

**MINUTES**  
**BOARD OF HEALTH MEETING**  
**Monday, October 21st, 2013 6pm**

Members present: Linda Cocalis, Daniel Chaput, and Richard Volpe. (Mr. Volpe attended partial meeting).  
Health Agent Alyssa Rusiecki.

The meeting is called to order at 6:00 pm.

**Hearing: Thai Restaurant, critical violations – Pan Chanthavong, owner**

**Inspector's Report**

Inspector Kate Pollender visited the Thai Restaurant on October 15<sup>th</sup> to follow up on a phone complaint which was received a few days earlier. Upon entering the restaurant she was unable to speak to anyone in a management position and there was a language barrier preventing her from discussing the violations observed. Multiple violations, including some critical, were found. Ms. Pollender attempted to arrange another visit in which she could discuss her findings with someone in authority. Wednesday, the 17<sup>th</sup> was the planned date, but no firm arrangement was made. Ms. Pollender and Health Agent Alyssa Rusiecki did visit the restaurant on Thursday the 18<sup>th</sup> and found numerous re-occurring critical violations. Food was found out of temperature. There was cross contamination and utensils were stored in water in between uses – not a sanitary condition. Cleaning rags were found out of sanitizer. A cutting board was found to be in need of re-planing and sanitizing. The deli unit was left open which put the foods inside in danger of being out of temperature. Ms. Pollender showed those present a photograph of food being stored in buckets, not their original containers. Contents of one bucket was tested and found to be out of temperature. There was also a potential fire hazard from towels being left up against the oven. Chicken was found located above other foods in the cooler, without proper containment, potentially leaking down upon them, creating another critical violation.

Ms. Cocalis asked Mr. Chanthavong to describe any corrections that have been implemented. He stated that all suspect containers have been thrown out. He has purchased 40 boxes of professional containers. Contents have been sorted and labeled. Chicken is sorted and labeled in different location now, away from vegetable containers. All condiment containers are now kept closed until needed. He also stated that all towels are gone from the oven area and kept, sanitized, in buckets. Mr. Chanthavong plans to meet with a consultant to discuss other needed improvements.

Ms. Pollender then stated that no one at the restaurant was able to say what specific sanitizer was being used or what the protocol for use might be as well as protocol for testing for correct concentration. Mr. Chanthavong stated that his consultant would be instructing the staff in these specific matters as part of the improvement program. Ms. Pollender was reassured that the picture of what appeared to be shopping bags used as containers were actually food grade containers. She was pleased with most recent photos taken which showed almost all food in closed containers. The issue of cross contamination still was of concern to the Agent and Ms. Pollender. The containers remain in sight were questioned by Board members as to their contents. Mr. Chanthavong stated that they contained salt, pepper, peanuts and oil. Raw proteins still remain in proximity to garnishes. Mr. Volpe and Mr. Chaput both urged the relocation of the garnishes. Mr. Chanthavong is considering putting a rack in the middle between the two stations. Ms. Rusiecki stated when asked, that she had visited the restaurant on a previous occasion but not at a time when food preparation was in progress. All present agreed that moving garnishing materials to the side would prevent the hazard of cross contamination. Ms. Pollender stated that an amount of pre-cooked chicken in the garnish area was tested and found to be at 50 degrees – clearly out of temperature – in the “danger zone.” She suggested, being aware of space limitations, that a little area be created for final prep of dishes just before going to the diner. She urged that a new location be found for the condiments and though she was told that this might be difficult, maintained that there was a real necessity for this re-location. Ms. Cocalis asked whether a thermometer had been installed in refrigerator. She was assured that one had been put in place. A broken extension cord was replaced and a crockpot was replaced.

Ms. Cocalis also stated that Mr. Chanthavong must have a manager on duty at all times who would be able to speak to inspectors on the owner's behalf. Mr. Chanthavong stated that he does, indeed, have three staff members who are qualified and will be sure to have one of them available for each shift. He specified that Joyce is ServeSafe trained and would be most capable of responding in his absence. He explained that she also had authority in regard to the other employees. Her orders would be followed. Kate Pollender then asked about whether cleaning contractors had been contacted and was told by Mr. Chanthavong that they had. They had even been paid by him for their services. In response to Ms. Pollender's comments about a top to bottom cleaning being necessary, Mr. Chanthavong said that this process was to commence. Hood cleaning is done by his contractor every three months. The need for pressure washing was discussed and Mr. Chanthavong agreed that this will be done on a regular basis. When asked for the name of the

consultant that was being hired, Mr. Chanthavong gave the name of John Seto. No specific date for his meeting has been established but he did promise to call the BoH office to inform them of the meeting and its outcome.

To conclude this matter, Ms. Cocalis requested that Ms. Pollender make one more visit to follow up and report about corrections and general status of the sanitary conditions present at the restaurant. She also questioned whether Mr. Chanthavong should be charged for this 3<sup>rd</sup> visit. It was determined in conversation that a charge is levied on the third visit. Ms. Pollender will compute her hours and get a final figure to the Board for billing.

Mr. Chaput asked at this time about the nature of the complaint that had been phoned in. Ms. Pollender stated that the caller complained of a foul odor, general uncleanliness and mentioned that a restaurant employee was seen in the rest room failing to adequately wash hands before leaving.

Ms. Cocalis concluded this discussion. Ms. Rusiecki asked Mr. Chanthavong if he needed to close his business for the cleaning process to take place. He stated that much of the work has already been accomplished. Ms. Pollender said that she would return to the restaurant and do an inspection to see if the cleaning has, indeed, been completed. The necessity of a self-closure would be discussed during her visit.

**242 Cedar St.** Gary Kelliher, owner, of an existing single family dwelling at 242 Cedar St., with an Outdoor Wood Burner Boiler, (OWBB). Mr. Kelliher is selling his property and is requesting a retroactive OWBB Permit. The Board welcomed Mr. Gary Kelliher. This boiler was installed prior to the Town having its own local Board of Health regulations for OWBBs. There are now State regulations, but at the time of installation there were no local restrictions. Ms. Cocalis, agreeing with the Town Administrator stated that she felt that it is improper to retroactively expect compliance for a unit installed before the Board's creation. She added that though local town regulations cannot be applied retroactively, despite the language requiring such in the local regulations, according to Ms. Cocalis, State parameters must be followed. The boiler recommendations for operation must be followed for proper performance, including proper installation of chimney stack. Ms. Cocalis stated that the new State requirements must be met, but the manufacturer's requirements have to be followed first and foremost. Mr. Kelliher said that he made every effort at the time of installation to learn of any local requirements, and finding none, followed manufacturer's instructions. He did read that if the boiler was within 50 feet of a residence not being served by the unit, the stack would have to be two feet higher. He stated that he is in total compliance in this matter. His unit is 73 feet away from any other residence. He also stated that he feels "mistreated" as a resident and was forced to pay \$150 for a permit that he really did not need to obtain. He is selling his house and the buyers have requested a permit for the wood boiler and later abandoned this request. However, it was Mr. Kelliher's choice and request to obtain a retroactive permit and the Agent states that she was following the regulations as they existed. The Board members agreed that the local regulations should be remanded back to State regulations. State regulations and DEP requirements detail minimum distances for construction and use. Ms. Cocalis and the Board agreed that Mr. Kelliher's boiler is in compliance, because there were no regulations in place at the time of installation, and that following the current local regulation, which stated that any installation after the promulgation of the local regulation shall comply with said regulation, is unjust. Ms. Rusiecki recommends that the Board vote to rescind and to refund Mr. Kelliher's check for \$150.00, if that is what they so choose. The Board agreed that the fee could be refunded. Mr. Chaput made the motion to initiate a hearing to study the possibility of rescinding regulations in regard to the State Outdoor Hydronic Heaters. The motion was seconded and APPROVED (3-0). The hearing will be placed in the upcoming agenda. Mr. Chaput also made a motion to draft a letter stating that Mr. Kelliher's OWBB is in compliance with regulations for 2008 when it was installed. Local regulations are put into abeyance for Mr. Kelliher's case. The motion was seconded and APPROVED (3-0). All individuals present express a desire to apologize to Mr. Kelliher for any misunderstandings that took place at any time prior to tonight's meeting.

**5 Goodrich Rd., Randy and Juliana Larson, (*not present*), Mark Farrell, designer – septic upgrade, (LUA) – 100 ft. to own well**

Mr. Farrell pointed to plans' existing dwelling and driveway. The well is centrally located, with ledge all around. He is seeking an upgrade to 85 feet from the well to the leaching field, (soil absorption system) to accommodate present conditions. There is a small pocket of soil that he wishes to utilize for a new well. Ms. Rusiecki stated that relative to the well offset recommends that the Board approve Mr. Farrell's request with the provision that thorough water testing, in accordance with Title 5, 310 CMR 15.303(1)(c)4(nitrates and fecal coliform) within six to twelve months of the installation of the soil absorption system (SAS), be done and reports submitted to the Board. Failure of the water test shall result in remediation required, including but not limited to a new well being installed. Ms. Cocalis requested a motion to accept the request for variance. Mr. Volpe made the motion, stating that the provision of water tests being presented between 6 months to a year from the SAS installation date. Mr. Chaput seconded. The motion was

APPROVED (3-0)

**Mark Farrell: Discussion local septic bylaw, (existing from 1987) – not advertised as a hearing**

Septic bylaw issues – Ms. Cocalis introduced the topic by asking Mr. Farrell what current bylaws he believes should be changed and why. Mr. Farrell stated that the Town of Sturbridge initiated standards that exceeded the requirements of Title 5. He detailed perc limits for testing to between November 1<sup>st</sup> and May 31<sup>st</sup>. These perc results were valid for two years only, after which is retesting is required. Mr. Chaput and Mr. Volpe asked about State requirements in this regard and were told that there was no expiration on perc results, nor a season limit for testing. Another issue was that the Town of Sturbridge requires 50% larger capacity for over-design than does the State. Some setback limits are increased beyond the State's as well. Mr. Farrell said that he feels that the BoH inherited outdated requirements on the premise that changes were coming. Title 5 was revised but Town limits remained the same. Mr. Chaput asked Ms. Rusiecki's opinion on perc testing season limits. She said that the limits might be modified perhaps, with no new testing done in June, July or August. She said that any testing was of course, in regard to new construction only. For upgrades, the Town is following Title 5 regulations at this time anyway. The Board and Mr. Farrell agreed that no changes could be made at this current meeting. Ms. Cocalis stated that a hearing must be called to effect any change. Mr. Chaput remarked that he can see the validity of having an actual perc test season. Conditions which exist in March and April may present holes filled with water that fail to recede, where the same hole dug in July or August would present an entirely different result. Mr. Chaput asked if soil study might reveal the location's actual water history. Ms. Rusiecki stated that it might. Mr. Farrell stated that Sturbridge is probably the only town locally that still uses a perc season. He said that it is an inconvenience for new home buyers. In cases where a high water table is known to exist he suggested building four feet above this level as a standard. In regard to expiration of perc testing results it was agreed by all members of the Board that soil conditions do not change significantly in this regard and repeat testing is not necessary as a general rule, but no decisions can be made tonight.

The next issue discussed is the local 150% over-design requirements. The Board discussed the meaning and value of this allowance in building construction and septic areas. Ms. Rusiecki stated that permitting limits prevail for specific applications. She explained that variance requests do not consider the over-design factor but act upon what actual usage the building plans described. Increased setbacks were discussed and Mr. Farrell stated that he had trouble locating actual Town requirements on the website. Mr. Chaput promise to correct this since he has been helping the Board with the website. Mr. Farrell went on to say that Town limits such as distance from wetland construction is 100 feet, whereas Title 5 requires only 50 ft. Ms. Cocalis speculated on various reasons that the disparity exists and stated that a hearing should be initiated at which townspeople can discuss the specific limitations. Septic tank size was set in the early 1990's per Mr. Farrell. The current requirement is 1500 gallons, both Town and Title 5 (amended in April 2001). Ms. Cocalis stated that the desired hearing should be scheduled outside of Monday evening events. Ms. Rusiecki stated that meetings in regard to Title 5 must be advertised to the public in newspapers. Ms. Rusiecki does not advise blanket rescinding of Town regulations. Ms. Cocalis requested that Town and Title 5 regulations be gathered for Board review and comparison. She asked Ms. Rusiecki to provide these regulations, emailing to each Board member, at a future date. State regulations, Mr. Farrell stated, are readily available at the State website. Ms. Cocalis stated that the Board and Agent will review the local regulations for future hearings.

**Mark Farrell: Follow-up I/A systems O&M conditions.**

**Mark Farrell concerns about office hours.**

Mr. Farrell asked about scheduled office hours for the Board of Health and did not see this issue listed on the agenda. Ms. Rusiecki explained at Ms. Cocalis' request that the Innovative/Alternative System plans for operation and maintenance have been requested of Mr. Farrell several times, in writing, for four locations. Since Mr. Farrell was not aware that this I/A system issue was on the current meeting agenda he was not prepared to discuss it and would prefer that it be added to the next meeting instead.

Ms. Cocalis asked Mr. Farrell about the locations listed for this meeting's agenda. Ms. Cocalis stated that there was one question for Mr. Farrell that she would like answered presently. She wondered if the home owner had any responsibility in providing system information to the BoH. Ms. Rusiecki then stated that since Mr. Farrell is the designer, he must initiate providing data on these systems. Operation and maintenance details as well as annual reports must be provided to the BoH. Ms. Rusiecki went on to say that Terra Filter RSF systems are unique to Mr. Farrell's company and logically he would be the one to provide information in that regard. Again, it was decided to put this issue in abeyance until the next meeting and to address Mr. Farrell's agenda question regarding BoH office hour schedule. Mr. Farrell requested that Ms. Rusiecki have a schedule of office hours posted for the convenience of engineers, designers and the general public.

Ms. Cocalis stated that she believed coverage was present daily from 9am to 1pm. and Ms. Rusiecki stated that she is always happy to make an appointment for specific service to those who require her presence. She stated that she is typically present in the office between 8:30am and 10am daily. Mr. Farrell spoke of the necessity of firmly scheduled hours, perhaps from 8am on for at least an hour or more. Mr. Farrell reiterated his feelings about the need for published hours and Ms. Rusiecki's availability in the BoH office. He stated that between 8:00 and 9:00AM would be helpful for designers and installers to confer and also for those same individuals time at the end of the day would work well. Ms. Rusiecki states that she is in and anyone can call the office to check if she is in, and not out in the field or at a meeting. The office staff can also assist in making appointments to meet with Ms. Rusiecki and to advise when best to see her in a typical day. They can also pull files for Title 5 inspectors, and perform other tasks for the public such as providing recycle stickers. Mr. Farrell described difficulty in getting perc tests scheduled, stating that it can take up to a month to obtain a specified time. He again hoped for specific times to see Ms. Rusiecki so that his work can be scheduled. Mr. Volpe asked about the perc test application process and Ms. Rusiecki explained that an application must be completed, date stamped and required fee received in at the BoH office. The application is then routed through the Conservation Commission and the Planning Board. Mr. Farrell feels that these steps are unnecessary. Ms. Cocalis agreed that there is the need for streamlining the application requirements. She also mentioned that Mr. Farrell might walk this paperwork through the other Departements himself for increased speed of resolution. Mr. Chaput suggested at this time that this matter might also put in abeyance for further discussion at a subsequent meeting. Mr. Farrell, again, demanded specific hours for Ms. Rusiecki's availability. Ms. Cocalis suggested a one day a week dedicated time for conferring with designers and engineers. Mr. Chaput suggested a weekly posting of availability. The Agent will come up with some ideas and the matter will be discussed at a future meeting.

Ms. Rusiecki asked Mr. Farrell if one currently pressing matter could be addressed before he was to leave. 17 Glendale Rd., she stated, was a particularly difficult site evaluation. The soil showed a significant amount of aggregate, and thus may not even meet the requirements for the definition of an allowable soil under Title 5. The perc went too quickly and the Agent feels that the soil itself presents a need for an innovative/alternative system; a treatment device, particularly. She suggested that Peter Fletcher, State soil scientist, come out to review these findings and make suggestions. Mr. Farrell is unhappy that the Agent would make these suggestions and stated that too many instances such as the one just mentioned have been initiated. He stated that these investigations are costly and time consuming. Ms. Rusiecki defended her decisions by saying that her concern is for long-term solutions to difficult on-site wastewater issues, and that, in some cases, systems that pre-treatment of the wastewater prior to final dispersal can help with longevity and public health compliance. Ms. Cocalis then went on to question the necessity for calling in specialists in cases of this nature. Mr. Farrell stated that he is a very cautious designer and uses a 10, not a 3 minute rate. He allows double at least what is required. Ms. Rusiecki questioned the perc test having been conducted at all, saying that such a test was not appropriate for those conditions and has effectively given a false positive, and false hope to the owner of the property. Mr. Chaput stated that he understands the issue was that the soil wasn't reacting properly and would not filter contaminants due to the presence of aggregate, which makes the soil appear to be more porous that it really is. Ms. Rusiecki again stated the possibility for an IA treatment system at this location. Mr. Volpe asked if another perc test is necessary. Ms. Rusiecki said that she IS concerned with the findings at this location and would appreciate another expert's opinion. Ms. Cocalis expressed the need to explore both sides of this issue. Mr. Farrell prefers a gravity system with no pumps present because it is less complicated and less costly. He does not feel the need for additional (I/A) treatment as Ms. Rusiecki suggests is appropriate.

The discussion ended. Mr. Volpe exits the meeting at 8:37pm. All votes from this point on are with two members voting.

#### **Old Business:**

**Hyland's Orchards update** - A new perc test is required. Plans must be evaluated, per Ms. Rusiecki. The property owner does not wish to comply with requirements based on potential usage, only on that which is approved for volume draw of the public water supply, 2000 gallons. Ms. Rusiecki stated that the plan review is almost complete and she will discuss the usage potential with the engineer; use of water volume is related, but not correlated to sewage capacity.

**181 Shepard Road** - Copies of paperwork were passed to Board members – this is a dissenting Title 5 report by Rob and Ron Barnes on October 13, 2013 meant to dispute the last failing Title 5 report by LeBlanc. The inspector (Barnes) originally noted 2 bedrooms but plans show this number changed to 3 bedrooms. The occupant does not wish to comply with deed restrictions as set forth in Title 5 State regulations. Additionally, the Barnes inspection Report is incomplete (system location and groundwater). Ms. Rusiecki stated that no file review was completed according to notes

in the file. Ms. Cocalis suggested contacting the inspector (Ron and Rob Barnes Sanitation of East Brookfield). Ms. Rusiecki said that this property would not pass Title 5 requirements. Leaching pits were surcharged on 5-13-09. R. Barnes stated that the property did, indeed, pass inspection. Ms. Cocalis inquired if system failed. Private Inspector Russ Leblanc had stated the system had failed, Ms. Rusiecki suggested informing the property owners of this failure (ground water levels not in compliance with regulations). Mr. Chaput stated that Barnes Sanitation must be told that the inspection form is incomplete and is inconsistent with other documents currently change in number of bedrooms. A motion was made to send this notification, by Ms. Cocalis. The motion passed on file with the BoH. It must added that the passing result is not accepted. A motion was proposed to send this notification. It was seconded and APPROVED (2-0) to not accept the Title 5 Inspection from October 13, 2013.

**New Business:**

Health Agent's performance evaluation: Ms. Cocalis stated the need for evaluations. She received forms from the Town Administrator. Mr. Chaput is also working on this task and enumerated specific duties that must be included in the evaluation. Both Board members agreed the ratings will likely be "meets or doesn't meet expectations, exceeds expectations". Ms. Cocalis mentioned timely submittal of minutes, attendance at approved conferences, and time management also as elements to be evaluated. She then mentioned possible methods of improving time management such as some ideas put forth in the discussion with Mark Farrell. Ms. Cocalis went on to request that Ms. Rusiecki come up with some ideas about time management as well. She suggested weekly updates on requirements met, such as reports to DEP, be shared with the Board. Ms. Cocalis stated that expectations for Ms. Rusiecki are twofold: what management (the Board of Health) expects, and what the public expects. She went on to say that good time management reduces stress. She also stated that improved communication would be something desired. Ms. Rusiecki agreed. Ms. Cocalis went on to say that better notice is needed in regard to taking time off. She mentioned a specific upcoming date, saying that she had not been informed in a timely manner. Ms. Rusiecki reminded her that the day off in question had actually been on the roster for a couple of months, and reported in the Agent's report, without question. Ms. Cocalis noted that this day off comes after a two day conference. She said that Ms. Rusiecki often seems stressed coming back to the office after a span of time such as this. She stated that perhaps Ms. Pollender might be able to attend some of the conferences as a backup. She also said that attendance at each and every conference really was not required. Ms. Rusiecki said that she does not attend all scheduled events at all, and in the future she will reduce the training she attends, potentially experiencing a shortfall of state mandated annual Continuing Education units for her certification as a Sanitarian, Soil Evaluator, and System Inspector. Ms. Cocalis added that while she does not wish to decide which conferences should be attended, she does want some moderation be exercised in number of events to attend. Ms. Cocalis then stated that more notice is needed for desired time off. A discussion began concerning leaving early. Ms. Cocalis stated that everyone else does not have the opportunity to do this as Ms. Rusiecki has. Ms. Rusiecki then stated that in response to the Town Administrator's desire to eliminate whole days taken as comp time, she felt it appropriate to leave early such as an upcoming Friday on which she must meet a repairman at her home. She stated that she only has 5 hours of comp time left, and the amount of "benefit" time in question is negligible.

Ms. Cocalis asked about the status of a bill from Harrington. Ms. Rusiecki mentioned a meeting with Myrna, the regional TB nurse, in regard to state funding and will be meeting with her again next week. This issue was not on tonight's agenda and shall be put in abeyance.

Ms. Cocalis mentioned the need for a hearing in regard rescinding the use of outdoor wood burning units. She feels that there is a need to advertise this upcoming meeting. Mr. Chaput said that a preliminary agenda could be posted which could always be revised prior to the meeting. It was agreed to put the matter on a future agenda.

Meeting adjourned time 9:25pm

Respectfully submitted,

Alyssa Rusiecki,  
Health Agent