

Town of Sturbridge, MA
Board of Health Meeting
MINUTES
November 18, 2013

Members: Linda Cocalis(LC), Chair; Daniel Chaput(DC); and Richard Volpe(RV).
Health Agent: Alyssa Rusiecki

Member of the public present: Linda and John Seguin, 35 So. Shore Dr.; Gary and Peggy Allard 31 So. Shore Dr.; Kathleen Pikal, observer from Palmer; Doris Smith from 82 So. Shore Dr; and Peter Mimeault from 76 So. Shore Dr.

The meeting is called to order at 6:01pm.

Chairman Linda Cocalis stated that she received and printed out a letter from Gary Allard at 31 So. Shore Dr and a letter from Mr. Allard's consultant, Mike Mocko, RS.

Agent's report: Inspector Pollender called the Department of Public Health (DPH) for a clarification of whether the "Sweet Kiwi" product requires monthly bacteria testing; DPH staff informed us that it only needs testing if it is dairy based. The ingredients do not list dairy, so we were referred to Ellen Fitzgibbons, State Dairy Division, who stated that the product could not be called "yogurt" if there is no dairy ingredient in the product. Ms. Fitzgibbons will follow-up with the owners.

Septic upgrade approval letter for 17 Mashapaug Rd. sent utilizing Chairman Cocalis's signature based on the vote of the Board, previous meeting, to discount the Agent's soil evaluation and groundwater determination at five feet below the surface to utilize consultant Mark Farrell's groundwater determination at six feet below the surface instead. The Agent explained that she has nearly 30 years of professional experience as well as a higher education degree (Master's degree in Soil Science) and certifications to maintain, and that in her experience as a Soil Evaluator, if there were ever a disagreement in the field, then a third-party soils expert has been brought in to double-check and mediate the site and soils conditions. Ms. Cocalis stated that she didn't think that one foot difference was that significant. The Agent stated that due to the rapid porosity of soil and rapid travel time, that Ms. Rusiecki felt that one foot difference would be more significant than not, given also, the fact that the well is located less than the required 100-feet to the soil absorption system. The Board will consider bringing in a third-party reviewer if the situation arises again.

The Agent stated that an alternate engineer offered to perform the landfill inspections, as he had done them in the past. Ms. Rusiecki will follow-up. Ms. Cocalis asks about the landfill emissions report that was done by Tighe and Bond previously. Ms. Rusiecki states that she has been told, by DEP staff, that the landfill does not meet the threshold for reporting, therefore no further report on emissions is required.

The Agent states that GeoTMS is the product chosen for permitting tracking software, but that it will cost \$2,000 to get the Board of Health data inputted. Since there is no funding in the Board of Health budget for this, we will reconsider our use of GeoTMS. It is going to be a lot of work to get all of our annual data inputted.

Review of local Sturbridge Board of Health regulations for private drinking water wells: Mr. Chaput states that he will review the project and break out tasks for the revision. Ms. Cocalis states that there are no signatures on the regulations. The Agent states that she believes there is a signed copy from 2001 in the office.

Old Business: Hyland Orchards, (195 – 199 Arnold Rd.) septic system update: The Agent states that the Building Inspector's office will require a plan of the new bathrooms, but they have yet to receive any such building plan. If the septic system cannot be built this year due to freezing weather (frozen ground as well as the inability to obtain properly double-washed stone for the large soil absorption system area), then the Agent recommends that an enforceable agreement be put into place with deadlines for the installation of the septic system in the spring of 2014. Until then, no facility, business or event shall be licensed by the Board of Health. We are awaiting a response from the owner, Mr. Eugene Damon.

Pioneer Brewing (tenant of Hylands Orchards owned by Mr. Damon) and **“Rapsallion” Brewing** have been the subject of an inquiry from the Board of Selectmen regarding ownership. Shaun Suhoski, Town Administrator has written a memo regarding this issue (attached). See above, no permit shall be given by the Board of Health until details are worked out regarding the installation of the appropriate number of bathrooms and the timetable for the installation of the new septic system. Mr. Chaput notes that all of the “Rapsallion” business is also operating there.

181 Shepard Rd. There has been no communication from Town Counsel recently. The Agent shall follow-up.

31 So. Shore Dr. follow-up: Ms. Cocalis states that Town Counsel answered Dan Chaput’s questions regarding the addressee of the response to Mr. Allard’s Open Meeting Law complaint. Mr. Chaput knows that it met the letter of the law but that it would be nice to respond directly to the person. Ms. Cocalis states that Town Counsel is representing the Town and the Board of Health and since Kopelman and Paige represents many municipalities, they should be experienced in the process.

Mr. and Mrs. Allard enter the meeting room at this time.

Request for information, from Mr. Allard 31 So. Shore Dr. Ms. Cocalis states that we must give an estimate for preparing a large number of copies with an hourly rate. Regarding the email from Mr. Allard and his consultant, Mr. Mocko, Ms. Cocalis spoke to Mr. Mocko and she repeats the history of the problems at the site relative to the water rising. There is a letter from James and Doris Smith expressing concern about wet basements, their own and others’ (basements) in the area.

LC: Disagrees that two feet wouldn’t change groundwater as noted by Mr. Mocko. Ms. Cocalis asks Ms. Rusiecki if she, Ms. Rusiecki, is an expert in beavers. “No.” Ms. Cocalis asks Ms. Rusiecki, what is your certification, Registered Sanitarian, right? “Yes.” Ms. Cocalis continues that Mr. Mocko is a Registered Sanitarian also; therefore, Mr. Allard should hire a hydrologist.

Ms. Cocalis states that she was at the site with a representative from the MA Div. of Fish and Wildlife (F & W) in May of 2012 and there were sticks and mud from the banking and she thinks it did encourage the beavers. “You told me you were encouraging the beavers,” said Ms. Cocalis

Mr. Allard states that he was “discouraging” the beavers. “I didn’t train them. I didn’t feed them,” he said.

Ms. Cocalis states that the road conditions, can’t say its part of it, but its runoff, holes under the road. Not an issue; it’s about septic, and wet basements.

Ms. Cocalis states that we have a letter from James DeCoulos on behalf of the Seguin’s. The letter was received at 5:10pm today. This is not a public hearing. (A copy of the letter is given to Mr. Allard). Ms. Cocalis reviews the letter, and discusses the water elevations.

Mr. Allard responds, the original Order letter from the Board of Health has never been violated. There is no man-made debris. The water level has stayed the same since the Fall of 2011 when the Town cleared the pipe.

Ms. Cocalis stated that she went there with a representative of the Div. F & W.

Mr. Allard: “When the beavers built that beaver dam it was the best thing that happened.”

Ms. Cocalis: “You said that you were ‘encouraging’ building a beaver dam, with F&W there. So now what is your solution?”

Mr. Allard: “Their attorney Mr. Feuerbach states no factual complaints; he said Seguin system is not in failure.”

Mr. Allard: “The water level is constant.”

Ms. Cocalis: “Their septic and well doesn’t have to fail, just that there is a threat.”

Mr. Allard submits a picture dated May 2011, from Google Earth.

More pictures presented numbered #2, #3, #4, submitted.

GA: "April 2011, 2012, 4/23/2011 shows almost exactly the same water level. What benefit would it be to take the beaver dam out?"

LC: "Is there other beaver dams upstream? What happens to your dam if the water goes up 6 inches? One foot?"

GA: "What is the issue? According to our consultant if the water level goes up two feet, there should be no issues. What is the solution? Where is the science?"

LC: "I asked "Who put hay on it (banking)?" Mr. Allard said I did to stabilize the bank; it was there for a purpose.

GA: "There have been problems with the road and siltation."

LC: "I suggest there be pipes be put through – at invert of pipe. That's the elevation."

MA: "DEP says minimal amount to septic, we want the number. Where is their septic?"

GA: "We would like to know the elevation and get everyone at the table..."

RV: "What or where the is septic? Have engineer give a number of what is being affected."

Doris Smith: "We have lived there (82 So. Shore Rd.) 21 years when just a marsh and culvert blocked up. We never had water in the basement until September 21st and the neighbor's also had a problem. We have a fear of the road washing out and our shallow well being affected. Now there are two dams on the lake side.

Seguin: Mrs. Seguin points to an aerial photo.

Cross-talk occurs – unintelligible.

GA: "Was this after the storm when it went over the road?"

Peter Mimeault (PM) of 76 So. Shore Dr. He states that he was there before the Allard's (were there), before the property was built. Mr. Mimeault relates two points: 1). In September of 2005, he was working outside at his house and he heard a big rushing noise and a big plume of sediment must have let go and it came rushing across So Shore Dr and it created a sand bar. It ran like that for 24hrs. After the sandbar occurred like that, he notified the Conservation Commission at that time and they took some measurements. The sediment is damaging the lake and it is soft and it is not safe for children. 2). In March/April 2012 – people helped clear the clogged culvert (which one?), people put tarps out to push away the silt. He has had engineers at his property. He knows the elevations. It is a watershed. It wants it to flow towards the lake – it brings elevations. Don't fight mother nature. It's being blocked now. It was supposed to go down six inches a day. He's hearing that "it's too difficult." It's under the MA Rivers Protection Act, down the bottom of the river bed(?) supposed to protect two-hundred feet for a million years. Its sixty feet out on a sand bar forty feet wide one foot deep of sediment. "Do you allow beavers to win and they want to go to the river." He fears that the Conservation Commission has thrown in the towel.

PM: "We all pitched in \$60 to trap the beavers, (at some point in the past.)"

LC: "There was a power outage."

DC: "What would you do? Contribute to trap beavers and they will move on."

PM: "We pay extra money to live there, not just property value."

LC: "Also there is concern about mosquitoes, we had a problem in town with mosquitoes. The siltation is a problem."

PM: "There is runoff, the crown of the road, the water 'bangs a U-ee' (ie takes a u-turn) and there are a lot of standing dead trees in the marsh. There was development in the 60s. The Conservation Commission can't enforce health or safety of swimmers."

Mr. or Mrs. (?) "Seguin: it's simple."

RV: "How are you determining that?"

Mrs. Seguin states that it is a perennial stream, shows picture of rainfall, water elevation. Sediment goes over the dam, flushes through the pipe. Shows picture of yellow-red shower curtain, yellow-red stained water filter. "And it smells, it is decomposing," she says.

Mr. S: "And there is a vernal pool."

RV: "Mrs. Seguin, how is your (well) water?"

Mrs. S: "It is brown now. Trees are falling over. This is what happens when beaver dams let go? It took out Rte. 169. If you are overwhelmed with beavers, you seek a beaver removal permit."

DC: "Were the beavers trapped before?"

Mrs. S: "Yes, but (they) can cross over the road. It does affect our property, top of our bank." Mr/Mrs. S reads section 5.5 Riverfront, important to protect the lake. "We never had a water filter issue before this, have been there for thirty-five years."

GA: "Silt plume, a hole washed in the road during a big storm, we need to get a professional to look at the over-all solution."

DC: "Anything about the distinction of the two pipes? The road is a private road?"

LC: "Town has a small fund."

PM: "The Town grades the road twice a year, and they will plow it."

RV: "The dam is doing something but that is not the only issue."

LC: "The Conservation Commission wants the work to let the water elevation be lowered, slowly."

GA: "What are you declaring a health issue?"

LC: "Health and safety and the threat to the environment."

RV: "Silt is another big issue."

LC: "They have an engineer. DeCoulos is an engineer."

GA: "I would have had my engineer here, Mr. Mocko, if I had known."

LC: "Its 8:30pm – we had this same discussion two years ago, we wanted to help you take care of it."

LC: "I saw the problem re-occurring with the dam when I was there with Div. F& W in May 2012. Multiple property owners are being affected – you, Mr. Allard, are not being affected, but other are being affected."

RV: "The Beaver dam is affecting other people's health."

GA: "Is that factually documented?"

RV: "Did the green pools exist then?"

LC: "We aren't at a hearing. We're the ones that decide. It's under the nuisance law. Mosquitoes - her basement; their well, their septic. Lower the water table and see if it makes a difference. People didn't have issues before, so let's see if it makes a difference."

LC: "It is up to us to require you to lower the water table. The Board of Health Order stands, we'll ask the Conservation Commission to re-issue an emergency Order, we'll talk to them. The Original Order and follow up of October 10, 2013 stands to remove the dam. How it is to be removed is up to the Conservation Commission, how they want it to be removed."

DC: "What about the two other dams?"

LC: "Remove them. That's it."

Members of the public, involved in the beaver problem and water problem on So. Shore Dr, exit the meeting.

Agent's Goals: Put in abeyance until next time.

Administration: The Agent reports on office administration relative to employee and sub-contractor status. Finance Dept. said that if it is Ron doing extra weekend and evening work, he has to be an employee. The Agent doesn't agree and states that she knows of many other Boards of Health that sub-contract this food inspecting work. The Agent asks why wasn't Kate an employee when she was doing the work as a sub-contractor? The Agent states that if Ron has to be made an employee doing work under the Food Code then, Mr. Baltazar should be made an employee under the Beach Code. Ms. Cocalis states that she spoke to Town Administrator, Shaun (Suhoski) and he said no, it is not the same. Ms. Cocalis states that she doesn't care.

The Agent states that a vote is required for the Special Town Meeting article to combine the Food Inspecting and Pool Inspecting line items and to ask for an additional \$4,275.25 for a third day of necessary inspecting from this January thru June. There will be a formal request for full-time inspector coverage when the FY15 budget process gets under way. Mr. Chaput makes a motion, Mr. Volpe seconds, (approved 3 - 0).

Concerns of the Members: Ms. Cocalis states that there is a process to working with Town Counsel; we have to ask Shaun (Suhoski) first, he has been very responsive, but there has to be a single point of control and that is the Town Administrator.

Ms. Cocalis states that the DEP inspected our Landfill and Recycling Center and we received an excellent report. There was an electrical repair that needed to be done and Mr. Booth had the work done so there would be no safety concern.

Ms. Cocalis states that regarding constituents, many of whom call her at home, she speaks with them and takes their information. The Board members just cannot go or act as a group which may be seen as a "meeting." Ms. Cocalis said "You may want to be careful in speaking with some, because Mr. Allard has gone after her personally."

Minutes: The minutes are reviewed: 4/1/2013 can be posted as noted; 5/21/2012 previously approved; 10/7/2013 approved with one typographical change.

Meeting is adjourned 9:05pm

DRAFT