

**Scituate Board of Health Meeting
Monday, February 26, 2018
Selectman Hearing Room
6:00 P.M.**

MEMBERS PRESENT: Mr. Doug Whyte, Chairman
Mr. Russell Clark, BOH Member

OTHERS PRESENT: Ms. Jennifer Keefe, Director, Public Health
Ms. Joan Schmid, Administrative Assistant

6:00 MEETING CALLED TO ORDER/ACCEPTANCE OF AGENDA

Mr. Whyte called the meeting to order at 6:02 p.m.

Acceptance of the Agenda- A motion was made and seconded with all in favor of accepting the agenda.

SCHEDULED ITEMS

*Discuss/Vote: Required Septic System Operation and Maintenance Contract Non Compliance;
Cassino; 9 Pleasant Street*

The owner of 9 Pleasant Street did not attend the meeting. Ms. Keefe informed the Board that the septic system operation and maintenance contract for 9 Pleasant Street has been in noncompliance since October 9, 2017. It is a HOOT treatment system and therefore needs to be maintained once or twice per year by a contracted company. Ms. Keefe sent the owners letters identifying the operation and maintenance requirements in November 2017 and in January 2018 with no response from the owners. Ms. Keefe sent another letter in January 2018 informing the owners of the February 16, 2018 deadline for an operation and maintenance contract. Ms. Keefe said that the owners signed for the letter on February 2, 2018 but has not heard from them despite being aware of this hearing.

Mr. Clark asked what they have done in the past with other owners that have come before the Board for noncompliance of the operation and maintenance contract. Ms. Keefe said that in the past, the Board has sent a letter to the owner informing them that the Board is disappointed with their lack of attendance and give the owners one more opportunity to get a operation and maintenance contract in place.

The Board asked how many of these exist. Ms. Keefe stated as a result of meetings and sending letters there are now four outstanding contracts with two of those scheduled before the Board for the first time at this meeting. Ms. Keefe stated that there was one before the Board at the last meeting, and one new one that was just sent a letter. Ms. Keefe stated they are making progress since she has closed out about eight or nine recently.

Motion was made and seconded with all in favor to continue until the March 26, 2018 meeting and send a letter to the owners to give them one more opportunity.

*Discuss/Vote: Required Septic System Operation and Maintenance Contract Non-Compliance;
Stanton and Conkey; 209 Captain Peirce Road*

The owner from 209 Captain Peirce Road did not attend the meeting. Ms. Keefe stated that the owners have been out of compliance for an operation and maintenance contract since August 15, 2017. She stated that she

has sent two letters to the owners and both letters were signed for by the owners and they are aware of the time and date of this hearing.

Motion was made and seconded with all in favor to continue until the March 26, 2018 meeting and send a letter to the owners to give them one more opportunity.

*Discuss/Vote: Required Septic System Operation and Maintenance Non Compliance;
Lydon; 65 Hollett Street*

The owner of 65 Hollett Street did not attend the meeting. Ms. Keefe stated that this property has a lengthy history and the owner has been out of compliance since November 2015, which was the date of the last operation and maintenance inspection conducted by the contracted company. Ms. Keefe stated at the time of that inspection the septic system blower was not functioning and deemed in failure. Ms. Keefe stated that the septic system blower has not been repaired and it is a primary component to operate the system to treat waste. Ms. Keefe stated that she sent letters to the owner on March 15, 2017, and August 16, 2017 both of which were signed by the owner with no response. The owner was notified to appear at the October 2, 2017 Board meeting and the owner did not appear. The Board gave the owner another opportunity to appear before the Board on October 30, 2017.

Ms. Keefe hand served the owner on October 10, 2017 informing her of the Board of Health hearing and to appear on October 30, 2017. The owner failed to appear at the October 30, 2017 meeting; however, just before the scheduled hearing the owner sent a letter to the Board of Health stating the owner felt that the repairs were unnecessary, too expensive and the Board's time should be spent elsewhere but she would comply by contacting the operation and maintenance company to have the system fixed.

Ms. Keefe stated she has been in contact with the operation and maintenance company. They informed Ms. Keefe they sent the owner the cost estimate for the repair and operation and maintenance contract in January 2018. Ms. Keefe stated to date, there is no documentation that either has been accomplished. Ms. Keefe sent another letter by certified mail on February 2, 2018 and it was signed by the owner on February 17, 2018.

Ms. Keefe stated that there have been other issues with this property. In 1999, MassDEP (The Massachusetts Department of Environmental Protection) sent letters to the property owners about a similar lack of system maintenance. Ms. Keefe stated that this is a pretreated system and a blower is needed to create conditions so the system can work properly. The Board stated that it is an important component and if the system fails as a result of the blower not operating correctly then a new system might be needed, which could be more costly. The Board would like to give the owner a second attempt to come before the Board since the owner stated that they would comply. Ms. Keefe made a recommendation to the Board, since the owner did not attend the meeting, the owner will provide documentation in twenty-one days or the Board could follow proceedings for condemnation. Ms. Keefe said the case would then follow Housing Code requirements and procedures. There is enforcement under the housing code with documentation of a hearing for potential condemnation with the Board issuing the order stating that the house is unfit for human habitation and issue orders to vacate and condemn. The Board stated they could also go to housing court because the system has not been functioning since 2015 and therefore the system is in failure.

A motion was made and seconded with all in favor to have the owner of the septic system serving the property located at 65 Hollett Street served with an order to reinstate the required operation and maintenance contract and repair the blower component of the MicroFAST system within 21 days of this hearing and provide 1) a copy of the executed contract and 2) the documentation of completion of repairs to the Board of Health office. This order will document that failure to do so will result in a subsequent hearing before the Board of Health and may lead to enforcement, including determining that the system is in failure and possible condemnation of the property.

Discuss/Vote: Non-compliance for Failed Septic System; 41 Utility Road; McDonough

Mr. Thomas McDonough, 41 Utility Road, attended the meeting. The Board asked Mr. McDonough for an update on the failed septic system at 41 Utility Road. Ms. Keefe stated at the previous meeting the Board gave the McDonoughs time to have another Title 5 inspector look at the 2014 Title 5 report that indicated a system failure. Ms. Keefe also stated that at the previous meeting, the Board wanted the McDonoughs to reach out to appropriate professionals to conduct percolation tests and have a septic system repair plan submitted.

Mr. McDonough stated that he reached out to two professionals to review the 2014 Title 5 report. Mr. McDonough indicated that the professionals stated that the Title 5 was done correctly given the data provided in the report. Mr. McDonough was not going to continue with another Title 5 since it would be unnecessary and it would come out with the same result. Mr. McDonough stated that they are not going to contest the Title 5 report, since the professionals, who looked at the report and know the licensed Title 5 inspector, said it was a legitimate finding. The Board asked if another Title 5 was done on the property and Mr. McDonough stated that there was not another Title 5 done on the property, since the professionals agreed with the 2014 Title 5 findings.

Mr. McDonough said that the 2014 Title 5 inspector opened up the distribution box and saw the liquid and noted it in the report. Mr. McDonough stated that there was no benefit for the Title 5 inspector to note that it failed since he was not trying to sell his home. Mr. McDonough said they did the Title 5 inspection because they were preparing to move and they did not move due to a death in the family.

Mr. McDonough said that in the minutes from a previous Board meeting, the Board responded to a Director's report regarding a failed Title 5 and the Board felt it should be documented in the file until the owner sells the property. Mr. Clark said that as he has mentioned at least two or three times at previous meetings, this was his own personal opinion. Mr. Clark said that he personally spoke to the State, who confirmed that it is a Title 5 requirement and his opinion is just that and that the regulations apply. He reiterated again that he has mentioned this at previous meetings. Mr. Clark stated that he does not mind Mr. McDonough reading the minutes of the previous meeting but it should not be misconstrued. Mr. McDonough said he has started with the Town Clerk office to get the betterment program instituted in the Town.

Mr. Clark said that the Board wanted the McDonoughs to have a Title 5 inspector come to the house to possibly redo the Title 5. If it failed a second time, then the equipment will be on the property and a percolation test could be done for the new septic system. Mr. McDonough stated that he understood the Board's request; however, it wasn't necessary if they were not going to move forward with the septic system repair. The Board asked if the professionals, who just came out to his property, opened the distribution box, or used a machine to know it failed or if they conducted a percolation test. Mr. McDonough stated that they did not and it was a Title 5 inspector that opened the distribution box. Mr. McDonough stated when he was at the previous Board meeting he was under the impression that he was going to have another Title 5 done on the property. However, he said

the new Title 5 inspector determined that the 2014 Title 5 report was a proper inspection. Mr. McDonough said, therefore, there was no need for the McDonoughs to do another Title 5 inspection. The Board confirmed that Mr. McDonough did not have a Title 5 inspection completed in the past month. Ms. Keefe said the McDonoughs had another Title 5 inspector look at the 2014 Title 5 report and the inspector agreed with the 2014 Title 5 report. Mr. McDonough confirmed Ms. Keefe's statement and stated that he had the Title 5 inspector look at his property and he explained how the process works. Mr. McDonough said they do not need a percolation test until they are going to put in a new septic system.

The Board asked the McDonoughs for their plan with the septic system moving forward. The Board stated that nothing has been accomplished since the last meeting, and there was no forward progress. Mr. McDonough stated there has been forward progress but not by engineering or installation. He stated that he went to the Town Administrator's office, after going to the Town Clerks office, to put the betterment program on the upcoming Town meeting warrant.

The Board's action comes from a Title 5 standpoint and they have given every inch they can to the McDonoughs and the septic system needs to get fixed. Mr. McDonough stated that he is not saying they won't get the septic system fixed but how they will get it fixed. The Board understands but wants to know when and stated that it has already been four years. The Board has given the McDonoughs a lot of time and the Board now wants a time frame put in place.

There was a motion made and seconded with all in favor to require the owners of 41 Utility Road to conduct percolation tests and submit a proposed septic system design plan to the Board of Health and three quotes for installation costs for review within 60 days of this hearing. Otherwise, the Board of Health may initiate enforcement actions.

NEW BUSINESS

Director's Report

Ms. Keefe reported there are ten housing cases with one closed since the last report. There are four nuisance cases including two new nuisance cases since the last report.

There are five environmental release sites being tracked with one less since the last report and a new release.

There are two outstanding septic system operation and maintenance repairs needed with 65 Hollett Street before the Board and one more recent. There are four operation and maintenance contracts outstanding with one closed since the last report and she received a new one. There are two before the Board at tonight's meeting. There are fourteen known septic system failures or systems conditionally passing a Title 5 inspection. Two are actively being installed and one of the plans has been submitted for review and one is waiting for a certificate of compliance.

The office has received two new plans and is currently working on plans received from February 8, 2018 to February 12, 2018. There have been five revised septic plans received within the last week.

The office is working on the private well regulation outreach from the implemented private well regulation which includes annual basic well water sampling and well registration requirements. Ms. Keefe is in the process of drafting a letter to the real estate community, owners and other stakeholders informing them of the regulation and requirements.

The office has created an updated catering registration form for caterers to complete and return to the office for any Town events where food is served. This is a requirement and by reaching out to the caterers to complete the form, we will get better compliance. The form is used to document the food being served at events so the office will be able to work with MassDPH if anything went wrong.

Captain Donovan from the Fire Department will be providing the fourth annual choke safe training for the food establishments, which will be held on Monday March 5th at 9:00am at the Barker Tavern. Every food establishment with 25 or more seats must have one person working at all times with choke saver procedures. There are currently thirty people that have signed up.

The Winters Farmer's Market inspections are ongoing with ten food vendors and a successful event. There are several temporary food permit applications for spring. There were twenty seven food inspections conducted between February 15th and February 24th, which included the Winter Farmer's Market. Critical violation identified included hot food not held at proper temperature. Ms. Keefe is preparing for the St. Patrick's Day parade and inspecting the food vendors.

The State is revamping the camp regulations and Ms. Keefe is getting ready for the semi-public, and public pool application process.

OLD BUSINESS

None

OTHER BUSINESS

Administrative Invoice Approvals

ADJOURNMENT:

A motion was made and seconded with all in favor at 6:37 pm

LIST OF DOCUMENTS PRESENTED:

- 1) November 10, 2015 Operation and Maintenance report for 65 Hollett Street.
- 2) March 15, 2017 certified letter to Mr. Jeffrey Lydon & Ms. Barbara Lydon, 65 Hollett St. from Jennifer Keefe, Director of Public Health, Scituate
- 3) August 16, 2017 certified letter to Mr. Jeffrey Lydon & Ms. Barbara Lydon, 65 Hollett St. from Jennifer Keefe Director of Public Health, Scituate
- 4) October 18, 2017 signed hand served letter dated October 10, 2017 to Mr. Jeffrey Lydon & Ms. Barbara Lydon, 65 Hollett St. from Jennifer Keefe, Director of Public Health, Scituate
- 5) January 3, 2018 Clearwater Recovery letter to Ms. Barbara Lydon, 65 Hollett St.
- 6) February 2, 2018 certified letter to Ms. Barbara Lydon, 65 Hollett St. from Jennifer Keefe, Director of Public Health, Scituate
- 7) November 2, 2017 letter from Rosano Davis Sanitary Pumping regarding 209 Captain Peirce Road.
- 8) November 27, 2017 certified letter to Mr. Mark Stanton, Ms. Kristen Stanton, Ms. Debra Conkey, 209 Captain Peirce Road from Jennifer Keefe, Director of Public Health, Scituate
- 9) January 22, 2018 certified letter to Mr. Mark Stanton, Ms. Kristen Stanton, Ms. Debra Conkey, 209 Captain Peirce Road from Jennifer Keefe, Director of Public Health, Scituate
- 10) October 9, 2017 letter from Wastewater Treatment Services, Inc. to Mr. Joseph Rogers, Jr, 9 Pleasant Street.

- 11) November 27, 2017 certified letter to Mr. John Casino and Ms. Karen Cassino, 9 Pleasant Street from Jennifer Keefe, Director of Public Health, Scituate
- 12) January 22, 2017 certified letter to Mr. John Casino and Ms. Karen Cassino, 9 Pleasant Street from Jennifer Keefe, Director of Public Health, Scituate
- 13) March 27, 2014 Title 5 inspection report for 41 Utility Road, McDonough.
- 14) April 7, 2014 letter to Susan and Thomas McDonough, 41 Utility Road from Jennifer L. Sullivan, Director of Public Health, Scituate
- 15) June 21, 2016 certified letter to Mr. Thomas McDonough and Ms. Susan McDonough, 41 Utility Road from Jennifer Keefe, Director of Public Health, Scituate
- 16) August 22, 2016 hand delivered letter to Mr. Thomas McDonough and Ms. Susan McDonough, 41 Utility Road from Jennifer Keefe, Director of Public Health, Scituate
- 17) August 21, 2017 hand delivered letter to Mr. Thomas McDonough and Ms. Susan McDonough, 41 Utility Road from Jennifer Keefe, Director of Public Health, Scituate
- 18) October 18, 2018 hand served letter dated October 17, 2018 to Mr. Thomas McDonough and Ms. Susan McDonough, 41 Utility Road from Jennifer Keefe, Director of Public Health, Scituate