

**GREAT BARRINGTON BOARD OF HEALTH MEETING MINUTES  
GREAT BARRINGTON TOWN HALL  
SELECT BOARD'S MEETING ROOM  
334 MAIN STREET, GREAT BARRINGTON, MA  
THURSDAY, DECEMBER 1, 2016  
6:30 P.M.**

**PRESENT:**

MICHAEL LANOUE, CHAIR  
PETER STANTON, MEMBER  
RUBY CHANG

JAYNE SMITH – HEALTH AGENT

**1. CALL TO ORDER**

**2. REORGANIZATION**

A. Welcome to the newly appointed Board of Health member, Dr. Ruby Chang

**3. APPROVAL OF MINUTES**

**Minutes of November 3, 2016 meeting**

**MOTION:** Peter Stanton to approve the November 3, 2016 Minutes.

**SECOND:** Michael Lanoue (Stepped down as Chair)

**VOTE:** 2-0 PASSED

**4. SPECIAL PERMIT RECOMMENDATION TO SELECTBOARD**

A. **Special Permit #863-16:** Benchmark Development, P.O. Box 1823, Lenox, MA, for the construction of a new mixed-use development in the Village Center Overlay District and work in Zone II of the Water Quality Protection Overlay District and work in Zone II of the Water Quality Protection Overlay District, at 34-42 Bridge Street, Great Barrington, in accordance with Sections 9.2, 9.6 and 10.4 of the Great Barrington Zoning Bylaw. Michael Charles was present to explain the project. This is for the new Co-op Market. There are no issues for capacity for sewer and water. For storm water management on the site there are a couple places with catch basins and initial treatment of the water. Jayne noted that the developers need to be sure the area where the trash is disposed of is enclosed.

**MOTION:** Peter Stanton to pass on a comment that the project meets all storm water regulations.

**SECOND:** Ruby Chang

**VOTE:** 3-0

**5. NEW BUSINESS**

A. **Health Department transitional staff plans for early 2017** – Jayne noted that conversations are still going on to try to figure out what the short and long term plans are. At the last meeting we discussed short term, what the Board's plans were and that is to staff the department and the long term look at what is needed in the department. Jennifer Tabakin, the Town Manager was present. Jayne noted that the Town of Nantucket has a public health director, an assistant public health director, a health inspector and part-time health inspector. The Public Health Director roll is more policy and management of the department. The health inspector is more confined to enforcing the sanitary code, conducting site inspections, Title 5, all the laws, maintains records and coordinates

with the seasonal permits. Locke Larkin inspects the restaurants, pools and lodging. The Great Barrington Board of Health does approximately 291 food inspections annually, with the total being over 400 of different types of inspections. Jayne said it is too much for one person to accomplish. Food establishments are mandated under the code to be inspected twice a year. That is approximately 300 food inspections. The state and FDA recommends that every 240 inspections require a full time person.

Jennifer said she checked with town counsel to verify if it is her authority to hire the Health Agent or if it is up to the Board. She said she reached out to the MAHB and they have an attorney as well that had not gotten back to her. Jennifer noted that the hiring of the Health Agent comes under the Town Manager in the Town Charter. In the Town meeting in 1992 the town switched from a Select Board to a Town Manager form of government. In the original charter, it listed the Town Manager had the ability to hire and fire and set the salary for the sanitary inspector, the animal inspector, and the plumbing inspector. It was brought up by John Mooney at that time that the Board of Health shouldn't be under the Town Manager but be independent because if there was a health issue that health shouldn't be put at odds with politics. Mrs. Mooney said that at that time the Board of Health provided information that Boards of Health must be independent. Mass General Law, Chapter 111, section 27 lays out clearly that unless it is amended by a Town Charter that the Board of Health acts as an agent of the state. Jennifer said she shared it with Town Counsel. She noted that they reviewed that history and anything that was adopted at Town Meeting. The first charter and revision of the charter and it was recommended that the charter supersedes a Mass General Law that establishes an independence of the Board of Health. The language was reviewed in the current charter and Town Council issued a statement that hiring falls under the Town Manager.

Jennifer Tabakin noted if the Board wants to take a different position on what needs to be done, there needs to be something legal and established so the Board's goal is clear, legal authority is clear, what the job of the Board of Health is, who the health agent is reporting to, who supervises. It needs to be laid out and you need to establish the legal authority to do that. It needs to be established that the Town Manager is not responsible or it needs to be clarified if the Town Manager is responsible. Jennifer said she is going to defer to the lawyer and note there is confusion here. Jennifer noted that the Board of Health has a broad mandate that includes independent policy direction, authority to make law, implement things, make decisions, and broad and clear legal authority. Implementing the supervision of employees, hiring and managing responsibilities are not clear.

Jayne said the Mass Association of Health Boards provides technical support and they are the ones who put the legal guide together. They have a lawyer, Cheryl Sbarra.

Jayne said she was hired by the Board of Health and it was the Town Manager's office who said she had the job. Jennifer said she brings people in for interviews for prospective jobs that are available. A board member is sometimes brought in. She said her job is to facilitate a person who would work with the Board of Health. Peter said we can consider the option of using outside contractors and having a 20 hour a week position that could manage the office duties and have Locke continue to do food inspections. Jennifer said she wanted to give Carolyn additional support right now for the month of December though January especially with the online permit program. Jennifer said we should reach out to the Berkshire Alliance and they should step up when we need additional service or Jayne can't make something. That is what we did when Mark was gone. They were hired for services and it varies depending on availability. We have an open contract with them and we should use it to supplement things and we should look to see what candidates there are. It is hard to be certified in all areas so credentials need to be reviewed and then supplement it. We have had three responses with varied sets of skills. The advertisement went out today to the Shopper's Guide. Locke said that he doesn't care to get into the Title 5's. Mark came in 10 hours a week until a new health agent was

hired. The alliance was used during vacation time and for septic reviews. If you have a replacement, you need someone who is qualified to witness that and when a plan comes in you need someone to review the plan to be sure it meets Title 5. The Alliance has a fee structure that is \$75/hour with a 3 hour minimum. The Alliance could do the indoor pools, which needs to be done in January. Lodging permits start in January. January, February and March are the slower times for the Board of Health. Michael said that it looks like Jennifer is going to be in charge of everything since Town Counsel made the determination for not and the board will seek additional legal information. Michael said the Board would contact Cheryl Sbarra at MAHB and see what her opinion is. Jennifer said she reached out to her today but did not hear back from her. Jennifer said the Board of Health should be very clear and know what the scope of the policy is and legal authority and differentiate that between supervision and management day to day operations. Jennifer said that her recommendation is that you focus on your ability to establish policy to deal with the critical issues we have that would end up meeting your personal matters in a broader way.

**B. FY18 Budget**

Jayne presented a FY2017 Salary Summary and FY 2017 YTD Budget as of 12/1/16. She noted it was just a summary of what she had given Jennifer Tabakin.

**6. OLD BUSINESS:**

None

**7. CITIZEN SPEAK TIME:**

A. Jayne introduced Maureen Quigley who came into the Health Department to see what the department is all about. She said she has a Master's degree in Public Health Nursing. She noted it was through word of mouth that she found out about Jayne leaving. She contacted Jayne to see if she could spend time with her and see what she does. She noted she did write a letter of interest for a part-time position. She noted that in her observation the job is a more than one person job. Jayne advised that we contract out with the Public Health Alliance for our public nursing. We spend approximately \$14,000 a year to do surveillance of communicable diseases. It is a system called MAVEN and reportable diseases are input. Maureen said that reaching out to the VNA is a premium rate. Maureen noted her goal is to become a registered sanitarian.

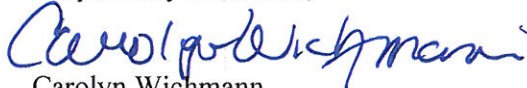
**8. HEALTH AGENT REPORT:**

A. Jayne said we are getting our applications in and hopefully we can work something out with Jennifer with helping Carolyn out a little bit. We also want to make the online permitting program be introduced as smooth as possible. The restaurateurs find it difficult to complete the applications so we are trying to make it as easy as possible. The permit fees totaled about \$10,000 this month.

**9. BOARD OF HEALTH SPEAK TIME**

**10. ADJOURNMENT**

Respectfully submitted,



Carolyn Wichmann  
Administrative Assistant