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DARTMOUTH TOWN CLERK

DARTMOUTH BOARD OF HEALTH
DARTMOUTH TOWN HALL - ROOM 315 - 5:30 P.M.
MEETING MINUTES - Wednesday, August 12, 2015

The Board of Health meeting was called to order at 5:10 P.M. on August 12, 2015 in room 301.

The Chair polled the Board at 5:11 P.M. for a roll call vote to convene into Executive Session in room 301 pursuant to M.G.L. Ch. 30A, Sec 21: Chair, Leslie E.J. McKinley, yes; Lynne Brodeur, yes, and Thomas W. Hardman, yes.

At 5:40 P.M. Leslie E.J. McKinley, Chair entertained a motion to close Executive Session and go into the regular Board of Health Meeting in room 315 by roll call vote -Thomas W. Hardman - yes, Lynne Brodeur-yes, Chair, Leslie E.J. McKinley-yes.

Leslie E.J. McKinley, Chair, and Lynne Brodeur were present to open the Board of Health meeting. Thomas W. Hardman was not present for first forty minutes reentering at approximately 6:20 p.m. Christopher Michaud, Director of Public Health, was also present.

The following administrative items were approved as amended or signed by Thomas W. Hardman, Lynne Brodeur, and Chair, Leslie E.J. McKinley.

- The minutes of the meeting of July 15, 2015
- Fall/winter Board of Health schedule was discussed and agreed upon as follows:
 - Sept 1, Sept 16, Oct 7, Oct 21, Nov 4, Nov 18, Dec 2, and Dec 16
- Leslie E.J. McKinley, chair, Lynne Brodeur, and Thomas W. Hardman signed the bill from S&K Engineering, LLC for engineering of the sewage disposal system at 36 Bellevue Street

5:31 p.m. Jenna Kiridly, Intern from MDPH- Ms. Kiridly introduced herself, and gave the Board a brief background. Ms. Kiridly spoke about the time she spent in Marion and Dartmouth working on tick borne diseases. Ms. Kiridly worked on awareness, education and how to relate this to all age groups, as well as, resource materials. Ms. Kiridly went on to say that she was able to present some of the materials that she had prepared to children attending camp at the YMCA in Dartmouth.

Mr. Michaud would like to incorporate some of the material from Ms. Kiridly into the Board of Health's webpage. Mr. Michaud felt Ms. Kiridly was a great asset, and appreciated her efforts.

The Board thanked Ms. Kiridly for all her hard work, and wished her the best in her endeavors.

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

6:00 p.m. Anthony Savastano- Town Counsel - Stetson Charitable Trust a.k.a. Stetson Trust meeting with Community Nurse and Hospice Care- Attorney Anthony Savastano, Town Counsel, David Cressman, Town Administrator, along with the members of the Board of Health were present. Jane Stankiewicz, President and Chief Executive Officer, and Randy



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Manchester, Chief Financial Officer of Community Nurse Home Care (CNHC), along with its attorney, Susan Forgue Weiner were present.

Attorney Savastano discussed that the Board has and wishes to continue to explore a cordial and mutually agreeable resolution. Previously, Attorney Weiner agreed to attempt to resolve the dispute without legal action. However, contrary to her representations and that of CNCH representatives, without prior notice, she sent a lengthy submission with numerous exhibits to the Office of the Attorney General.

With regard to the control of the funds, Attorney Weiner and Ms. Stankiewicz argued that the intent of the donor was that the funds were to be provided to CNCH, not the Town, and that the Town had no input into how the funds were used. Attorney Weiner claimed that the Town is just a pass through entity. Attorney Savastano disagreed and provided the basis for the Board's position. Board members expressed their concerns about approving disbursements from the Trust to CNCH without having any input into, nor sufficient confirmation as to, how the money is to be used. They did not want to be, in any way, responsible or liable for misuse of funds over which use they had no input. Board members expressed concerns about not being provided with sufficient information regarding the use of funds and discussed ways in which more information could be provided to the Board. Attorney Weiner cited HIPAA as the reason and further commented that CNHC isn't hiding behind HIPAA. Board members and Attorney Savastano offered potential ways for providing more information without violating HIPA. Ms. Stankiewicz refused to discuss or agree to any such resolutions simply stating that CNHC provides the Board with reports similar to those submitted for services covered by grant funding.

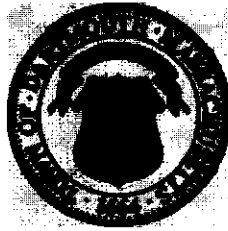
Board members, Mr. Cressman and Attorney Savastano, discussed scenarios in which CNCH no longer existed, were acquired by another entity, or ceased providing nursing care in Dartmouth. Questions were raised as to how the intent of the donor would be carried out in any of those circumstances. Attorney Weiner refused to engage in any discussion about the control and use of the funds reverting to the Town other than stating that she did not believe that any such settlement would be accepted by the court. Attorney Savastano asked about the possibility of the parties using an arbitrator or a mediator to resolve the dispute. CNHC refused. Further, with regard to a settlement, Attorney Weiner was not certain that any such settlement would be accepted by the court.

Attorney Weiner alleged that the Town had improperly invested trust proceeds in 2009 and lost money. Attorney Savastano asked whether Attorney Weiner was alleging that the Town violated any fiduciary duties. Attorney Weiner did not explain any support for her accusations.

In conclusion, Ms. Stankiewicz stated that she will meet with CNHC's Board in late September to discuss the options discussed and then meet again with the Board of Health to discuss



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CNCH's willingness to engage in further discussions or otherwise seek to reach a mutually agreeable resolution. Given Attorney Weiner's and CNHC's prior conduct in unilaterally petitioning the Attorney General, Attorney Savastano sought CNHC's promise that it would not take any action prior to the follow-up meeting with the Board of Health. Both Attorney Weiner and Ms. Stankiewicz agreed.

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

Nirv Patel, Owner and Manager/Groveland Motel, Inc. dba Dartmouth Motor Inn - residency - update - The Board perused Ms. Cohen's inspection report, and Mr. Michaud informed the Board that her findings revealed the operator has not complied with the August 1, 2105, deadline for compliance. Mr. Michaud addressed that if a suspension or revocation is considered by the Board then ample notice must be given to the operator.

The Board was in agreement that they would like to send notice to the Groveland Motel, Inc. dba Dartmouth Motor Inn requesting them to meet with the Board of Health at their September 1, 2015, meeting to discuss their noncompliance with the Guest Establishment Regulations and the enforcement of the Regulations.

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

Tobacco and Nicotine Delivery Devices Regulation revision update - Mr. Michaud updated the Board that the draft regulations have been submitted to Town Counsel for his review.

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

Fisher Road and Songbird Acres composting - update- Mr. Michaud informed the Board no complaints since July 31, 2015.

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

Barnstable County I/A Tracking Program - Mr. Michaud and the Board updated that draft regulations that have been submitted to Town Counsel for his review.

➤ ***No action required by the Board at this time.***

State Road Cement Block- update - Mr. Michaud updated the Board that Mr. Wheaton had called to report dust emissions from the bag house during the last fill up. Mr. Michaud has asked Mr. Wheaton to call the office when cement is being delivered which will eliminate the possibility of prefill up preparations because of announced inspection.

➤ ***No action required by the Board at this time.***



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Piggery Regulations and Comprehensive Revisions - update - Mr. Michaud informed the Board that Attorney Brian Cruise, Assistant Town Counsel suggested that the Board consider merging the Board's regulations that pertain to animals into one regulation.

Discussion ensued on setbacks and approvals from other departments, as well as the Board not limiting itself with overly prescriptive requirements.

- ***Thomas W. Hardman motioned and seconded by Lynne Brodeur to allow the merging of the Board's regulations that pertain to animals into one regulations and the motion made unanimous by Leslie E.J. McKinley.***

Medical Waste Disposal - update- Donna Farias, Administrative Clerk updated the Board that she had been in contact with Jim Denoncourt from Curtis Bay Medical Waste Services in regards to obtaining a kiosk for sharps and prescription medication waste disposal. Ms. Farias explained the cost for the kiosk as well as the cost for picking up the sharps. As for the waste disposal, the Board wasn't comfortable on how this particular company would pick up the medication medical waste by using UPS for shipment to a repository in Maryland. The staff will continue to work and move forward on the implementation of sharps and prescription medication waste disposal.

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

Revision to the Contaminated Soil Regulations - Town Counsel Anthony C. Savastano met with the Board to discuss potential revisions to the Dartmouth Board of Health Contaminated Soil Regulations. The Board reviewed draft changes. These would change the regulation such that it would not apply to contaminated soils that are recycled at a recycling facility. Attorney Savastano discussed that the original regulation did not apply to contaminated soils that are disposed of as solid waste at an active lined landfill community because the Board did not have the authority to do so. The Supreme Judicial Court in City of Malden v. Flynn, held that authority pursuant to M.G.L. 111 Section 122 is limited as to regulating the disposal of solid waste by the subsequent enactment of Sections 31A and 31B. Contaminated soils which are to be reused do not constitute solid waste and can be regulated without this restriction. Materials which are to be recycled would have been treated as "garbage" pursuant to Sections 31A and 31B at the time of their enactment. Consequently, the Board of health is similarly restricted in its ability to regulate such material.

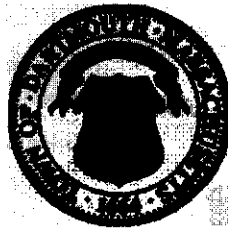
The proposed amendments would:

1. Delete certain portions of Section 1 and insert certain language such that the Amended Section 1 would read:

These Regulations are adopted by the Board in order to protect the public and the environment from the deleterious and harmful effects of certain contaminated soils that may be imported into, transported through, or used within the Town. These



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Regulations shall not apply to any contaminated soils that are disposed as solid waste at an active lined landfill, that are recycled at a soil recycling facility, or that are transported through the Town for such purposes, as these activities are subject only to limited regulation pursuant to Massachusetts General Laws, Chapter 111, Sections 31A and 31B.

and;

2. Add to Section 2 the definition of Soil Recycling Facility as follows:

Soil Recycling Facility - shall be as described in Section 9.1 of Massachusetts Department of Environmental Protection Policy # WSC-94-400, entitled "Interim Remediation Waste Management Policy for Petroleum Contaminated Soils".

- **Thomas W. Hardman motioned and seconded by Lynne Brodeur to adopt the revised Contaminated Soil Regulations as written and the motion made unanimous by Leslie E.J. McKinley.**

Septic Plan(s) requiring no action of the Board of Health-

- Ronald Oliveira/Map 56 Lot 17-8, 13 Digger Drive - tabled
- Andre Karam/Map 38, Lot 30, subplot 1, Chase Road
- Andre Karam/Map 38, Lot 30, subplot 2, Chase Road
- Matthew Michaud/Map 79, Lot 56, 282 Collins Corner Road - tabled

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

Septic Plan(s) requiring action by the Board-John J Meldon/Map 9, Lot 41, 664 Horseneck Road,George Ayoub Engineering – Mr. Michaud asked the Board to table this matter to allow the abutter time to review the plan.

- **Thomas W. Hardman motioned and seconded by Lynne Brodeur table this matter until September 1, 2015, to allow the abutter time to review the plan motion made unanimous by Leslie E.J. McKinley.**

Director's Report – topics for discussion-

- Acadia Health, 581 Faunce Corner Road- Mr. Michaud informed the Board that Acadia Health had a tentative opening date scheduled for the middle of August, which had been postponed due to issue with the Fire Department. Mr. Michaud will be going on a site visit of the facility in the near future. The Board also expressed an interest in attending this site visit.



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- Food Court at the Mall- Mr. Michaud updated the Board that the Mall is planning on closing the food court and relocating tenants to store fronts.
- **No action required by the Board at this time.**

Animal permit request

Jeremy Wilson/Plat 31, Lot 13, 115 White Oak Run-The Board reviewed and discussed the animal permit request for 5 hens, 2 goats, potbelly pig and miniature potbelly pig, 2 mini ponies, and 1 large pony. The Board reviewed the application along with comments from an abutter and the Dartmouth Conservation Commission.

Mr. Miranda an abutter was present and expressed his concern with the distance/proximity the animals will be kept from his property.

Mr. Hardman expressed that he is not prepared to act on this animal permit request until such time as the Conservation Commission issues have been resolved.

- **Thomas W. Hardman motioned and seconded by Lynne Brodeur to table this animal permit application until October 1, 2015, so Mr. Wilson will have ample time to get approval from the Dartmouth Conservation Commission motion made unanimous by Leslie E.J. McKinley.**

Humberto Bolarinho/Plat 133, Lot 31 on 88 Russells Mills Road-The Board reviewed and discussed the animal permit request for 100 +/- pigeons. The Board reviewed the application and felt the application submitted was incomplete. The plan submitted by the applicant showing the location of the pigeon coop was insufficient, so the Board members couldn't determine if the setbacks had been met in accordance with the Dartmouth Animal Regulations under Section 4: D (1-5) Facilities and Conditions.

The Board requested the applicant providing the following:

- A revised plan indicating where the pigeon coop will be located following the Dartmouth Board of Health Animal Regulations Section 4: D (4) (5) Wetland setback and Dwelling setback the Board
- Clarify on the application *exactly* how many pigeons
- Provide a better manure storage plan to the Board
- **Thomas W. Hardman motioned and seconded by Lynne Brodeur to table this animal permit application until September 1, 2015, so Mr. Bolarinho can provide**



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the Board with the proper information motion made unanimous by Leslie E.J. McKinley.

Complaint log from 07/10/2015- 08/07/2015 - Complaints were reviewed by the Board.

Mr. Hardman updated the Board on the 383 R Hixville Road situation. Mr. Hardman was called to the site on July 27, 2015, regarding no cold or hot water. After the situation had been fixed; Mr. Hardman received a call 15 minutes later about water leaking from upstairs. Mr. Hardman went to Lowe's and purchased two threaded plugs and thread tape, and a pair of Channel lock and pliers went back to 383 R Hixville Road and repaired the leak. Mr. Hardman confirmed that the water was working, pressure was low, but the well pump had just finished cycling and the pressure was at 60 psi when the pump shut down.

➤ ***No action required by the Board at this time.***

Michael Yallen/46 Albro Avenue, Map 70 & 69, Lots 5 & 6 - Horse manure composting- Mr. Michaud explained Mr. Yallen is seeking approval to construct an elaborate composting structure to process horse manure which is generated at the farm. In accordance with the Dartmouth Board of Health Animal Regulations the manure is to be kept 100' from property lines unless kept in compost bins approved by the Board. According to Mr. Yallen plan submitted, he is proposing the composting structure to be 20' to one property line and 50' from another.

The Board perused the plan and brief discussion ensued.

➤ ***Thomas W. Hardman motioned and seconded by Lynne Brodeur to allow Mr. Yallen to construct his composting structure as indicated per his plan, 20' to one property line and 50' from another motion made unanimous by Leslie E.J. McKinley.***

Proposed Legislation Could Limit Authority of Board of Health- An act relative to local Boards of Health and sale of legal consumer products in the Commonwealth and Synthetic Cannabis- Mr. Michaud explained this proposed legislation could impact the Board restricting synthetic cannabis. Mr. Michaud is planning on reaching out to our State Representative Christopher Markey.

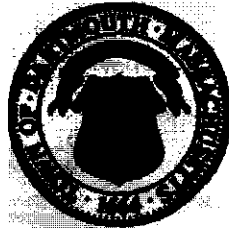
Mr. Michaud suggested fast tracking regulations that pertain to bath salts, spice and incense. Mr. Michaud would like to approach these items by their packaging or just require an age if someone wanted to purchase them.

➤ ***No action required by the Board at this time.***

Beach Testing Results- This document was included for informational use by the Board.



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

Notice of Post Response Action Outcome Release Abatement Measure Plan- This document was included for informational use by the Board.

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

Brandon Woods Home Care of Dartmouth/Dartmouth Public Health Statistics July 2015- This document was included for informational use by the Board.

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

Flu Clinics- There has been no progress, and Ms. Farias has not heard back from CVS regarding their interest in sponsoring a Town flu clinic. Ms. Farias will try again and was instructed to contact Walgreens.

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

Monthly Rabies Report - July 1 to July 31, 2015 - This document was included for informational use by the Board.

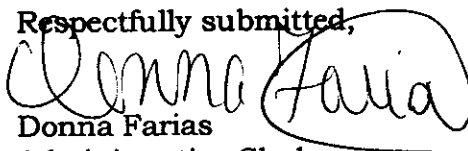
- **No action required by the Board at this time.**

Discussion for any item not know 48 hours in advance -

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

At 8:15 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