

**Scituate Board of Health Meeting**  
**January 9, 2017**  
**Scituate Town Hall- Selectman's Hearing Room**  
**6:00 P.M.**

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

**OTHERS PRESENT:** Ms. Jennifer Keefe, Director, Public Health

**Mr. Pansey called the meeting to order at 6:00pm**

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

**Scheduled Items:**

*Discuss/Vote: Title 5 Violation Hearing- Emanuello Excavating:*

Al Emanuello, Main Street, Hingham MA stated his name and address. Ms. Keefe informed the Board that Emanuello Excavating was hired by the owners of 704 Country Way to install a septic system at the existing home.

On December 15, 2016, Mr. Emanuello came into the Board of Health to apply for his installer permit. Mr. Emanuello asked how long it would take and Ms. Keefe was unable to give Mr. Emanuello an exact time frame for when his installer's license would be ready. Mr. Emanuello was new to the Board of Health department and, therefore, Ms. Keefe informed Mr. Emanuello that she would have to check his references and receive confirmation of his insurance information. The following Monday, Ms. Keefe received a phone call from a gentleman representing Mr. Emanuello's company asking for a bottom of excavation inspection at 704 Country Way. Ms. Keefe learned that prior to Mr. Emanuello applying for his licensing permit, his company had ordered the tanks and had them delivered to the property to have them installed. Thus, prior to his applying for the permit, work had commenced on the property. Ms. Keefe sent a letter to Mr. Emanuello on December 22, 2016 that she was unable to administratively issue his permit and ordered him to stop work on the project until the hearing could be held. Ms. Keefe did do the bottom inspection to alleviate any safety concerns associated with an open hole. The inspection was conducted with the owner, the owner's agent and they were permitted to fill with sand. Ms. Keefe informed the Board that is why Mr. Emanuello is here in front of the Board to discuss the violations and determine if the Board wants to grant his permit to work in Scituate. The Board member asked Mr. Emanuello if he knew he was wrong. Mr. Emanuello indicated that he had not set foot on the property and did not have a contract for the job and was trying to get licensed. The Board asked if someone from his office called. Mr. Emanuello did not know who called but thought it may have been his cousin. The Board member asked Mr. Emanuello if his company installed the septic tanks. Mr. Emanuello said no and he did not know where the tank came from. He did not know who supplied it and was not there when it was installed. The Board member did not believe that Mr. Emanuello did not know about the tank being delivered and installed. Mr. Emanuello accused the Board of calling him a liar and indicated that he had been in business for four generations. He also indicated that he had been licensed in the past to do work in Scituate. Mr. Emanuello became very upset and interrupted the Board to let him tell them his story. Mr. Emanuello said he did not give a "s\*\*t" about the license and said the Board was accusing him of lying. The Board reminded Mr. Emanuello that he was on TV and asked him why he was getting so upset.

Mr. Emanuello said he was upset that the Board was accusing him of lying. The Board indicated that the call to the Health office came from his office.

Mr. Emanuello said it did not and the Board asked if Mr. Emanuello was accusing the Director of lying. Mr. Emanuello asked if he could explain. Mr. Emanuello said that the Board was on TV and felt they could treat him like a "piece of crap." The Board disagreed with Mr. Emanuello's comment.

Mr. Emanuello said he received a call from his cousin, who was working for a builder, who was adding an addition and there was a septic system for this site. Mr. Emanuello further stated that his cousin asked him if he would help his cousin with the install. Mr. Emanuello said he told his cousin he needed to renew his permit with the Town and told his cousin not to work on the septic system until he got his permit from the Board of Health. Mr. Emanuello said his cousin showed up at a work site and indicated they had a problem. His cousin put in the tank because of weather. Mr. Emanuello stated he did not think his cousin understands the process. Mr. Emanuello indicated that he was now stuck in the middle. He indicated that he did not want to do too much in Scituate to compete with other contractors and that was why he let his license permit lapse since he does not do a lot of work in Scituate. Ms. Keefe asked Mr. Emanuello if he thought it would have been helpful if he addressed some of the issues from her letter on December 22, 2016 prior to the Board meeting. Mr. Emanuello indicated that his cousin had told him that he got shut down so he was aware and told his cousin that he would get a letter and have to appear at a Board meeting. Mr. Emanuello indicated that his cousin should have been at this meeting and he did not know why he was not present. Mr. Emanuello indicated that was why he was there to explain and that he had no control over what happened at the property because he did not know about it. Mr. Emanuello indicated that he had no contract to do the work but did get a call from his cousin in early December/ late November to do the work and that he told him he needed to get permitted. Mr. Emanuello never saw the plan or the permit. Ms. Keefe informed Mr. Emanuello that it is not the responsibility of the engineer on the project to know who is licensed or not to do the work. Mr. Emanuello said he understood and tried to explain that to his cousin and unfortunately he does not understand the process. Mr. Emanuello was stuck in the middle of a miscommunication and that was his truth. Mr. Emanuello indicated that his cousin has no knowledge of how septic systems are put in place but his cousin has people with him that are knowledgeable from working with other contractors and maybe they told him how to do the elevation for the tank. Ms. Keefe asked Mr. Emanuello if he was to take responsibility for the project what exactly would be his role if his permit was granted because he had indicated that his cousin has no knowledge or understanding of how septic systems are installed and he is actually the one doing the field work. Mr. Emanuello told the Board that he would have to go every day to tell them what to do and give the elevation and go back the next day to oversee the project so it would get done accordingly to the plan specifications. Ms. Keefe does not want to speak for Mr. Holmes, the owner or what the relationships are for his business. Ms. Keefe did meet Mr. Holmes at the site and his assistant went over the project. Ms. Keefe informed them why she issued a stop work order, his options and time frames, and what septic work could and could not be done and by whom between then and the current Board meeting. It would be up to Mr. Holmes on how he wanted to proceed in the week, between then and the Board meeting. Ms. Keefe explained to Mr. Holmes, at the property that the stamped plan was taken by the previous home owner so the closing could occur and handed it over to the new owner so the bank would let them proceed with the closing. Ms. Keefe said that it was simple to copy the stamped plan and give those to the licensed installer.

Mr. Emanuello understood that the Board was upset and he was just trying to explain how he got into this and that he did not create it and his cousin got him in a bind. The Board still did not understand why the cousin started the work if Mr. Emanuello told him not to do the work. The Board was somewhat on a decision to give the permit which would mean that Mr. Emanuello would have to be there every day to oversee the project. Ms. Keefe said that she did an inspection of the bottom of the excavation, because of the health and safety concern related to the hole and that the engineer did the inspection. Ms. Keefe indicated that she typically does not conduct a bottom of the tank inspection. To the best of Ms. Keefe's knowledge, the work done so far was okay but was unable to comment on the presence of a filter or the plumbing in or out of the house. Mr. Emanuello said that his first step would be to check what his cousin had done so far to make sure the elevations were all done to plan specifications and let Ms. Keefe know. Morse Engineering is the firm that designed the system.

Ms. Keefe indicated that usually contractors do not sub out the work but there are a couple in town that will occasionally sub out the fieldwork. Either one would be responsible for the work being done. The Board indicated that it is a lot of responsibility to sub out the work. The Board understands that it is family but it would be his responsibility to make sure the work is getting done properly.

The Board said that someone authorized the tank being placed. Mr. Emanuello could not determine from his cousin when the tank went in. Ms. Keefe indicated that the tank was delivered on December 13, 2016 and it was a 1500 gallon tank. Mr. Emanuello indicated again that he did not have the plan and he was not involved with the job. Mr. Emanuello indicated that he did not think his cousin did it on purpose. Mr. Emanuello informed the Board that moving forward he would ensure that the job got done correctly. Ms. Keefe had all of Mr. Emanuello's paperwork and fee, which was not deposited until the Board meeting. Also included in his application package was his current permit from Hingham and his insurance. Mr. Emanuello stated he wanted to make sure the job was done right for the town and his reputation. Ms. Keefe asked Mr. Emanuello if he felt confident that his cousin would take his direction on the project. Mr. Emanuello said that his cousin will take his direction or he will have to remove his trucks from the site. Then Mr. Emanuello will bring in his own equipment to finish and his cousin will not get paid. Mr. Emanuello said his cousin learned the process the hard way and dragged him in and after this his cousin will understand and listen to him. Mr. Emanuello is upset with himself that he got caught up in the project without being able to be in control after it had already been done.

Mr. Bjorkland indicated that Henry the builder is a friend of his and wants to make a comment that whoever does the job is irrelevant to this gentlemen getting a license and if qualified he should get the license. Mr. Bjorkland indicated that Henry is willing to sit down and speak to whoever will be doing the work and unfortunately Henry is very sick and could not attend the meeting. There is no contract between Mr. Emanuello and Henry so they will need to talk about the job and what will happen after if he gets the license, if granted.

Mr. Emanuello indicated that the license is one aspect and the permit to do the job is another. Ms. Keefe indicated that Mr. Emanuello came into the office to apply for a 2016 license but at this point it will be a license for 2017. The Board indicated that if the license was granted and something else was not done right on the property then the license could be revoked and this is a fair warning. Ms. Keefe indicated then the process will start over again. Mr. Emanuello agreed. Ms. Keefe pointed out on the license application that it can be revoked at any time.

A motion was made to grant the license for the application that was submitted by Mr. Emanuello and was seconded with all in favor of granting the license. Mr. Emanuello apologized to Ms. Keefe that this happened and hopefully it can be corrected. Ms. Keefe asked Mr. Emanuello to call the office the next day to make sure she completed the licensing paperwork. Mr. Emanuello said he would check the property to make sure the elevations were correct and report back to Ms. Keefe. Mr. Emanuello thanked the Board and apologized.

#### *Discuss/Vote: Board of Health Fees-Steve Bjorkland*

At the last meeting the Board asked Ms. Keefe to look into other Board of Health departments fees. Ms. Keefe met with the town accountant as well as members of the planning board to see how their process works since what the Board of Health would be doing if this proposal was initiated, is similar to what they will do for stormwater review. Ms. Keefe reviewed the Mass General Law with the town accountant and there has to be a process to put it in place. The Board would need to adopt a local regulation identifying the policies and the procedures of how would work. It would include setting up a non-interest bearing account that does not have to be a revolving fund, which would not require a Town Meeting vote. It would be setting up an RFP(Request for Proposal), for qualified reviewers, determining the qualifications and the fee schedule, the turnaround schedule, and all of the time frames associated with each. The next step that was recommended by everyone in the room would be to reach out to other towns that have this already in place similar to the way private well regulations were reviewed.

By getting the other towns products to see how they did it would allow Scituate to use the best of what they developed and modify it for Scituate's specifics. Ms. Keefe will be with other health agents at a seminar in February for Title 5 and will network to ask them if they will send their information. The Board asked if there would be a hand out at town hall. Other towns provide handouts with a fee schedule and who they use as review engineers. Mr. Bjorkland noted that there are local engineers who do not work in Scituate and local engineers who could be doing this work. The Board mentioned with today's technology it could be done from out of state if they had the plan.

The Board tabled until Ms. Keefe could speak with other towns about their process and then put in place for the end of March. The Board would like to hear any opposition to the plan to work it out. It was noted that there would be engineers qualified to do the work. The fee schedule would need to be in place. It was directed to the Selectman last year by Mr. Bjorkland regarding the time it was taking to get a permit since it was taking longer than normal to get the permit. Mr. Bjorkland stated that the history in the town was that you could not get the permit faster than what the regulation calls for and it makes a simpler process for builders, real estate agents, etc. This is the first department to be approached so that it takes some pressure off the people in town hall doing the work.

## **NEW BUSINESS:**

### ***Directors Report***

Ms. Keefe gave an update on the following items:

- There are currently eleven active housing cases. There are five active nuisance cases.
- Permitting: There are nine non-permitted food establishments and she is currently following up with these food establishments. There are two pump and haul companies that are not permitted. Hopefully the Board will not see them and they will provide what is needed to get their permits. The last permits were issued on January 3, 2017.
- Currently working on eleven septic failures. According to Title 5 regulations, an owner has a two year maximum timetable to replace a failed system. Ms. Keefe typically sends a letter for a one year unless it is bubbling on the surface and then she sends a letter with a shorter time frame. The letter indicates the time frame and includes a list of engineers that typically do work in the town and a list of licensed installers. There are two new failures in the past two weeks. The Board noted that if the system is bubbling out of the ground then that is a health issue that needs to be addressed. The Board noted that if the inspection failed while someone was selling their house and then decided not to sell then they should not be pursued for a failed system but documented in the file if no health issue. Ms. Keefe noted that she has been prioritizing the failures that pose a health and safety risk. Ms. Keefe informed the Board that there are a number of homeowners that are not maintaining their operation and maintenance contracts, which is also a violation of Title 5 and several are sitting in environmentally sensitive areas or near the water supply. Ms. Keefe has been working on getting out letters reminding them that it is a Title 5 requirement to have these contracts in place to ensure their systems are operating properly. The Board asked if there is a system for doing follow up on those home owners who may be forgetful. Ms. Keefe indicated that there is a good process for checks and balances. The companies that hold the contracts notify the Health department that they no longer have a contract in place. Ms. Keefe then sends a letter to the home owner to educate the home owner on the Title 5 regulations.
- Update on 119 Kent Street, the former bed and breakfast off of the Driftway. This is a property Ms. Keefe has been working on since she began to work in Scituate. She has been working with the Attorney General's office and their abandoned housing initiative. The Attorney General's office has taken on the property with Scituate for about eight months and together they have managed to get the exterior of the property cleaned up. It is fully boarded, fenced and just recently, the dilapidated garage was inspected for asbestos, was taken down, and removed.

Together, they are currently trying to get the house up to code. The Board asked for an update on how it started. The father, who owned the property, passed away and the house was in probate. The Board asked if the bank could do anything with the property or if it is still in red tape.

Ms. Keefe stated that she believed that the bank has options where it can either bring the property back to compliance on its own or allow through the Attorney General's office a receiver to take over control of the property, who will bring the property back up to code.

Then a lien would be placed on the property by the receiver and the bank has a choice to either pay off the lien and reclaim the home or allow it to be sold and their interests go further down the list of priorities to receive what they are owed. The Town liens come first, the receiver second, and then the bank. The bank needs to make the decision. The department is making progress on that property. The Attorney General's office does this work in a number of communities and it has been a good experience for Scituate to work with them.

- Ms. Keefe made note that Carol has helped her in creating the POs for the Board approval.
- There have been external applicants for the clerk position. Lindsey in the building department has been helping out with permitting, tracking and drafting the minutes from the last meeting.
- The next meeting will be at the WPA building in North Scituate.

#### **OTHER BUSINESS:**

Meeting Minutes Approvals- Lindsey has drafted the minutes from the last meeting and Ms. Keefe will have them for the next meeting.

#### **ADJOURNMENT:**

A motion was made and seconded with all in favor. 7:04pm

#### **LIST OF DOCUMENTS:**

Meeting agenda

Administrative Invoices