

BOARD OF HEALTH
TOWN HALL
334 MAIN STREET
THURSDAY, JUNE 16, 2011
7:30 P.M.

PRESENT: RONALD MAJDALANY, CHAIRMAN
CLAUDIA RYAN

The meeting was called to order at 7:30 p.m.

1. **APPROVAL OF MINUTES:**

MOTION: Ms. Ryan to approve the minutes of the May 5, 2011 meeting.

SECOND: Dr. Majdalany (stepped down as Chairman)

VOTE: 2-0

2. **TOBACCO/MINOR SALES VIOLATIONS:**

A. Housatonic Market/Dana Delgrande for appeal of the Board of Health fine for a tobacco sale to a minor. Ms. Delgrande was present to explain the appeal. She noted that she is the owner of the business and the clerk who sold the tobacco product to an underage individual. The fine states that the clerk is prohibited from selling tobacco products for seven (7) days but because she is both the owner of the business and the clerk, complying with this would be an extreme hardship. Ms. Delgrande also explained that there were some upsetting personal issues happening in her life and she admitted she was not concentrating. After discussion, the board voted to change the violation term to three days of her not selling tobacco products and she could pick the three days. It was agreed to that Dana not sell tobacco products June 17, 18, and 19. Mark said he would notify Amanda at Tri-Town Health.

3) **CITIZENS SPEAK REQUEST:**

A. Maureen Hickey re: Hurlburt Road Construction. Mr. Nicholas Sotis of 139 Hurlburt Road spoke in regard to the proposed construction at 135 Hurlburt Road that abuts his property. He noted he is a Construction Supervisor in the State of Massachusetts. He noted that Surveyor Michael Parsons submitted a Definitive Plan for Richard and Tyler Malik for a proposed subdivision road with drainage systems for 135 Hurlburt Road. He stated that the Board members were asked to review the plans and make a determination that this is a reasonable place to build. Mr. Sotis noted that the Board of Health approved the plan based on the information presented. Mr. Sotis said there is not just one leach field in proximity to the proposed drainage system, there are two. Both are 50' from these drains. These leach fields sit on an extremely high water table creating a leach field lake effect. The water is so high that the drains will intercept it creating two man made streams that will flow all year. These drains will discharge to a street culvert under Hurlburt Road at a seasonal rate of 60, 000 gallons a day into bordering vegetative wetlands. These wetlands are designated a rare endangered species program wetlands and a well head protection zone to wetlands and are protected under the Town's water protection district. There is at least one private well that draws water

from these wetlands or possibly more. These wetlands drain into the Green River from the Town's well head at Hurlburt Road. He said he has a video disk to prove it. Mr. Sotis said he did a study in April. He noted that the septic systems are so close to these drains that they create a public health and environmental threat directly at the Town well head and water shed. He said we need greater separation between the leach field and drain. The SWAP report mandated by the Federal Drinking Water Act states the risk for the Town well head contamination is high. After reviewing the study, he said the health agent determined that the setback distance that applied to these drains from these leach fields was only 50 feet. Mr. Sotis further said that the health agent did not apply the most restrictive standards as mandated by the Town's Water Protection District which states whenever there is a conflict between two provisions, the more restrictive provision shall apply. If the town sewer was located across Hurlburt Road into which these drains would discharge at a seasonal rate of 60,000 gallons a day, Title 5 still mandates a minimum setback of 50 feet because of the high water table conditions that exist. He claimed that a toxic septic stew would flow through this drainage system especially if it failed and went into the town's water shed. The extremely high water table at 135 Hurlburt Road is a new base line for determining the minimum setbacks which he strongly believes should be 150 feet. He said it is not the septic systems at 135 and 137 Hurlburt Road that are not in compliant with Title 5; it is the proposed drainage system which is a must build requirement for this subdivision road. If the subdivision road were not approved, then the drainage system would not be built and this environmental public health threat would be cured. The Board was asked if 135 Hurlburt Road is a reasonable place to put a subdivision road drainage system. Due to its location, topography and hydrology, he believes he has proven that 135 Hurlburt Road is not a reasonable place to put a subdivision road with a drainage system but one of the absolute worse places in Great Barrington to put a subdivision road with drains. He said his recommendation is for this board to rescind the recommendation of the subdivision plan because of the environmental threat. He said because of the extreme high water table that exists that that this board impose a full 150 foot setback from leach fields and drains that discharge into zone 2 for not only 135 Hurlburt Road but for all abutting properties including his own. The road that is being proposed has drains on either side of it. These drains are too close to the leach field of that house.

Mark advised that the septic plan for 135 Hurlburt Road meets Title 5. A plan review was done by the Conservation agent and Town Planner. Mark said in his opinion the setbacks quoted are in reference to a surface water supply which that is not.

Mike Parsons, Kelly Granger Parsons, Surveyor, said he designed the septic system for Mr. Sotis. He did not design the septic system for the ranch house that Tyler purchased. Because of comments made by Mr. Sotis at the Planning board meeting and the Conservation meeting he looked into the setbacks for the septic system from the drains as it applied to Title 5. The septic system at the Morris property/abutter was designed but never permitted. That does not meet Title 5 and should not be entitled to a permit. Berkshire Engineering is making a remedial design and doing another perc test to take that into account. He said the water table on Malik's property is no higher than the water table on Mr. Sotis' lot. He noted that Malik's property meets all the codes. It is not in a

well head protection zone. The Conservation Commission issued a negative Determination of Applicability. The road that is being built will be farther away from the septic system than the driveway is now.

Mr. Sotis noted that the Town's Master Plan emphasizes the Green River setback. He said the information Mr. Parson's in referring to for Title 5 compliance is hinged on whether these wetlands drain into the Green River. Mr. Sotis said he has a video that the water does go into the Green River.

Helen Stockwell of 140 Hurlburt Road stated that she felt Mr. Sotis has valid information and requested that the board consider the ecology of wetlands.

Mr. Terrance Cooney, 148 Hurlburt Road requested that the board apply the proper setbacks and standards to the project.

Dr. Majdalany stated that there are standards that have to be followed and it appears they have been followed. Mark stated that he witnessed the perc tests, did a thorough plan review and determined that it meets Title 5 and the drain setbacks. He noted it meets all the Board of Health requirements and any wetland issues need to be addressed to the Conservation Commission.

Mr. Sotis was asked to leave the meeting because he became extremely argumentative.

Another resident of Hurlburt Road spoke that someone else years ago was going to develop land that was full of clay and it was determined that it wasn't a good site for a septic. Dr. Majdalany explained that there is new technology now that allows septic to be in places where they were not allowed in the past.

4. **HEALTH AGENT REPORT:**

The board reviewed the May 2011 Health Agent Report. Mark noted that the lodging inspections are almost complete. The pool and camp inspections should be completed by the end of June. The Farmers Markets have all been inspected as well.

5. **OLD BUSINESS:**

A. Update on Tobacco fines/Sales to Minors. Mark noted that there were 3 additional sales to minors – Thomas Thorn, Samuel Brown and Rachael Holman. They have all paid their fines.

B. Berkshire Public Health Alliance Update. Mark noted that the Berkshire Regional Planning Commission has been awarded the Public Health District Incentive Planning grant. He advised an attorney will have to be hired to review the agreements. It was noted that a list of Great Barrington's priorities will have to be submitted. It was noted that the hiring of a public health nurse is one priority. Mark noted that the only other priority that he could think of is coverage when he is on vacation. He advised that this person would be paid through the grant initially.

C. Fraud – Food Inspector Warnings. The state sent a warning to health boards that there are fraudulent telephone calls going out from individuals stating they are food inspectors and there are violations in certain restaurants. Mark noted that he forwarded the notification to all the restaurants in Town.

Mark advised that he would like to contribute \$500.00 from the \$3,000 EDS Mini Grant/BCBOHA grant to the Southern Regional Emergency Planning Committee to enable them to continue to work as an emergency planning resource. The Board agreed that this was acceptable.

Mark advised that in the past he contracted with Waterworks on State Road to collect the water samples from Lake Mansfield and the Green River and do the testing. He said it appears the company is no longer in business as the office is closed. Mark noted that he is now collecting the samples and sending them to Howard Laboratories in Hatfield, MA. The results are generally received the next day.

There being no further business, the meeting adjourned at 8:30 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carolyn Wichmann".

Carolyn Wichmann
Secretary