Nurses Concerns Relative to Public Health – 06/20/2013 – Leslie McKinley informed the Board that she has not been in contact with Jim Kiely since the last Board Meeting although the Board did peruse an email from her to Jim Kiely, Business Administrator stating that the School Department now has nurses for each school. However, the Board's concern is that there is no Lead Nurse. Leslie McKinley stated she will get in touch with Mr. Kiely to find out where that is. In addition, Lynne Brodeur will talk to Marie Vasquez, Nurse at University of MA Dartmouth on whether interns are being sent to Dartmouth Schools this year.

RE: Dartmouth Shelter Planning – 06/20/2013 – Wendy W. Henderson, Director of Public Health informed the Board that she had met with Jane Stankiewicz and Kathy Bohan to discuss protocol with planning for shelter response for ill or infirm residents.

RE: Smoking in the Workplace & Public Places Regulation 09/04/2013 – The Board received a copy of the amended regulations.

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RE: Wendy W. Henderson – Director’s Report – The Board perused the Director’s Report from late August to September 2013 in which Ms. Henderson detailed issues that she has been working on including Assistant Animal Control Officer, draft Medical Marijuana By-Law, Hawthorn Medical expansion, annual Animal Inspector meeting, Humane Society bill, Cecil Smith Landfill, Flu Vaccine update, dog by-law and Crapo Hill – Anaerobic Digester.

RE: Janice Young – Inspector Report – The Board perused the Inspector’s Report from August 26 to September 19, 2013. Ms. Young has been reviewing plans, to food service inspections, school food service inspections to beach testing.

RE: Christopher Michaud – Inspector Report – The Board perused the Inspector’s Report from August to September 20, 2013. Mr. Michaud informed the Board that a lot of his time has been spent on Soil Conservation matters along with an earth filling by-law. Mr. Michaud has also been in contact with DEP relative to Mac’s Junkyard off Milton Street and composting issues at Kingfisher and Wilfred Francis properties on Fisher Road. In addition, Mr. Michaud and Ms. Henderson went to Double S Farms on Highland Avenue who just received a registration from the DAR to start adding food waste materials to his operation. The farm is over 250 acres and the compost area is located in a secure area far removed from residential areas. He will be experimenting with a load of crab by products and if he is able to manage it without creating a nuisance will seek additional product.

RE: Assistant Animal Control Officer Update – Wendy Henderson, Director of Public Health informed the Board that once the Personnel Office receives the medical paperwork, the new hire will begin work.

RE: Complaint Log –August 27, 2013 to September 26, 2013 – The Board did not receive the complaint log.

RE: Medical Marijuana Dispensary Zoning By-Law – Planning Board – Wendy Henderson, Director of Public Health reviewed the Planning Boards proposed Zoning By-Law to regulate the siting of not-for-profit medical marijuana dispensaries registered by DPH. Ms. Henderson’s only comment to the by-law was that the Planning Board consider including more specific definitions of the “medical marijuana dispensary facility” and of a facility where children regularly congregate to assure a consistent interpretation and enforcement of required setbacks.

RE: Submetering of Electricity – D.P.H. Memo –A memo from Paul Halfmann informing Board of Health that variances are not permitted under state law relative to the submetering of electricity and gas. No action required.

RE: Proposed Board of Health Fee Schedule – The Board reviewed and approved the revised fee schedule. Effective as of October 02, 2013.

RE: Earth Filling By-Law – Letters from the Soil Conservation Agent and the Planning Board – The Board perused a letter from Christopher Michaud, Soil Conservation Agent for the Soil Conservation Board relative to concept of an earth filling bylaw. Interest in the proposal has been generated as a result of the negative and deleterious effects associated with the uncontrolled filling of land in Dartmouth. These effects include public health, public safety, environment, groundwater, drinking water supplies and air quality.

Mr. Michaud explained in his letter that on September 5, 2013 the Soil Board discussed the possibility of investigating a proposed general or zoning bylaw to limit or restrict earth filling in town. The Soil Board’s authority with respect to its ability to create bylaws is limited to the standard procedures of filing general bylaws or zoning bylaws through Town Meeting with subsequent review by the Attorney General. The Soil Board

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realizes that creating any bylaw in haste to meet a Town Meeting deadline can result in unforeseen consequences. Due to timeframe, the Soil Board would need to properly vet any proposal for problems, meet the deadline for the warrant and then wait for the Attorney General approval of the bylaw. This will only result in a delay to protect the public interests of the town. The Soil Board was advised by Town Counsel that the Board of Health has the authority to create regulations without the encumbrances of general and zoning bylaw proposal protocol that result in lengthy delays. If the Board of Health was amenable to the concept of limiting fill placement, that regulation could be created sooner with the same intended results.

Mr. Michaud further stated that since the purpose of the proposal is being focused upon the preservation and protection of the public health, public safety, environment and water quality and these are interests of the Board of Health, the Soil Board voted unanimously in favor of holding off on any earth filling proposal that limits or restricts fill placement as an article for this Fall Town Meeting. In addition, the Soil Board voted to inquire if the Board of Health has an interest in such. The Soil Conservation Board will hold off on the creation of a bylaw pending the Board of Health's interest in fill limitations within the Town of Dartmouth.

In addition, Mr. Michaud noted that the Soil Board realizes that certain aspects of earth filling are not of public health interest, the environment or groundwater quality and we are willing to address these issues separately.

The Board also perused a letter from the Planning Board which voted to support the Soil Board's request to the Board of Health to develop an Earth Filling By-Law.

The Board discussed this matter and it is the intent of the Board of Health to regulate earth fill activity and kind of fill coming into town and is best governed by a regulation that oversees the type of fill that is acceptable through the Board of Health due to public health concerns. The Board of Health will pursue enacting a regulation to this extent. The filling is best regulated through a zoning by-law since it restricts land use therefore under the Soil Conservation Board enactment.

RE: Community Nurse and Hospice Care/Public Health Statistics – August 2013  
– The Board perused the August 2013 statistics received by the Community Nurse & Hospice Care.

RE: News Article Regarding Trust Fund – The Board perused an article from the Taunton Daily Gazette relative to Middleboro official's battle over trust fund. FYI

RE: News Article Relative to Chickens – The Board perused an article from Newport Now relative to the right to keeping chickens on certain residential properties in Newport RI. FYI

RE: Letter from Allen's Neck Road Residents Relative to the Holy Ghost Club – The Board perused a letter from residents of Allen's Neck Road relative to the Gratitude Harvest Festival and concerns that arose. No action required from this office.

RE: Animal Permit Application – The following application for an Animal Permit was reviewed by the Animal Inspector. Abutters were notified and comments were received.

Ronald J. Fontes/Plat 145, Lot 22, 105 Stephen Street – 10 Chickens & 3 Rabbits – Mr. Fontes met with the Board to discuss any concerns that the Board may have relative to his chickens and rabbits. Thomas Hardman explained that due to the number of negative responses, the Board will be holding a public hearing at its meeting of November

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06, 2013 at 7:15 p.m. to allow residents to voice their concerns. In addition, the Board will visit the site prior to the public hearing.

RE: Septic Plans – There were no septic plans for approval.

RE: Discussion of any item not know 48 hours in advance- Patti DeMello, Administrative Clerk informed the Board that she will be retiring by the end of the year.

RE: Board Signatures – The Board signed the Smoking in the Workplace & Public Places Regulations.

RE: Armand Fernandes Representing Antonio F. Morais and Kathleen F. St. Pierre, Owners of Plat 38, Lot 141, 83 Potter Street – Minimum Housing – Notice was received from Attorney Fernandes prior to the Board meeting that his client, Mr. Morais was unable to attend tonight's meeting and requesting a postponement. The Board postponed the appointment until November 06, 2013 at 7:30 a.m. Notice to be sent to Attorney Fernandes as such.

RE: Chris Hibbard – University of MA Nursing Intern – Dartmouth Healthy Dining Initiative – Chris Hibbard introduced himself to the Board and explained that he will be getting the word out about the Healthy Dining Initiative thru the internet. Some of the businesses he would like to get onboard would be the Black Bass, Cecily's, Dartmouth Orchard and Healthy Grill. One he gets the program set up he will again meet with the Board.

At 8:45 p.m. Thomas W. Hardman, Chair motioned to close the regular Board of Health Meeting. Roll call vote –Thomas Hardman - yes, Leslie E.J. McKinley – yes, Lynne Brodeur – yes.

With no further business to discuss, the Chair adjourned the meeting at 8:45 p.m.

Respectfully submitted,

Patti S. DeMello  
Administrative Clerk

**7:00 P.M. COMMENCE MEETING**

Minutes of the Meeting of September 04, 2013

**Old Business:**

- A. State Road Cement Block/Plat 164, Lot 46, #656 State Road – Dust Complaint – 7/21/2010
- B. Cecil Smith Landfill Capping and Closure – Plat 72, Lot 6 Old Fall River Road – 02/06/2013
- C. Compost Situations & Complaints 02/06/2013  
Wilfred Francis/Plat 37, Lot 36 Fisher Road  
Wilfred Francis/Plat 37, Lot 27 Fisher Road
- D. Dartmouth Hotel, Motel & Guest Cabins Regulation/Draft – 1/9/2013
- E. Adelino Cordeiro/Plat 138, Lot 182 Gorham Street – Animal Complaint – 10/4/13
- F. School Nurses Concerns Relative to Public Health – 06/20/2013
- G. Dartmouth Shelter Planning – 06/20/2013
- H. Smoking in the Workplace & Public Places Regulation – 9/4/2013

**New Business:**

- A. Wendy W. Henderson – Director Report
- B. Janice Young – Inspector Report
- C. Christopher Michaud – Inspector Report
- D. Assistant Animal Control Officer Update
- E. Complaint:  
Copy of Complaint Log from July 14, 2013, 2013 to August 27, 2013
- F. Medical Marijuana By-Law – Planning Board
- G. Submetering of Electricity – D.P.H. Memo
- H. Proposed Fee Schedule
- I. Earth Filling By-Law – Letters from the Soil Conservation Board & Planning Board
- J. Community Nurse & Hospice Care/Public Health Statistics – August 2013
- K. News Article Regarding Trust Fund
- L. News Article Relative to Chickens
- M. Letter from Allen's Neck Road Residents Relative to the Holy Ghost Club
- N. Animal Permit Application  
Ronald J. Fontes/Plat 145, Lot 22, 105 Stephen Street – 10 Chickens & 3 Rabbits
- O. Septic Plans
- P. Discussion for Any Item Not Known 48 Hours in Advance
- Q. Board Signatures

**Appointments:**

- 7:15 p.m. Armand Fernandes Representing Antonio F. Morais and Kathleen F. St. Pierre, Owners of Plat 138, Lot 141, 83 Potter Street – Minimum Housing
- 7:30 p.m. Chris Hibbard – UMass Nursing Intern – Healthy Dining Dartmouth Initiative