

TOWN OF HARWICH



BOARD OF HEALTH

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**TOWN OF HARWICH BOARD OF HEALTH
TUESDAY, JUNE 11, 2019-6:30 P.M.
HARWICH TOWN HALL – DONN B. GRIFFIN ROOM
MINUTES**

BOARD OF HEALTH MEMBERS PRESENT: Chairwoman Pamela Howell, R.N., Vice Chairman Frank Boyle, Members Cynthia Bayerl, Matthew Cushing, M.D., & Ronald Dowgiallo, D.M.D

STAFF MEMBERS PRESENT: Health Director Meggan Eldredge & Executive Assistant Jennifer Clarke

OTHERS PRESENT: Sarah McColgan, Emily Michele Olmsted, Janet & Rick Boudreau, Paresh Patel, Gunvant Patel, Bahechavbhui Patel, Jess Oyer, John Dickson, Nancy Peterson, Chris Spear, JT Eldredge, Andrew & Stella Stenz, Edson Eldredge, John McElwee & others

Recording & Taping Notification: As required by law, the Town may audio or video record this meeting. Any person intending to either audio or video record this open session is required to inform the Chair.

I CALL TO ORDER

Chairwoman Howell called the meeting to order at 6:30 p.m.

II MINUTES OF PREVIOUS MEETING- May 13, 2019

Mr. Boyle moved to approve the minutes of the May 13, 2019 Board of Health meeting, 2nd by Dr. Cushing and approved 5-0-0.

III 6:30-7:00 PM- BOARD OF HEALTH WORK SESSION

A. Review Draft Tobacco Regulations to include a restriction on flavored tobacco products

Health Director Eldredge reviewed the information provided to the Board in their packets, which included a set of sample regulations. The Board needs to decide if they want to include menthol, mint and wintergreen as flavors, or keep them as part of the exemption.

Dr. Cushing stated that he does not think the word “characterizing” should be used in the flavor definition. Health Director Eldredge responded that the term is industry specific. Dr. Cushing followed up by saying that he would include menthol in the restriction, but that it should be called out separately from mint and wintergreen.

Health Director Eldredge reviewed the proposed changes to the regulation.

Ms. Howell noted that she would not be in favor of section q, subsection 3, “in addition to monetary fines...subject to suspension of all Board of Health issue permits for thirty (30) consecutive business days.”

Mr. Dowgiallo asked if the Board would have the ability to cap the number of tobacco permits that are issued in town. Health Director Eldredge responded that the Board could consider it. Mr. Boyle would be in support of limiting the number of permits issued. Ms. Bayerl did not agree.

John Dickson was present who is a teacher at Monomoy. His students have been present at previous Board of Health meetings. Mr. Dickson reported that his students presented their project at a state showcase and won best overall presentation. Mr. Dickson emphasized that they are asking the Board to not recognize exemptions for mint, wintergreen and menthol. The availability of these products is a real problem. He thanked the Board for supporting the students.

Saamil Patel was present. He feels that adding a restriction and possibly limiting the number of tobacco permits will not solve the problem and that it would instead create a street market for these products. Mr. Patel would like the Board to look at why the problem is happening, instead of imposing a ban.

Attorney Jess Oyer from Fletcher Tilton was present. His law firm represents the Coalition for Responsible Retailing. The Food & Drug Administration reports an 87% compliance rate in Harwich. In a report provided to the Board, Attorney Oyer states that there is no legitimate or admissible evidence whereby Harwich retailers can be identified as the source of tobacco products to local youth and there is certainly no evidence whereby Harwich retailers can be identified as the source of electronic cigarette products to local youth. He reviewed the principal reasons that his firm advocates for the Board to not vote in favor of the proposed regulations. Attorney Oyer suggested having a purchase use and possession law be put in place.

Sarah McColgan from the Massachusetts Health Officers Association was present. She stated that the tobacco industry has succeeded in getting another generation of people addicted to tobacco, which has become a major problem. She is asking the Board to look at what they can do to control the problem and requested that they vote to support the revised regulation.

Paresh Patel was present and stated that as an adult and business owner, he is against the proposed regulation. They are aware that tobacco is unhealthy, but it is a legal product which they sell to legal consumers. His business is his livelihood. Banning flavored tobacco in Harwich will not stop the problem and the consumers will go to neighboring towns or purchase products online.

Health Director Eldredge noted that she will take all comments into consideration and bring this back for further discussion at the July 9 Board of Health meeting.

B. FY20 VNA Contract-Review & vote to submit to Board of Selectmen for approval/signature

Ms. Bayerl moved to approve the FY20 VNA contract and vote to submit it to the Board of Selectmen for their approval & signature, 2nd by Dr. Cushing and approved 5-0-0.

IV NO EARLIER THAN 7:00 PM- OLD/UNFINISHED BUSINESS

No old/unfinished business was discussed.

V NEW BUSINESS

A. Hearing-Freeman Ellis Family Realty Trust, Route 28-Definitive Subdivision Plan prepared by East Southeast, LLC.

Chairwoman Howell opened the hearing. Thad Eldredge from East Southeast, LLC was present. The applicant is proposing a definitive subdivision plan which will consist of two developed lots and one undeveloped parcel. The lots will be served by individual septic systems and have town water. This area is not proposed to be sewered as part of the comprehensive wastewater management plan. Chairwoman Howell closed the hearing.

Health Director Eldredge recommended approval of the definitive subdivision plan designed by East Southeast, LLC dated April 1, 2019 with the following conditions:

1. The lots shall be served by town water.
2. Fully compliant septic systems are required to serve the dwellings.

Mr. Boyle moved to accept the recommendation of the Health Director, 2nd by Ms. Bayerl and approved 5-0-0.

B. Show Cause Hearing-Stella & Andrew Stenz, 14 Mill Pond Road-Request for show cause hearing to petition the Board of Health to modify or withdraw the administrative failure order for the septic system. Order letter dated April 30, 2019.

Chairwoman Howell opened the hearing. A new septic system for 2 bedrooms was installed at this dwelling in 1994. At that time, several Town of Harwich variances were required to install the system. In granting the extreme environmental variances, the Board of Health imposed the condition of no increase of square footage to the dwelling. An inspection in 2019 revealed the garage had been converted to a master bedroom without benefit of permits. An after the fact building permit was applied for by the current owner's mother, which indicated that one of the two existing bedrooms would be converted to a den by widening a doorway, keeping a total of 2 bedrooms.

Stella and Andrew Stenz were present. They plan to modify the house to bring it to code, however due to financial reasons, they are unable to do so at this time. They are requesting an extension for the work to be done. Ms. Stenz stated that they understand the house has to remain 2 bedrooms. Chairwoman Howell closed the hearing.

Mr. Boyle asked how much time the owners would need to complete the work. Ms. Stenz responded that they don't know how much time they would need. Mr. Boyle feels that 3 months should be a reasonable amount of time for compliance. Health Director Eldredge recommended that the work be completed by mid-August. She informed the owners that she is available to review what the minimum requirements would be to come into compliance. Mr. Boyle suggested the owners contact a couple of builders for quotes. If the work is not completed by Mid-August, the owners will be called back before the Board.

Mr. Boyle moved to accept the recommendation of the Health Director to allow for a compliance date of August 13, 2019, 2nd by Mr. Dowgiallo and approved 5-0-0.

C. Request from Dennis Harwich Lions Club-Waiver of temporary food service permit fee (\$50.00) for event on July 27 & 28, 2019.

Chairwoman Howell opened the hearing. Janet Boudreau was present and reviewed the request from the Dennis Harwich Lions Club. Chairwoman Howell closed the hearing.

The Board of Health established a policy for waiver of fees in 1997 which stated that to be eligible for a fee waiver, the agency must be funded in part or wholly by Harwich tax dollars. The Lions Club is not one of the agencies receiving funding and therefore does not meet Board of Health eligibility requirements for a fee waiver. Health Director Eldredge stated that the Board does have the option to revise the existing policy. The revised policy should state that if a fee waiver is given, that the agency must show that they are a non-profit organizations and that they give money or services back to the town in some form such as scholarships, programs, etc., which should be equal to the permit fee.

Ms. Bayerl moved to approve the fee waiver request from the Dennis Harwich Lions Club, 2nd by Mr. Dowgiallo and approved 5-0-0.

Ms. Bayerl moved to direct staff to re-draft the policy language regarding fee waivers and bring it back to the Board for review, 2nd by Mr. Dowgiallo and approved 5-0-0.

D. Discussion-Emily Michele Olmsted/Barnstable County- Summary of Phosphorus Treatment in Onsite Septic System Grant Project

Emily Michele Olmsted was present and provided a summary of the phosphorus treatment in onsite septic systems grant project. The goal of the project is to install at least 6 phosphorus removal strategies in watersheds of

freshwater ponds in the Town of Harwich and adjacent towns. This will allow the determination of efficiency of each strategy/technology and the dissemination of results so that the management strategies can be duplicated in other communities with freshwater resources.

Ms. Howell asked what the cost to the homeowner would be. Ms. Olmsted responded that it would be the cost of a new septic system, but she is unsure of all of the costs.

Ms. Bayerl would like to be sure that properties that will be sewerred would not be nominated sites for the project. Health Director Eldredge added that she would recommend that properties in areas that are proposed to be sewerred in the next 5 years, not be included in the project. Ms. Bayerl feels that the public needs to be well educated to be sure that they are not confusing this project with the sewer project.

Ms. Olmsted added that if the Board is open to the idea of being a part of the grant project, homeowners would need to come before the Board to seek pilot approval.

The general consensus of the Board was that they approve of this grant program.

E. Waiver Request for Phase 2 Sewer Area, 1022 Queen Anne Road- Request to continue to use a substandard septic system until such time as sewer is available

Chairwoman Howell opened the hearing. Edson Eldredge was present and reviewed his request of a waiver from upgrading a failed sewage disposal system due to the upcoming sewer installation. This property is located in the phase 2 sewer service area of the comprehensive wastewater management plan. A Title 5 inspection was done showing that the cesspool is operational, structurally sound and does not pose a risk to public health. Chairwoman Howell closed the hearing.

Health Director Eldredge recommended approval of the waiver request with the following conditions:

1. The existing laundry waste system must be re-routed to flow into the cesspool or capped; the steel drum must be abandoned for wastewater use.
2. Connection to the municipal sewer is required within 45 days of the order to connect.
3. No building permits will be approved for expansions or increase of habitable space until connection to the municipal sewer has occurred or a compliant Title 5 system is installed.
4. Should the existing system become a public or environmental hazard, it must be remedied immediately.
5. Conditions to be recorded at the Barnstable County Registry of Deeds.

Mr. Boyle moved to accept the recommendation of the Health Director, 2nd by Ms. Bayerl and approved 5-0-0.

F. Hearing-Edson Eldredge, 1022 Queen Anne Road- Definitive Subdivision Plan prepared by Coastal Engineering Company

Chairwoman Howell opened the hearing. Health Director Eldredge stated that she was notified today at 4:00 by the Assessor that they are unable to give a clean go ahead with this request due to title issues. The Assessor recommended that the Board of Health not move forward with any decisions until the problem has been rectified.

John McElwee from Coastal Engineering Company was present, he was unaware of any title issues but will follow up with the Assessor's department tomorrow. The applicant is proposing a definitive subdivision plan which will consist of two lots. Lot 1 is currently developed with a dwelling, garage and two sheds and lot 2 is vacant. This area is proposed to be sewerred as part of the comprehensive wastewater management plan. Chairwoman Howell closed the hearing.

Health Director Eldredge stated that the Board could conditionally approve this request, until the property has been cleared with the Assessing Department. The following conditions are recommended:

1. The lots shall be served by town water.

2. Lot 1 shall be served by municipal sewer with 45 days of availability.
3. Lot 2 shall be designed with a fully compliant septic system exiting the building on the street side, if installed prior to sewer service. If developed after sewer is available, connection is required immediately.
4. Approval is contingent upon sign off from the Assessor's Department.

Mr. Boyle moved to accept the recommendation of the Health Director, 2nd by Dr. Cushing and approved 5-0-0.

G. Request to amend the approval conditions for 93 & 97 Route 28-Habitat for Humanity of Cape Cod- Request to modify the condition to require the sewer lines to exit the buildings on the street side.

In February 2017, the Board of Health reviewed a proposal to construct 6 new affordable homes on separate lots as part of a comprehensive permit. As part of the project, one condition that was imposed was that in order to prepare for any connection to a sewer system, a sewer line will exit the building on the street side. At this time, the engineer has requested to amend the condition regarding the sewer line locations. Due to the location of the groundwater, topography and location of the dwellings, having the sewer line exit the front of the buildings is not feasible. The engineer has agreed to locate the sewer line as close to the street side of the buildings as possible.

Discussion took place regarding the financial responsibility to re-route the plumbing and building sewers when the municipal sewer is installed in 5-15 years from now. Habitat for Humanity is supplying all construction material and labor now, but will they come back to do this work? It was the consensus of the Board to keep future costs at a minimum for the homeowners and request that plumbing be designed to exit closer to the road.

Health Director Eldredge recommended approval of the request to modify to conditions to restate as follows:

“In order to prepare for any connection to a sewer system, a sewer line will exit the building as close to the street side as possible.”

All other conditions imposed in February 2017 are to remain the same.

Mr. Boyle moved to approve the recommendation of the Health Director, 2nd by Dr. Cushing and approved 5-0-0.

VI REPORT OF THE HEALTH DIRECTOR (May 2019)

Health Director Eldredge read her monthly report,

VII CORRESPONDENCE

Health Director Eldredge reviewed correspondence provided in the Board's packet.

VIII PERMITS

ESTABLISHMENT	ADDRESS	TYPE
FOOD SERVICE		
Allen Harbor Breeze Inn *	326 Lower County Road	1-30 seats
Cape Life Gifts *	337 Route 28	Limited Food Service
Dr. Cavitys Candy Shack *	560A Route 28	Limited Food Service
Fiona's Scottish Scones *		Event Permit
Harwich Athletic Association *	75 Oak Street	Take Out
Irish Pub *	126 Route 28	Limited Food Service
Murphy's General Store (2019 New)	540 Route 28	<600 sf (not primary bus.)
Perks *	545 Route 28	31-60 seats
BATHING BEACH		
Allen Harbor Beach Assoc *	Dunes Road	

Inn on the Beach *	16 Bank Street	
Winstead Inn & Beach Resort *	4 Braddock Street	
POOL		
A Beach Breeze Inn *	169 Route 28	
Belmont Condo *	1 Belmont Road	
Harwich Port Resort Club Condo *	558 Route 28	
Inn of Treasured Memories *	473 Main Street	
Platinum Pebble *	186 Belmont Road	
Winstead Inn & Beach Resort *	114 Parallel Street	
Wychmere Beach Club * (3 pools)	23 Snow Inn Road	
RECREATIONAL CAMP		
Cape Cod Lighthouse Charter School*	195 Route 137	
TITLE 5 INSPECTOR		
David D. Flaherty Jr. *		
FUNERAL DIRECTOR		
Doane, Beal & Ames *	260 Route 28	
2019 Renewal *		

Dr. Cushing moved to approve the permit list dated June 11, 2019, 2nd by Mr. Dowgiallo and approved 5-0-0.

IX OTHER

Ms. Bayerl announced that her term expires on June 30, 2019 and she will not be seeking re-appointment.

XII ADJOURN -The meeting adjourned 8:55 at p.m.

Mr. Boyle moved to adjourn the meeting at 8:55 p.m., 2nd by Dr. Cushing and approved 5-0-0.

Respectfully Submitted,

Jennifer Clarke

Next meeting is Tuesday, July 9, 2019 at 6:30 p.m. in the Small Hearing Room.

Documents included in June 11, 2019 Board of Health Meeting Packet:

- June 11, 2019 Board of Health Agenda
- Draft Board of Health Minutes dated May 13, 2019
- Menthol Fact Sheet
- Impact of Menthol Cigarettes on Youth Smoking Initiation and Health Disparities
- The Truth About Menthol Flier
- Sample Regulations Restriction the Sale of Tobacco Products
- Staff Report regarding FY20 VNA Contract dated June 11, 2019
- VNA Contract dated May 22, 2019
- Site Summary for Freeman Ellis Family Realty Trust Definitive Subdivision Plan dated June 11, 2019
- Definitive Subdivision Plan for Freeman Ellis Family Realty Trust dated April 1, 2019
- Site Summary for 14 Mill Pond Road dated June 11, 2019
- Checklist for Building Permit Review for 14 Mill Pond Road dated January 31, 2019
- Floor Plan for 14 Mill Pond Road dated February 1, 2019
- Board of Health Variance Approval for 14 Mill Pond Road dated May 5, 1994
- Site Plan & Sewage Disposal System for 14 Mill Pond Road dated March 14, 1994

- Site Summary for Fee Waiver Request for The Lions Club of Dennis Harwich Foundation dated June 11, 2019
- Letter Requesting Fee Waiver from The Lions Club of Dennis Harwich Foundation dated May 25, 2019
- Summary of Phosphorus Treatment in Onsite Septic Systems Grant Project dated June 11, 2019
- Site Summary for 1022 Queen Anne Road dated June 11, 2019
- Waiver Form Phase 2 Sewer Area for 1022 Queen Anne Road dated April 16, 2019
- Letter from Edson Eldredge regarding 1022 Queen Anne Road dated April 16, 2019
- E-mail correspondence regarding 1022 Queen Anne Road dated April 9, 2019
- Site Summary for Definitive Subdivision Plan for Edson Eldredge, 1022 Queen Anne Road dated June 11, 2019
- Board of Health Definitive Subdivision Plan Filing Package for 1022 Queen Anne Road dated June 4, 2019
- Definitive Subdivision Plan of Land for 1022 Queen Anne Road dated May 31, 2019
- Site Summary for 93 & 97 Route 28 dated June 11, 2019
- Board of Health Decision Letter for 93 & 97 Route 28 dated February 24, 2017
- Site Plan for 93 & 97 Route 28 dated January 31, 2017
- Health Director Monthly Report dated June 1, 2019 & Associated Documents
- Any other documents submitted for/at the June 11, 2019 Board of Health Meeting