

MINUTES
STURBRIDGE BOARD OF HEALTH MEETING
Monday, March 19, 2012 7:00pm

Meeting called to order 7:00pm.

Present: Members, Linda Cocalis (LC), Bob Audet (BA), John Degnan (JD). Board of Health (BoH). Health Agent, Alyssa Rusiecki.

Members of the public present: Mr. and Mrs. Seguin; their attorney, Peter Feuerbach; their engineer, James DeCoulos; Town of Sturbridge Board of Health Town Counsel (TC) John J. Goldrosen, Esq., Mr. and Mrs. Gary Allard (arrived after start of meeting, approximately 7:15pm), and John Holdcraft.

Ms. Cocalis has the Board of Health members introduce themselves and Town Counsel, Atty. John J. Goldrosen; the Seguin's attorney - **Peter Feuerbach (PF)**, the Seguin's, and their engineer James DeCoulos (DeCoulos).

PF describes the Seguin's situation stating that he sent letter in the prior week describing a "health threat" caused by beavers. Submitted a letter at the end of last week, copied the Board of Selectmen and confirmed that the neighbor (Allard) received letter on Friday. PF described beaver activity that resulted in a blocked culvert that goes from the Allard property under the street. Water is stated to be seven to eight feet deep at culvert and described as a threat to young children at the Seguin's property, (adjacent thereto). Additionally, the water backup caused by the blockage is a health threat to Seguin's property, septic system, and well. If the Allards were to clear the blockage of the culvert the problem would go away. The Seguin's are requesting an emergency permit under c131 s80A. Because Seguin's don't own the culvert, the Allards do, the Allards should be issued the emergency order. These are nuisances.

The Allards enter the meeting.

Discussion. LC asks if it has been verified that the Allards own the culvert. It is noted there is no road association and not Town's responsibility. LC knows that the BoS and ConCom have tried to get a road association. PF shows plan that show that culvert is on property that is owned by Allards. James DeCoulos John Degnan states that cutting off the end of culvert will not abate beaver issue, and there is silt; and the need for a stable headwall. In brief, a long-term solution is needed; but right now it is an emergency situation with rain on the horizon. If the culvert was cleaned out, in the manner that the Town cleaned it out last September, then the emergency wouldn't exist. We have a health threat, caused by the beaver, and, according to PF, we need an emergency permit to clean out the culvert.

Discussion of long-term beaver management. DeCoulos reviews the attachments and geographic locations of the activity.

Atty. Feuerbach for the Seguin's. The request is for the current emergency situation and Long-term solutions are another matter. There needs to be an Order assessed to the responsible party, who are the Allards.

LC asks Town Counsel opinion. Fact-finding, is there an emergency and is there a beaver issue? With respect to culvert and pipe put in by town, if the pipe is within the ROW of the road, then anyone can clean it out. If the pipe is on the Allards property then the Order would be written to the Allards. Regarding the beaver statute, the person that has the beaver dam on their property should be willing to cooperate.

Atty Feuerbach is asking BoH for an Order.

LC asks Gary Allard (GA) if he is willing to work with beaver issue in the area. GA states that if BOH checks with ConCom & DEP they will confirm he has been willing to help work on the project.

GA notes that this action (meeting) came as a surprise or else he would have had attorney. GA moves on to the question of the public health issues; does BOH have any information on their (Seguin) septic system, how do we know that it is affected? GA discusses a gasket pipe with relation to septic and suggests that any problem is with Sequin's leaching facility, but evidence is needed. The water filter (seen in photos) is not a public health issue. GA notes he bought the marsh in 2005, shows Google maps when he bought it and currently. Asks if the elevation does not appear to be the same? GA's response to the culvert is that he doesn't want to touch it, but the Town has permission to access the property to maintain pipe and culvert.

GA shows pictures that appear to show no beaver dam near the culvert but activity further away. Other photographs show frozen ground and a pipe draining into the ditch. GA notes that Seguin septic location is approximate, it smells, and asks what is it and where does it come from? LC Agent states that a dye test was done by the Board of Health office and DEP didn't find any septic issues. Allard states that he found E. coli during private tests, agreeing they could be human or animal but that he feels it is not safe for his own children to swim the associated waters.

GA has pictures of when Town cleared pipe and he asks doesn't it have to be proven that there is a public health issue? He was willing to help, bring equipment, and then he received Court papers about his garage. So everything stopped. Allard is willing to work with Town and neighbors. He stated it was done in Stagecoach Lake in Monson.

LC shows picture of beaver deceiver. Allard says is aware of beaver deceivers. LC asks about the status of the road association? Allard surveyors only did Seguin's property, so people on the rest of the street were left out. Proposed budgeted plan was to come back, but people on road don't want to pay. There are three sections; Allard is willing to help all three sections. LC states a long-term planning with road is necessary. LC asks if Allard would be willing to unplug the drain to now. GA states that is not an easy task, Town previously worked three weeks, twice a day to clear a similar blockage. LC asks if DPW is willing to go down there. LC notes she needs to have an agreement with somebody. GA can't agree because he has to discuss with his own counsel. He only got notice of tonight's meeting on Friday. LC wants gentlemen's agreement. GA is willing to work with DPW with the condition that another pipe, near the Seguin driveway is replaced and can see if the Seguin's septic is an issue.

A discussion follows, initiated by Allard, on where and what do the Seguin's have for their septic system? It is approximate. DeCoulos has elevations and he discusses the following items: Title 5 has separation distances of four feet. Average surface elevation is 81.00; top of grade above septic tank is 84.5. This is a three and a half foot distance. There is no way that four foot separation distance exists. Groundwater hydrology is related to surface water hydrology that is why that eight inch metal corrugated pipe is there (this is the pipe previously mentioned as near the Seguin's

driveway); surface water can drain the other side of the watershed. GA notes that surface water should not be allowed to drain from one property to another. Atty Feuerbach that pipe wasn't put in by Seguin's and that the Allard's purchased their property with that pipe there. Atty PF discusses the following items: the question of emergency; we have a threat caused by beavers, guidance MGL c131 s80 may include beaver caused flooding of drinking water wells, sewage systems, roadways, gnawed trees next to electrical lines. LC states that you can put fencing around trees, find a way to live with beavers. Atty Feuerbach said that Allard said that culvert is blocked up due to beavers and he would be willing to work on long range plans. [Discussion off mike, inaudible]. Atty Feuerbach wants emergency permit to clean out the culvert and the Order to do it. BA is having trouble hearing. John Degnan looks at water pictures and asks if the water has been tested for bacteria. Decoulos states it has and the results were negative. Well is five feet below surface and 40 – 45 feet deep. It is approximately four to five below surface and have dig down to get to well. There is a jet pump in house. Groundwater is above top of well housing. Probably going into well casing. For 30 years this problem has been managed adequately and the Seguins are asking to restore conditions before Allard's house was built. There needs to be a comprehensive plan for beavers.

LC would the Allards be interested to have culvert cleaned out? GA still worried about Seguin's 30 year old septic system and the additional surface drain pipe and he would like that addressed and then he would be willing to work together with other agencies, ConCom, DPW. States he didn't even know that pipe (near Seguin's septic) was there, because it was under water when he bought the property. Addresses previous complaint about silt from his building project and notes that the picture of silt is not from his property, but that that silt is from the road. LC confirms this saying ConCom said it is from road. [Discussion off mike, inaudible].

DeCoulos raises the question of the road washing out. DeCoulos says there is a 9 ft head difference and there is an earthen dam holding back 3 acres of water. Silt was from road. Notes trees were removed, so now slope is now over 10% and not normal siltation from road. GA takes offence stating that that he has appropriate drainage system. LC says we are not talking about silt and the road but are discussing the beavers. Wants to hear from TC. TC can't deal with personal issues only the emergency issue set forth in MGLs. A person who doesn't own the property can allow another can do the work. GA they don't have proof, no. TC asks Allard, if BoH says there is a public health, then will you let the pipe be cleared to lower the water, Allard agrees, yes. TC this is a private road, whatever work was done by Town it has been done by their discretion and kindness, but it is not the responsibility or obligation of the town. GA is worried about liability if he starts to do some work, but he would feel more comfortable if there was a road association.

TC said that beaver statute states that a permit can be given but to the people that have a problem. Feuerbach states that Seguin's don't want to do the work, because they are affected by it. But the owner of the issue should be ordered to clean the culvert. Not the Seguin's. TC statute authorizes the BoH to give a permit but not order the Seguin's to do the work. LC states most nuisance issues go to the owner.

Beaver is the cause of the flooding, the flooding is the nuisance. LC stated what is doing the flooding, the beaver.

John Holdcraft (JH) speaks. He owns 20 acres behind them and 20 acres across street. Came to see Seguin back in 2005-2006 and asked what is going on? Allard put house on hill, been listening to him. He has pictures of hundreds of cubic yards and taking out the road. JH notes that Seguin had maintained the culvert for years, removing twigs. When the Allard house went up, that is when problem increased. Additionally a silt problem started. JH states that GA won't even clean the culvert out. JH says he will do the work, and he has no way to clean it, but that GA owns an

equipment company. JH's land was flooded, he has horses, mosquitoes, and he has had enough. It is his silt from GA's driveway, DPW was phenomenal, and he feels that GA is not going to do it. Need an order tonight. He is going to do nothing. GA states that he is upset, reiterating that he did not contribute to silt or runoff. GA notes this fact can be verified by Donna Grehl from the Conservation Commission, (ConCom), she lives nearby has complimented GA on construction. LC is ready to end this. [More pictures are distributed]. GA states that there is another area where there is a beaver dam. BA asks if culvert is on property. GA states yes it emanates on his property and dumps out into lake. Notes there was a recent extension of the pipe five feet. LC asks TC if we have the ability to order the Allards to clean pipe. TC states, I suppose. From all TC is hearing however he believes if BoH asks the Allards they probably won't do it. The Seguin's could do it. That is a private nuisance issue. (PF) Feuerbach suggests that if an Order is written, then there should be money penalties, or he (GA) should do the work. If Town does not enforce an Order against Allard, then they would have legal standing in court. Yes you will solve the Seguin's problem, it's not Draconian. The Orders will harmonize. JG asks TC about deadlines. He answers, Beaver permits run for ten days, can be extended twice, and ConCom should act under Emergency Conditions. BA needs long-term planning. GA asks why there is immediate problem. LC states threat to their well and septic, and if it blows out the road, you are the responsible party that is supposed to clean out the culvert. GA doesn't want to be responsible for cleaning the culvert, and again notes he feels slighted because he was served notice on Friday night; LC states this isn't a hearing. LC states the Town has been dealing with this and BoH does not intend to spend 80% of its time on this issue. John Degnan states that he is clear on beaver permit, and water nuisance. TC states there is a difference between public health nuisance and a private nuisance. TC attempts to guide the BoH to having the nuisance left as a private nuisance issue. John Degnan states that nuisance is rise of groundwater. Feuerbach said Allard was not blind-sided and distributes copy of letters from Town Administrator to GA in September.

John Degnan makes a motion to grant an emergency beaver permit. He notes the issues before BoH are intertwined including Title 5 septic issues, well issues, and maybe the road issues. TC notes that work be done on Allards property with permission. John Degnan first step is to grant a permit. Step one is grant a beaver permit to the Seguins. BA seconded, voted (3 – 0). John Degnan states the second issue is a nuisance issue per health and safety. Motion to issue an Order to correct the condition, at least clear the culvert, and then clean and maintain? TC says if you are going to go in this direction, deal with the immediate. John Degnan states the intention is to clear the condition now as an immediate Order to Allard, the property owner, clean clear the culvert inlet to allow the water to flow. LC asks whether this includes ongoing maintenance. Discussion of timeframe. Ten days, started within ten days, finished within thirty days. Allard asks to what level does the water need to be lowered? John Degnan replies to level of flowage. GA Conservation was clear about the fact that it is flowing. TC states it has to be subject to approval by ConCom. GA will work with ConCom to determine the appropriate level. Feuerbach the BoH has the authority, the ConCom is supposed to fall in line, cannot leave it to the ConCom; need a level. LC says all we want is to clear the culvert. TC ConCom can make specific requirements. Jim DeCoulos states that the water level is under purview of BoH as much separation distance from bottom of system and this Board do make an elevation and he wants it to say invert of the pipe. TC states that there are times when there are no blockages and that water is still above inlet. DeCoulos states that pipes are supposed to be sized to 100-year storms. TC asks DeCoulos if he believes the pipe is sized properly, DeCoulos is not sure. John Degnan wants to clear the inlet of beaver related debris and that the nuisance is lack of separation. The Health Agent states that existing elevation does not use Title 5 of four foot separation distance, can pass a Title 5 Inspection, on an existing system, with groundwater just below. Also, the Agent recommends that a sanitary tee be placed on top of the existing Seguin well that is underground.

TC discusses the timelines and should start when ConCom acts for the start of the Order.

John Degnan discusses height of creek everything works fine when you can see the pipe. It is going to clog again. John Degnan states that this is an emergency situation and we are voting on that and otherwise, he and the BoH suggest a road association to work together.

John Degnan states that an Order is issued to clean to the bottom of the pipe and work to be done.

GA requests the elevation of the nuisance be set relative to the Seguin's septic system. Feuerbach interrupts. John Degnan states that that is not our current concern. Flow restriction of the culvert is the issue. LC states that it will be up to Allard if he wants to use waders or an excavator. The BoH is not going to set an elevation; if the culvert gets blocked again the water will rise again. Need a long-term solution. Mrs. GA wants a level set to get a beaver deceiver to work. LC requests we all work together with the Massachusetts Division of Fish & Wildlife and ConCom for a solution and they all will get t-shirts. GA asks if he brings his excavator and clears it down, then it flows, then it gets blocked up again, then what? John Degnan states that however in the long-term you solve the beaver problem. Our concern is the narrow band, LC we will be happy to work with you. GA again asks to what level does the water need to be lowered? It is noted that the nuisance benchmark is not the elevation related to the septic, but the overall impact of the blocked culvert.

PF asks that within 14 days Allard submit a long-term plan and that there is a history of Allard's agreeing to do something and not doing anything. LC states that beaver experts are the best ones to determine the level. PF states it needs to be ordered. DeCoulos states that he is a professional engineer and has done it a long time; he wants the elevation to the maximum elevation. John Degnan said it shall be cleared; the water level shall seek its own level. DeCoulos wants the water to be at invert. John Degnan states that that is not possible, as water will flow through and seek its own level. Decoulos wants bottom of stream bed to meet the elevation of the inlet. LC states to keep it simple. John Degnan makes a Motion for an Order to abate nuisance because of health safety and to require Allards to clear to elev of debris so that culvert is free to flow; to begin within ten days, after ConCom approval then to be finished within 30 days. Feuerbach questions the maintaining the elevation aspect? BA has issue. He could clear it and it could come back. [Cross talk among participants, not audible]. PF recommends adding "and shall remain clear". TC discusses, will that encourage a long-term solution? How would BoH enforce that? Would you issue fines? LC "and shall remain clear" would encourage Allard to come up with long-term solution, and habitually same thing happens, saw some things on the internet that are longer term solutions. We will work with them jointly. GA says it is ludicrous that he will get help from his neighbors when the order is solely his (responsibility) LC we will need help for long-term proper design. John Degnan amends motion to add "and shall remain clear." LC feels this will address the long-term issue. John Degnan move the question, vote APPROVED (3 – 0). [Total discussion time approximately 2hrs 20 minutes].

Agent's Report: Review status and updates:

- Sal's & potential new Sturbridge Seafood; (Critical violations documented at Sal's and oversight of staff is critical shortcoming. The outside grease trap must be evaluated for size.
- Lola's,
- OSV banquet room addition to Oliver Wight tavern,
- Cups & Cakes new establishment,
- Kaizen complaint, awaiting inspector's report,
- Cinemagic (plumber for CineMagic came in for a plumbing permit, but the BoH does not have any application yet, which must show kitchen facilities and associated plumbing, which

the Board of Health must approve. The Agent has documentation that the Board of Health application was sent to the applicant.

- Pioneer Brewing, Todd Sullivan telephone and email message discussion relative to an inspection at his facility at which the “kitchen” was found to be in unsanitary conditions and Chili Fest is not allowed per DPH State guidance. Mr. Degnan stated we spoke to the bartender and the brewmaster. We identified ourselves and we were given permission to conduct the inspection. We did not ask and questions of these staff people. Mr. Degnan explains the atrocious conditions existing at the old kitchen area and the cold room. This area was not approved for food preparation or holding. Ms. Cocalis stated that we are not obligated to warn people of our spot inspections. The Pioneer brew master said that the ChiliFest is cancelled and that the old kitchen will be renovated into a “Proshop.” Mr. Degnan signed the Order closing the kitchen and the employees should not use the unsanitary area and that bar snacks (bags of chips) should be moved to a sanitary and secure place in the bar area. The Agent thanks Mr. Degnan for his help and she confirms the regulation allowing inspections, 105 CMR 590.013(d) and FC 8-402.11, no prior notice required. The Chair asks about the ChiliFest, the Agent stated that a written policy exists from the state Department of Public Health for no home cooks allowed for potentially hazardous foods, and that would include chili. We would work with them on permitting their event if the chili was made at a certified licensed kitchen.

Pools – no application from Sturbridge Heights, ADA requirement extended 60 days – that is under Building Inspector. No time for trash complaints. No housing complaints this month. Reg2 & emergency preparedness - Mr. Degnan forwarded info regarding suspicious white powder and it was forwarded to the Police Department.

Interdepartmental Reviews: 61 Bennetts Rd., nothing received yet; CineMagic LC is it at Planning? Agent, they, Planning Board, already approved. It is at Building and Health level now. 36 Goodrich Rd. well permit re-assigned to another contractor. Sewer repair at Empire Village.

DEP inspection and letter relative to water system at Roy Rogers’s restaurant. The Agent has been alerted to the septic system which was pumped more than four times, and meets the failure criteria. Upon further review, there is an unusually large tank that cannot be accommodated unless it is pumped in frequent transports by the septage hauler. More research is required to evaluate the efficacy of the existing system.

Hyland Orchards - Administrative Consent Order pending with Underground Injection Control (UIC) Division of CERO DEP for the release of brewery waste & drainage to the groundwater and ground surface.. BoH agreement – they, owners of Hyland and their attorney, indicated that they would pump out their septic tank on a monthly basis; the Board of Health is not getting documents. LC is concerned about the UIC issues at DEP, John Degnan makes a motion send a letter reminding them Hyland of their agreement to pump monthly or we take enforcement. LC it is their responsibility that they make sure that we get the reports.

Meetings and Education. Agent attended DEP workshop reports hearings for changing Title 5 which would put more burden on the local Board of Health. If there are hearings, let John Degnan know. Agent attending the On-site wastewater Conference Apr 3 – 5, (which occurs regionally, once every two to three years) and the Apr 10 DPH Community Sanitation Annual workshop.

Lynne met with tattoo representatives for the Annual show. Need corrected fee. It is March 30, 31, April 1. Today is the 19th; we need the correct fees to be submitted. Two or three nurses will be available to help with the required inspections.

Landfill engineering. LC spoke to CME about the whole engineering thing. Should work towards what it is going to cost, to make any necessary corrections and on-going costs. We need to look at original proposal about what we want and what we expect and have them come in; unless BoS and DPW bring in new person, there is no sense in bringing in engineering, unless a person is there – dedicated to the proper grading and operation and maintenance of the landfill. John Degnan states that the engineer should tell us what is going on. LC doesn't have any issue with CME, they know our landfill. Re: Southbridge landfill - we need to think about our well location for groundwater testing and that is a separate issue. John Degnan states that CME said that new cell would reduce leachate, and leachate skyrocketed. LC is in our best interest to have CME scheduled at next meeting; she states that "I talked to him about ideas and grading and never will be lower than before because of valve and now it is turned off. Now it was orig for when it was empty and can take away runoff but not when garbage goes in." John Degnan said talked to sanitary engineer who mention potential reason of skyrocketing leachate could be breach of liner and groundwater issues. LC asked CME that question and he (Wayne Bugden) told her that there would be evidence. CME thinks overland grading and diverting is the answer. Let's bring them in. Leachate removal bid was awarded by J & M from Rhode Island. Shaun has the paperwork.

Budget follow-up. LC and AR met with Rich Volpe, who is our FinCom liaison. Discussed FinCom's questions about Recycling Center and the Landfill. 359 tons that is MSW only that wasn't correct number to use as a handling number. Take into account 340 tons of solids from WWTP from lagoons and it is an allowable use. It is solids, not sludge. John Degnan asks if the combination of the MSW and Recycling Center materials bring us above cap level. LC states we are still way under the level of tonnage. That's all diverted at the Recycling Center. Kevin from the FinCom was looking at E. Hartford CT, per capita and tonnage; their situation is dissimilar to our situation. John Degnan was asking about methane. No, not 500 tons for methane reporting. Dialogue of what it take to close the landfill, and LC verified with CME: there are certain costs that will not go away, such as leachate, well monitoring, etc. All other costs, such as staff salary for John Booth who is partly a DPW employee, would simply move to a different cost center, but would not go away. Richard will put all of this information together and he will forward us what he is going to submit to Finance Committee. It was a very useful and productive meeting with Mr. Volpe. We wish to work with the FinCom.

Interdepartmental reviews. 18 Birch, 49 Main St., commercial, 179 Main St., (old Rom's) expansion and 502 Main St. parking lot.

Correspondence: Animal Inspector, Ron Komar, John Degnan motion, BA seconds APPROVED (3-0). Forward paperwork to Ron Komar. Reviewing minutes, put in abeyance.

Meeting adjourned: 10:12pm
Respectfully submitted,
Alyssa Rusiecki
Health Agent