

Scituate Board of Health Meeting
Monday, December 11, 2017
WPA Building- North Scituate
6:00PM

MEMBERS PRESENT: Mr. Doug Whyte, Chairman
Mr. Steve Pansey, BOH Member
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 6:12 p.m.

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

SCHEDULED ITEMS

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

Mr. and Mrs. McDonough, property owners of 41 Utility Road, attended the meeting. The Board asked the McDonoughs for an update from their attendance at the November 13, 2017 meeting. Mr. McDonough noted that the septic system was pumped by Pete Spencer on Friday, December 8, 2017. He also noted that he contacted the State for financing. The Board asked for the pump records from Pete Spencer. Ms. Keefe noted that they do not get the monthly pumping records from the pump and haulers until the 10th of the following month, so she will not receive the information until January. Mr. McDonough said that when he gets the bill, he can forward to the Board of Health office.

Ms. McDonough stated that they contacted the State and the State informed them that the Town of Scituate does not participate in the betterment septic system program and she asked Ms. Keefe why the Town does not participate. Ms. Keefe noted that it was her understanding that several years ago, almost ten years ago, the Town did participate in the betterment program. It lapsed before Ms. Keefe's arrival working for the Town, so she does not know why the Town chose to not participate in the program. Ms. Keefe also spoke to the State about the program and there are several towns that do participate. She does not know why but can only guess that Scituate did not see the need to participate. Ms. Keefe noted that it is an extensive process for the towns to participate. A warrant article needs to be submitted to Town Meeting to be voted on for participation and the Town Treasurer office needs to implement the program. When Ms. Keefe spoke to the State, she was given the guidance on how to participate.

Mr. McDonough noted that when he contacted the State, he was informed that the income level for their grant program is \$100,000. The Board asked if the State gave them any other information or programs. Mr. McDonough stated that they do not qualify for any of the other programs or grants because their income bracket is over \$100,000. He further said that if you make more than the \$100,000, the Town betterment program would be beneficial to the residents and the Town would receive money from the betterment. Ms. Keefe noted it was between 0 and 2% loan amount and it depends on who will participate in the Town. Ms. Keefe noted that doing the work necessary to participation would take a long time given the department's current workload. Mr. McDonough wants to continue to pump the system until they can afford it or if the betterment program is in place.

The Board asked if Mr. Spencer saw any break out at the time of pumping. Mr. McDonough indicated that he did not. Ms. Keefe asked if they looked into a home equity loan. The McDonough's indicated that they have a first mortgage and a home equity loan with two children in college and, therefore, are at the max for borrowing money.

The Board noted that Ms. Keefe has put forth some suggestions for the Board to consider and they wanted the McDonoughs to be aware of what is proposed. The Board noted that the suggestion was for the McDonoughs to hire an engineer and get a system designed in 45 days and upon approval of the plan, the system would need to be installed in 45 days. The Board noted that 90 days is tough but with all due respect, they realize there was a bad situation that triggered the McDonoughs issue. The State is aware of the situation and the burden falls on Ms. Keefe. The Board also noted that is already beyond the grace period and puts the Board in a tough position. Ms. McDonough asked what would happen if it was not completed in 90 days. The Board noted that it ultimately falls on them and they could condemn the home; however, they certainly do not want to condemn the home. The Board noted that everyone goes through tough financial situations and the Board needs do what is best for the Town.

The Board asked if Mr. Spencer noted any indication of a problem. Ms. McDonough noted that the man that pumped it did not indicate there was a problem.

The Board stated that they do not know how to interpret the part of the regulation regarding the five year clause associated with deadlines for upgrades. The regulation indicates that there needs to be some forward progress but they are not sure what they are reading and are not lawyers. Ms. Keefe noted that she called DEP regarding the regulations, and there is a two year requirement for a failed system to be upgraded. Ms. Keefe spoke to the DEP Southeast Region office and she confirmed that is the case and the clause the Board references. Ms. Keefe noted that she was told that it is for residents that have sewer coming to their part of Town. Ms. Keefe noted that this particular neighborhood is not on the schedule anywhere in the near future to have Town sewer and it was confirmed with the Town sewer division. The Board noted it does not indicate in the regulation that particular item. Ms. Keefe stated that she asked DEP without giving the address and she was told it was for properties with sewer to be installed in the foreseeable future. Ms. Keefe stated that given the volume of work in the office currently, it would likely be at least a two months between now and plan approval. Therefore, given the weather and review period, she believed that it would be 5-6 months before the new system would be completed. Ms. Keefe stated that it is already at the three year mark for a failed system. The Board noted that they are still not sure on the regulation and it indicates that only if there is a health hazard and they do not have a health hazard. Ms. Keefe indicated that although it is not necessarily breaking out to the ground service, anytime you have a failed system, it is a threat to public health. She also noted that the system failed for five reasons and this is her job to protect public health and that is why the State only gives a two year time limit and thus this case is going to be three plus years. The Board noted that if there is break out then that is a public health hazard. Mr. McDonough said that he has a job where he goes house to house and has seen system puddles and toilet paper on front lawns. He indicated that there are homes all over town with failed systems or can't sell their home or have them pumped. He indicated that he appreciates the job that Ms. Keefe has to do and it is not an easy task. He is willing to pump twice a year until he can get grant money or the betterment program and wants to take it from there. Mr. McDonough indicated that he wants to put in a new system when they can financially. He made note he is in the middle of a Federal matter that has not wrapped up. Ms. McDonough asked if they need an engineer to design the system and the Board noted that the State requires an engineer to design the system.

Mr. Harris attended the meeting and made note that he missed the first couple of meetings. It was his opinion that the McDonoughs have done the right thing and things unfortunately happened the way they happened. He also noted that there are a lot of homes in Scituate in failure and some that say they are in failure to get Town sewer and then the home is put up for sale. Mr. Harris is unaware of the State betterment program and he is in favor of getting the program back to Scituate. He also checked with DPW and there is no plan for Town sewer in that area. Mr. Harris wanted to know if it is just a system repair. Ms. Keefe responded that it is a cesspool

and, therefore, it needs a total upgrade. Mr. Clark said he would like to call the State and ask for clarification of the State regulation. Ms. Keefe noted that she had called DEP.

The Board asked if legal counsel should be involved. Ms. Keefe noted that she did not see how it would be beneficial to involve Town Counsel, since DEP created the regulation and the people who wrote the regulation would be the best one to interpret it. Mr. Clark suggested having one of the Board members call DEP to get an interpretation of the regulation. Ms. Keefe confirmed that the Southeast Region is always helpful on guidance on regulations.

The Board asked how long it would take to get into the State betterment program. Ms. Keefe noted it would take several offices and departments to review the information from the State and write a bylaw to submit to Town Meeting, which would be too late for the Spring Town Meeting. She said that maybe it could be ready for the Fall Town meeting at best. Mr. McDonough believed it would be a win for the Town. Ms. Keefe indicated that it would have to be managed on a regular basis, hire the engineers and installers and pay them. Ms. Keefe noted that there would have to be some criteria associated with the betterment program. Mr. McDonough noted it is not a loan and it is a betterment for the property. He noted that the betterment goes to the Town taxes and it benefits the Town and helps the owner. He further noted that it is not a loan, not a hand out and not a gift to the homeowner. Ms. Keefe indicated she is not saying that it is gift. She noted that there are sixteen known septic systems in failure. Mr. McDonough noted that there are more than sixteen in failure. Ms. Keefe reiterated that she said "known" septic systems in failure.

Mr. Clark suggested that he make a call to DEP to interrupt the regulation.

Mr. McDonough asked the Board as a citizen if he can petition for the betterment program in the Town to help get the Board of Health to move forward with the program. The Board and Ms. Keefe indicated that it will not. Ms. Keefe noted that this would be one more program the Board of Health would need to implement and is already responsible for sixteen topics and this would be one more responsibility. Ms. Keefe also noted that she is not sure what the usage will be or what the usage was in the past but it will not be a fast process to re-enter program. The Board of Health office only has two people and Ms. Keefe cannot guarantee at what Town Meeting this betterment program may be presented.

The Board made a motion and it was seconded with all in favor of tabling for one month.

NEW BUSINESS

Ms. Keefe gave the Director's Report.

Ms. Keefe noted that there are less than ten flu vaccine doses remaining. The public health nurse has given over four hundred doses this season and is available during office hours on Thursday from 9am-11am. She also noted that the flu season is widespread throughout Massachusetts and the news is reporting that the flu vaccine is only 10% effective. The State is still recommending the flu vaccine.

There is only one annual food establishment permit application not received. There are five still incomplete. This is down to five from twenty-one from the last meeting. The Board of Selectman's office has been notified of those that are incomplete. The office has issued nine pump and haul permits, and there is one outstanding and overdue. There have been five rubbish permits issued and there are four outstanding and overdue. All that are overdue have been contacted. There have been eighteen installer permits issued and ten Title 5 inspector permits issued. This is up from sixteen and eight at the previous meeting. Ms. Keefe noted that some do not need the permits right away and like to wait until the first job to stager the expense.

There are eight housing cases and three nuisance cases. There are five environmental releases that Ms. Keefe is continuing to track.

There are two operation and maintenance septic field failures and one close to completion.

There are five outstanding operation and maintenance contracts that are overdue, which is down from seven at the last meeting. There are sixteen known septic system failures and/or conditional passes.

Ms. Keefe noted that the office is averaging receipt of one new septic plan a day. The Board asked how many are in process. Ms. Keefe noted that there are about eight to nine new plans for review, six or seven in current review or in review from extensive revisions, and about six as-builts for certificates of compliance to be issued.

Ms. Keefe noted that she has a draft of the 2018 Board of Health meeting dates for the Board to review and vote at the next meeting. She asked the Board to notify her if they have any concerns with the dates. Ms. Keefe noted that they have to share Monday nights with the Conservation Commission and; therefore, there are some inconsistencies compared to last year's schedule.

OLD BUSINESS

None

OTHER BUSINESS

There were no administrative invoices for approval.

The Board reviewed the Board of Health meeting minutes from October 30, 2017. There was a motion made and seconded with all in favor of accepting the meeting minutes for October 30, 2017.

ADJOURNMENT

A motion was made and seconded with all in favor at 6:51pm.

LIST OF DOCUMENTS PRESENTED:

Board of Health meeting minutes from October 30, 2017