

TOWN OF HARWICH



BOARD OF HEALTH  
732 Main Street Harwich, MA 02645  
508-430-7509 – Fax 508-430-7531  
E-mail: [health@town.harwich.ma.us](mailto:health@town.harwich.ma.us)

TOWN OF HARWICH BOARD OF HEALTH  
TUESDAY, AUGUST 8, 2017-6:30 P.M.  
HARWICH TOWN HALL – SMALL HEARING ROOM  
MINUTES

**BOARD OF HEALTH MEMBERS PRESENT:** Chairman Dr. Robert Insley, Vice Chairman Pamela Howell, R.N., Frank Boyle, Cynthia Bayerl & Dr. Matthew Cushing

**STAFF MEMBERS PRESENT:** Health Director Paula Champagne, Senior Health Inspector Meggan Eldredge & Administrative Assistant Jennifer Clarke

**OTHERS PRESENT:** Richard Branagan, Meredith & Barry Viprino, Theresa Vient, Liam Gregory, Joel Buffington, Attorney Ben Zehnder, Edward Harman, Ian Roudabaes, Peter & Eleanor Johnson, Beverly Bangs & Audrey Greenway

**I CALL TO ORDER**

At 6:30 p.m., Chairman Insley called the meeting to order.

**II MINUTES OF PREVIOUS MEETING (Regular Meeting Minutes) – July 11, 2017**

**Motion made by Ms. Bayerl to accept the regular meeting minutes of the July 11, 2017. Mr. Boyle seconded the motion. 4-0-0 Unanimous.**

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

**A. Staff Presentation-Review of Board of Health fee survey and recommendations for additions/adjustments**

*Ms. Howell arrived at 6:38 p.m.*

Health Director Champagne reviewed the fee survey that was completed by staff and noted that some of the fees have not been evaluated since 2006. The focus of the fee increase recommendations involve the food service and license fees. Additionally we are proposing 5 new fee categories. If adopted, the new fee schedule would be effective for the 2018 licensing season.

Health Director Champagne stated that if the Board agrees with the proposed fee schedule, that they should accept it as a working draft and a public hearing will be scheduled.

**Motion made by Mr. Boyle to accept the fee survey dated July 2017 as a working draft and directed Health Department staff to schedule a public hearing for the September 12, 2017 Board of Health work session. Ms. Howell seconded the motion. 5-0-0 Unanimous.**

**B. Staff Presentation-Discussion regarding seating vs. occupancy**

Senior Health Inspector Meggan Eldredge provided the Board with a memo regarding seating capacity vs. occupancy load. The Board of Health regulates the amount of seats in a restaurant based on Title 5, which calculates the flow. The Building Department regulates the occupancy load of a building based on floor area of the entire building. Both the Health and Building Departments are working together to try and close what can and has been a large gap between numbers.

#### IV **7:00- OLD/UNFINISHED BUSINESS**

**A. Public Hearing-Resilient Family Farms/Barry Dino Viprino, 35 Chatham Road**, to show cause why an outstanding order to cease & desist the following operations issued April 9, 2017 should be upheld, modified or withdrawn; 1. Operation of an unlicensed piggery; 2. Unlicensed wholesale of food; 3. Manure management not in compliance with agricultural best management practices (**Continued from 7/11/17**)

Chairman Insley opened the hearing. Attorney Ben Zehnder & Barry Dino Viprino were present. At the last meeting, we cleared up the issue of the unlicensed wholefood sales issues. Tonight's topics of discussion will include the manure management plan and operation of an unlicensed piggery. Mr. Viprino provided the Board with a copy of his revised farm plan dated August 1, 2017. Mr. Viprino stated that he does not yet have approval from the Building Commissioner to put a cover over the manure pile. He asked that the Board approve his farm plan subject to the Building Departments approval of the cover.

Dr. Insley stated that he visited the farm today and did not see a problem with the manure pile. It has not been the hottest August, which means the pile has escaped the sun, heat and potential of odors. He noted that if there was a cover over the pile, there would be less change of an issue arising.

Beverly Bangs from 43 Chatham Road was present and feels that putting a cover over the manure pile will not address the issue. She stated that she has flies all over her yard and house and noted that there is a smell from the pile. In her opinion, the manure pile has not been removed or changed since April. Mr. Viprino responded that they have used a large portion of the pile for on-site farming. Ms. Bangs feels that the pile should be removed.

Attorney Zehnder said that they are not in front of the Board to determine if they need to remove the pile. The question is how to manage the pile while protecting public safety.

Mr. Boyle asked how many acres the farm is. Mr. Boyle responded that he owns approximately 10 acres. Mr. Boyle suggested moving the pile 10 acres away from any abutters and Mr. Viprino responded that he tried to do that, however the Conservation Commission issued a cease and desist. Dr. Cushing stated that moving the pile to the other side of the yard would not solve the fly issue. The pile needs to be decontaminated. Mr. Viprino informed the Board that there is a product for management of the flies, however the product can only be used inside of a structure.

Audrey Greenway from Lovers Lane was present. She asked that if the management of the manure pile is the issue, why couldn't the entire pile be removed and be started fresh. She stated that the previous owners removed the manure several times a month and asked why this case is different. Ms. Greenway feels that approving a cover for a manure pile that is excessively large is not the solution and that once the cover is in place, the pile will never move. Attorney Zehnder reminded everyone that this is a working farm. Even if the manure pile is removed, he feels that the abutters will still have complaints.

Mr. Viprino described his proposed manure pile cover to the Board.

Attorney Zehnder suggested that a condition be added to the approval that fly predators be used and maintained for the life of the manure pile. Health Director Champagne stated another possible condition might be that their compost/manure pile cannot be outside of the 20x30 proposed structure, if approved.

Ms. Bayerl asked how many abutters are concerned with this, noting that there have been limited abutters present stating their concern at the meetings. Ms. Greenway responded that she represents the neighborhood as she is the head of the association. Dr. Insley stated that he would like to see a document with the neighbor's signatures allowing Ms. Greenway to be their spokesperson.

**Motion made by Dr. Cushing that the Board of Health approve the proposed operations of the manure pile as long as it is fully covered by the methods described in the farm plan dated August 1, 2017. Approval is contingent upon the Building Department approving the cover. If the cover is not approved, the applicant will return to the Board of Health within one month. Motion 2<sup>nd</sup> by Ms. Bayerl and approved 4-0-1 (Boyle).**

Attorney Zehnder stated that he agrees with Town Counsel's opinion that the Board of Health has the authority to regulate piggeries and a bylaw does not need to be in place to do so. Mr. Viprino feels that 8-10 pigs will be sufficient for his farm operation. In the off-season, there would only be 5 pigs on the property. He explained that anything under 10 weeks is not considered a pig. He explained the breakdown of the types of pigs that would be present on the property if his request is approved.

Health Director Champagne asked how any odors will be controlled when feeding the pigs. How will they control the byproducts from the poultry processing? Mr. Viprino explained.

Health Director Champagne recommended that the piggery discussion be scheduled as a public hearing for a site assignment. Attorney Zehnder agreed and said that he thinks there should be a public hearing to determine if a piggery is a noisome trade.

**Motion made by Ms. Bayerl to direct Health Department staff to schedule a public hearing for the September 12, 2017 Board of Health meeting to determine if a piggery is a noisome trade and a site assignment of this piggery, 2<sup>nd</sup> by Dr, Cushing. 5-0-0 Unanimous.**

## V NEW BUSINESS

No new business was discussed.

## VI REPORT OF THE HEALTH DIRECTOR (July 2017)

- Staff Changes

It has been a month since our part-time health inspector has left. The position has gone out for public posting and interviews have been conducted. With the Health Director's announcement posted, an interview team has been put together. Senior Health Inspector Meggan Eldredge has been named the interim director until the search and interview process are completed.

August 3, 2017 marks the completion of 30 years as Health Director for the Town of Harwich. What better time to mark the occasion of my departure than with a celebration of my anniversary in the position? A good round number- the completion of years, decades and spanning one century to the next. It has been a mixture of joy, satisfaction, challenges, innovations, and accomplishments, sprinkled with just the right amount of sadness, frustration, and disappointment to keep it all interesting. And interesting it was – all the way to the end. The field of Public Health is ever evolving, never stale or predictable from one day to the next. Co-workers, residents and Board members have made the journey worthwhile and enjoyable and I appreciate all of the support over the years. None of this would have been possible without the guidance and support of each and every Board of Health member. Their unwavering support and guidance kept me grounded and continually inspired me to perform my duties and operate the department in accordance with their high standards.

- Projects-
  - Monthly Reports-this will be the last\_of monthly reports until further notice (no, I am not taking the concept out the door with me!!). The Selectmen have instituted a weekly report requirement from all departments. Absent a suggested format, I have adopted the outline used for the monthly report to the BOH but with expanded detail information.
  - Weekly report – 7-28-17 attached
  - Monthly exams- held 1<sup>st</sup> week of the month- written exams to become either septic system installer or licensed septic system inspector—three people sat for exams
  - FY17-FY18- July 1<sup>st</sup> starts the new fiscal year. There is a flurry of activity to close out the books and begin a new budget. Thanks to Elaine Banta who handles the finances for all of the Community Development Departments.
  - Resilient Family Farm- continued correspondence with Town Counsel for guidance. Additional information submitted as requested for August meeting- especially manure management information.

### Food Service Programs

- Commodore has been sold- met with new owners and manager for orientation on food service and pool permits
- Harbor Breeze has been sold ( to former owners of Commodore) – met with new owners for orientation on food service permits, future business plans; pool
- RET's/ Sewage permit review – outstanding issues
  - 231 Pleasant Bay Rd- RET- apt in basement; Zone II issues. Return to compliance plan needed. *Resolved*- walls removed
  - 54 Uncle Venies Rd- RET- rooms added w/out permit, too many bedrooms. Return to compliance plan needed and post construction permits
  - 44 Old Heritage Way- RET- zone II issues- walk-thru clarified # bedrooms. Need post construction permit for basement
  - 18 Strandway- RET – potential BR issue- walk-thru clarified # rooms for design-*resolved*

- 26 Sunrise- RET- final walkthrough- return to compliance completed- *resolved*
- 17 Long Rd- RET- apt in basement w/out permits- walk-thru for return to compliance options

**VII CORRESPONDENCE**

No correspondence was discussed.

**VIII PERMITS**

ESTABLISHMENT	ADDRESS	PERMIT TYPE	PERMIT TYPE
<b>FOOD SERVICE</b>			
A.J. Lukes of Harwich Inc.	422 Route 28	Retail <600 sq. ft (not primary business)	Tobacco
<b>Allen Harbor Breeze Inn (new ownership)</b>	326 Lower County Road	Food Service: 1-30 seats	
<b>The Commodore Inn (New ownership)</b>	30 Earle Road	Food Service: 31-60 seats	
The Crimson Lion	5	Event Permit	
<b>POOLS</b>			
<b>Allen Harbor Breeze Inn (new ownership)</b>	326 Lower County Road		
<b>The Commodore Inn (New ownership)</b>	30 Earle Road		
<b>SEPTIC INSTALLER</b>			
Coastal Land Design			
<b>Turner Brothers LLC/Robert Turner (NEW)</b>			
<b>MOTEL</b>			
<b>The Commodore Inn (New ownership)</b>	30 Earle Road		

**Motion made by Dr. Cushing to approve the permits as per the list dated August 8, 2017. Ms. Bayerl seconded the motion. 5-0-0 Unanimous.**

**IX OTHER**

No other business discussed.

**X REORGANIZATION OF THE BOARD**

Dr. Insley accepted nominations for Chairman. **Mr. Boyle nominated Pamela Howell, R.N., as Chairman of the Board of Health. Ms. Bayerl seconded the motion. 5-0-0 Unanimous.**

Dr. Insley accepted nominations for Vice Chairman. **Ms. Bayerl nominated Frank Boyle as Vice Chairman of the Board of Health. Ms. Howell seconded the motion. 5-0-0 Unanimous.**

Dr. Insley accepted nominations for Clerk. **Mr. Boyle nominated Cynthia Bayerl as Clerk of the Board of Health. Ms. Howell seconded the motion. 5-0-0 Unanimous.**

**XI ADJOURN-The meeting adjourned at 8:10 p.m.**

**Motion made by Ms. Howell to adjourn. Ms. Bayerl seconded the motion. 5-0-0 Unanimous.**

**Submittals of the meeting are part of the permanent record.**

**Respectfully Submitted,**

**Jennifer Clarke**

**Next meeting is Tuesday, September 12, 2017 at 6:30 p.m. in the Small Hearing Room.**