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DARTMOUTH BOARD OF HEALTH
DARTMOUTH TOWN HALL- ROOM 315 - 7 P.M.
MEETING MINUTES - Wednesday, December 03, 2014

The meeting notice was duly posted. The Board of Health meeting was called to order at 7:00 P.M. on December 03, 2014 in room 315.

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

The minutes of the meeting of November 05, 2014 were approved as amended by Leslie E.J. McKinley, chair, and Thomas W. Hardman.

7:10 P.M. Runaway Farm - Piggery permit hearing- Sandra Gosselin, Dartmouth Animal Control Officer addressed the Board that she and Glenn Harris from the State visited the site. Ms. Gosselin's concerns are as follows: the containers for feeding and water, the property being wet, inadequate rotation of the pigs, muddy conditions in pens, unsuitable shelters, and feels in general more work is needed. Ms. Gosselin advised the board about the number of pigs versus the number of piglets on the property.

Adrian Fulk and Claudia Arsenio the owners' of Runaway Farm at 155 Old Fall River Road addressed the Board about obtaining a piggery permit to house 20 pigs and 40 piglets. The owners explained they didn't realize what was expected of them, because the Town they came from didn't require a permit. The owners explained they are using the pigs to up-root the Japanese knot weed, and that is why they are in deep mud, and how they rotate the pigs.

Mr. Michaud has reviewed their application as well and commented that the feeding containers need to be put on a surface, to facilitate cleaning. The piggery regulations require the surface to facilitate cleaning to reduce nuisance conditions. Ms. Arsenio handed the Board additional pictures of a new feeding trough that had been constructed for the pigs. Mr. Michaud noted this is somewhat of an improvement.

Mr. Hardman asked if the land could support what they are requesting for pigs, and what the owners are feeding the pigs. The owners explained bread, silage, and organic vegetables.

Discussion about the number of pigs Mr. Fulk and Ms. Arsenio are asking for ensued. It was established in accordance with the Board of Health Piggery Regulations they have 37 pigs.

Ms. McKinley, chair invited public comments at this time.

Daniel Gill from 123 Old Fall River Road, 653 Faunce Corner Road, and 659 Faunce Corner Road expressed his displeasure with the pigs already being on the site without the proper permit and asked if they needed to be removed. Also drainage and sheeting of water across the street was mentioned.

John Baron 1112 Old Fall River Road mentioned drainage concerns.



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Jeanne Paquette 748 Faunce Corner Road also expressed concerns with runoff and explained how the water flows in a northerly direction.

Donald Pepin 699 Faunce Corner Road is concerned with health issues, smell and contamination to his well, and feels the Board's concern is with the pigs rather than with the residents.

Mr. Hardman explained that he would be more concerned for well contamination with the Towing operation across the street bringing damaged vehicles with the potential for ruptured gas tanks, radiators and other fluids contaminating wells.

Mr. Gill responded they know what they are doing, and have been there twenty years. Mr. Hardman explained he didn't say Mr. Gill didn't know what he was doing. Mr. Hardman asked Mr. Fulk why the camper was on the property? Mr. Fulk explained they are staying there until the home is fixed, which should be in a couple of months.

Vincent Frary commented that it might not be a bad idea to have someone from NRCS become involved.

Ms. Brodeur mentioned people not following procedures then asking the Board for forgiveness, which puts the Board, and the applicant in a predicament.

- Thomas W. Hardman motioned and seconded by Lynne Brodeur to table this matter until the next meeting on December 17, 2014, so the Board can have an opportunity to visit the site. It was an unanimous decision of the Board to table the application until December 17, 2014.

7:20 P.M. Jayesh Patel, Owner/Town Liquors/Tobacco Suspension Hearing- Attorney Joseph P. Fingliss, Jr., was present to represent Jayesh Patel, owner of Town Liquors. Attorney Fingliss, Jr. stated that his client is willing to comply with the rules and regulations. His client conducts training for UMass Dartmouth police. Attorney Fingliss, Jr. stated his client appealed the violations to New Bedford District Court, and that Assistant Clerk-Magistrate Patrick Walsh found that there were no violations.

Anthony Savastano, Town Counsel explained to Attorney Fingliss, Jr. there is no estoppel effect, from a District Court Clerk's, decision and further disputed that the Clerk ruled that there were no violations.

Attorney Fingliss, Jr. stated the citations were dismissed. Again this was disputed by Town Counsel and Christopher Michaud. Ms. Brodeur asked Attorney Fingliss, Jr. if Mr. Patel is denying that he sold to an underage person. Attorney Fingliss, Jr. refused to answer, instead repeating that the District Court stated there were no violations. Ms. Brodeur and Mr. Hardman restated Ms. Brodeur's inquiry as to whether Mr. Patel denies selling to an underage person. Once again, Attorney Fingliss, Jr. refused to answer the question and only stated that District Court found no probable cause.

Ms. McKinley commented that rules are in place to protect our children and Mr. Patel should train his staff not to sell to minors.



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Mr. Hardman asked the Director if Mr. Patel applies for a permit he is expected to comply with the regulations. Mr. Michaud replied yes.

Attorney Fingliss, Jr. remarked that the Board seems to have made their its mind up and his client will do what he need too, which could mean court action. Attorney Fingliss, Jr. called the enforcement a "sting". Mr. Michaud interjected that the Board of Health doesn't conduct "sting" operations. The Board of Health does compliance checks. The same person, who performs compliance checks for the Board of Health, conducts FDA inspections, and the two shouldn't be confused. Mr. Michaud reminded the Board this is a suspension hearing.

Mr. Michaud informed the Board that he spoke to Mr. Walsh after receiving the letter from Attorney Fingliss, Jr. According to Mr. Michaud, Mr. Walsh state that his legal opinion is that his action on both complaints doesn't impair this Board's ability to take action on suspension and act on the permit. Attorney Fingliss, Jr., that he didn't have the same conversation with Mr. Walsh, and reiterated this will end up in 3rd District Court.

Mr. Michaud stated Attorney Fingliss, Jr. asked for the appeal for his client and new suspension dates will have to be set.

Attorney Fingliss, Jr. commented they will seek all remedies. Town Counsel advised the Board that it should not consider the threat of legal action in reaching its decision.

- Thomas W. Hardman motioning and seconded by Lynne Brodeur the Board of Health that the Board uphold its prior decision and deny the appeal, further finding that the sales of tobacco products to someone under the age of 18 did occur on two separate occasions within 24 months and, in keeping with the provisions of the Town of Dartmouth Board of Health Tobacco Control Regulations affecting "Youth Access to Tobacco Products", the Tobacco Sales Permit for Town Liquors, shall be suspended for a period of seven (7) consecutive calendar days. The suspension shall begin on Monday, December 08, 2014 at 9:00 A.M. and conclude on Monday, December 15, 2014 at 9:00 A.M. The Board voted unanimously in favor of the Motion.

The Chair polled the Board at 8:00 P.M. for a roll call vote to convene into Executive Session with Anthony Savastano, Town Counsel regarding Tobacco Suspension complaint by Attorney Joseph Fingless and BEC vs Dartmouth Board of Health and Town of Dartmouth pursuant to M.G.L. Ch. 30A, Sec 21: Chair Leslie E.J. McKinley, yes; Lynne Brodeur, yes; Thomas W. Hardman, yes

At 8:23 P.M. Leslie E.J. McKinley, Chair entertained a motion to close Executive Session and go into the regular Board of Health Meeting by roll call vote -Thomas W. Hardman - yes, Lynne Brodeur - yes, Leslie E.J. McKinley-yes.

8:24 P.M. Vincent Frary/Copicut Farms - Piggery Permit Amendment- Vincent Frary owner of Copicut Farms was present. Mr. Michaud explained the Piggery Regulations fail to provide provisions to amend a piggery permit, but the Piggery application does provide for amendment process. Mr. Frary is



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currently permitted for twenty pigs and is requesting to have sixty pigs. Mr. Michaud did conduct an inspection of the facility with Sandra Gosselin, Dartmouth Animal Control Officer Animal Inspector. Mr. Frary's operation remains within the property limits and abutters would not need to be notified per the Piggery Regulations. There would not be sixty pigs on the premise year round. Mr. Michaud feels this is a model operation and feels comfortable with Mr. Frary's operation. Mr. Michaud would suggest according to the Piggery Regulations that a legal notice and a public hearing on the increase be done. Mr. Frary commented that he would be away for a few weeks but could have representation.

Mr. Michaud asked if Mr. Frary who is on the Agricultural Commission would be interested in helping develop revised Piggery Regulations. Mr. Frary stated that would be fine. Mr. Michaud and Mr. Frary would make arrangements to meet.

- It was a unanimous decision of the Board members present to have a legal notice published in the Chronicle for the increased number of pigs and hold a public hearing for January 14, 2015, at 7:15 P.M.

Land use/Development Services function & Select Board - verbal update- Mr. Michaud informed the Board he had his first meeting regarding the realignment to discuss the layout of the offices. The architect will be going around taking measurements, and to develop an estimate for construction. There will be another realignment meeting next week.

- No further action required by the Board of Health at this time.

The Residence at Cedar Dell - update- The Board looked over the letter from the Residence at Cedar Dell stating that "Wally Bear" the dog has been adopted and no is longer residing at the Residence at Cedar Dell.

- No further action required by the Board of Health at this time.

Flu clinic - verbal update- Mr. Michaud updated the Board that approximately thirty residents received flu vaccinations at the Quinn Elementary School the night of the SEPAC meeting. Mr. Michaud's goal next year is to reach out to the school age population. It seems that pharmacies are getting their vaccines sooner, and getting to the senior group sooner. Mr. Michaud has been in contact with the school nurse at Bishop Stang who will be using seventeen doses of the ninety that the Board of Health has left. Mr. Michaud has tried reaching out to the Dartmouth Schools but there has been no interest. A public notice has been sent to the Chronicle and a posting on the Town of Dartmouth Board of Health's webpage under "Health News" letting residents know that seasonal flu vaccine still available by appointment.

- No further action required by the Board of Health at this time.

Stetson Trust/discussion on the proposed community nursing uses with a portion of the proceeds from trust- Mr. Michaud explained he has made several attempts to resolve this matter with Jane



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Stankiewicz and Susan Weiner without success. Ms. Brodeur commented she doesn't want to sign anymore bills until this is settled. Discussions about having a third party conduct an audit, removing the Board of Health from administering the trust payment, and Town Counsel contacting Community Nurse and Hospice Care's counsel.

- No further action at this time until the Board hears back from Town Counsel.

Personnel vacancies - Assistant Part-time Animal Control Officer vacancy-Mr. Michaud met with the Select Board and the contract negotiations for DTEA will be starting in January 2015. The call out stipend will go into effect immediately, and hiring the new Assistant part-time Animal Control Officer will not happen until the contract is ratified with certain changes to benefits.

- No further action required by the Board at this time.

Director's Report - topics for discussion

Bellevue Street sewer extension
166 Chase Road Zoning Board filing
Dartmouth Mall Cinema Alcohol permit request
JH Landscaping Installers permit status
Dartmouth Motor Inn long term stay rooms
Mary Mehri/Plat 1, Lot 5, 1176 Horseneck Road
MASS DEP Reclamation Soil meetings
Map 67, Lot 8-1, Hixville Road/Dartmouth Farms Solar

Mr. Michaud informed the Board on the aforementioned issues. The Board briefly questioned and discussed the above topics but no action was required on the topics at this time.

Informational items not requiring discussion at this time:

Inn Holder Licenses
Caren Harple and Tena Coley -banning plastic bags
Peking Garden - training
Prestige Market - update

- No action required by the Board at this time.

Dartmouth Board of Health Local Regulations: Discussion to investigate revisions to the Guest Establishment Regulations and Piggery Regulations-Mr. Michaud wanted to bring to the Board's attention a few regulations that will need some amending in the first of the year. For example, the Guest Establishment Regulations will need to include Inn Holders, since the Select Board has adopted Inn Keeper licensing, however, they cannot place conditions that are too lengthy, therefore, become regulations without due process. The Piggery Regulations will need to be reviewed and amended in light of the numerous applications received and industry changes not reflected in the existing regulations.



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- No further action required by the Board at this time.

Manuel Goncalves/Plat 156, Lot 7, 11 Sharon Avenue- The Board discussed and reviewed Mr. Goncalves' animal permit amendment request to have two baby calves. The Board reviewed comments from Dartmouth Animal Control. Mr. Hardman also visited this site. In Mr. Hardman's opinion, he doesn't feel having two calves at this site with the size of the lot, and proximity to neighbors would be advisable.

- Thomas W. Hardman motioned and seconded by Lynne Brodeur to deny Mr. Goncalves' request to amend his permit for two baby calves. The Board voted unanimously in favor of the Motion.

Ana Costa/Plat 44, Lot 9, 647 Old Westport Road - The Board discussed and reviewed Ms. Costa's animal permit amendment to have two roosters. The Board reviewed comments from Dartmouth Animal Control.

- Thomas W. Hardman motioned and seconded by Lynne Brodeur to deny Ms. Costa's request to amend her permit to include two roosters due to the proximity to the neighbor's property. It was a unanimous decision of the Board members present to deny this animal permit amendment request.

Complaint log from 11/04/2014 - 11/17/2014 & 19 Hasting Court - animal complaint- Complaints were reviewed by Board.

- The Board agreed if any further complaints about loose chickens from the abutter of 19 Hasting Court are filed that a citation be sent to the owner under the Town's Bylaw, since they have already been notified in writing to contain the animals on their own property.

Crapo Hill Sanitary Landfill - Mass Department of Protection Authorization to construct new phase of permitted landfill- This document was just for the Board's information.

- No action required by the Board at this time.

City of New Bedford/New Bedford Gun Range/Woodcock Road-Lynne Brodeur recused herself from all discussion and voting on this matter.

The Board perused the letter, dated October 29, 2014, from Ronald Labelle, Commissioner for the City of New Bedford Department of Public Infrastructure requesting a waiver from the Board of Health's fees.

- Thomas W. Hardman motioned and seconded by Leslie McKinley to deny the request for a waiver due to the amount of time for review of the sewage disposal plans, and the limited amount of staffing at the Board of Health. It was voted 2-0 with 1 abstention to deny the fee waiver.



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Bristol County Mosquito Control Project Budget-The Board looked over the Bristol County Mosquito Control Project (BCMC) Budget for 2016.

- The Board voted unanimously to support BCMC's budget for 2016, and a notice will be forwarded to the Town Administrator informing him of their support.

Discussion for any item not know 48 hours in advance-

- The Board discussed their meeting schedule as follows: December 17, 2014, January 14, 2015 and February 4, 2015 at 7 p.m. in room 315, of the Dartmouth Town Hall.

Board Signatures - Leslie E.J. McKinley, chair, Lynne Brodeur, and Thomas W. Hardman signed Betterment Assessment for Marsha J King, Allyson E Maher & Aaron D Maher of 36 Bellevue Street.

At 9:50 p.m. Leslie E.J. McKinley, Chair entertained a motion to close the regular Board of Health Meeting. Roll call vote - Lynne Brodeur - yes; Thomas W. Hardman - yes; Leslie E.J. McKinley-yes.

Respectfully submitted,

Donna Farias
Administrative Clerk