

December 2, 2021
Sterling Board of Health Meeting
Butterick Building, Lower Level Conference Room
1 Park Street, Sterling, MA 01564

Meeting Minutes

6:02 PM Chairman Hoffman called the meeting to order.

Roll Call: Allen Hoffman, Chairman – present
Anne Marie Catalano, Member – present
Cathie Martin, Member – present
David Favreau, Health Agent – present
Elaine Heller, Administrative Assistant – present

Attendees: Robert Sacco, Jennifer Szczuka, Gregg Corbo, Patty Page
Via ZOOM – Barry Lein and Debra Menin

Appointments and Agenda Items:

24 Kendall Hill Road – Discussion and possible vote concerning Title 5 inspection report and application for repair of system:

Chairman Hoffman summarized the discussion of the Executive Session held on November 10, 2021 regarding the Board's decision after review of the T5 Inspection Report for the above address.

Communication with David Boyer of DEP in regard to determination of groundwater elevation was read into the record.

Mr. Hoffman also presented public data with water determination from neighboring properties. The Title 5 inspector used old data regarding groundwater; on this basis, Board of Health members were justified in their denial of the Title 5 inspection report.

Mr. Hoffman then read Item 9 of the Agreement between the Board and Mr. and Mrs. Szczuka, which states:

“The Parties acknowledge that they will accept the Title 5 Inspection report as observed by the Alternate Agent and the Alternate Agents’ recommendations so long as they conform with practices and standards for Title 5 inspections and so long as the Title 5 Inspection complies with the standards set out for said inspections under 310 CMR 15.000 et seq. under Massachusetts law. The Board agrees that any further work or inspections required as a result of the report shall be observed by the Alternate Agent”.

According to Attorney Sacco, representing the Szczuka's, many Title 5's have relied on old information. The test passed and the Board should reverse their decision as there is no evidence of failure.

Town Counsel Gregg Corbo countered, noting the matter is still in litigation and Board members had a reasonable basis for questioning groundwater determination, noting again that David Boyer of DEP had stated it is not professional judgment to rely on data that is over 40 years old. What was done in other circumstances does not matter as this is litigation and the Board did what it is elected to do. There have

been changes in circumstances in the area so updated water elevation is appropriate. He cited MA code 310 CMR 15.026: Orders, and reread paragraphs 8 and 9 of the Agreement and cited 310 CMR 15.302 (4) Determination of High Groundwater Elevation.

Mr. Sacco would like a decision on repair of the D-box. Mr. Corbo stated the Board could accept the Title 5 as is or accept repair of the D-box without accepting results of the Title 5.

Mr. Hoffman suggested Board members craft an approval for repair of the D-box only. The homeowners would need a regular T5 inspection for sale of the property.

Mr. Sacco commented a test hole was dug below the D-box and leachfield with the depth of hole at 43". The Inspector dug the hole and the Agent observed it. Upon review, Board members noted this information was not written in the report. Photos of the area were provided, but were not clear enough to make a judgment on them. The photos were taken by Ms. Szczuka.

The attorney will contact the Inspector for a more detailed report.

Mr. Corbo suggested the meeting be continued to a date certain and have the Alternate Agent at the meeting, via ZOOM, to describe what he saw and then okay the D-box repair. The next BOH meeting is scheduled for January 13, 2022.

Mr. Corbo read a revised motion:

"I move that the Board vote to grant the application for replacement of the distribution box, provided that the decision to grant the permit shall not be construed as an acceptance of the September 30, 2021 Title 5 Inspection Report or determination that the system passes or will pass after completion of the repair and further that this matter be continued to January 13, 2022, with an amended report and any other supporting documentation to be submitted prior thereto and with the alternate health agent present."

Ms. Martin moved in the words of the motion and Anne Marie Catalano seconded. No discussion. Roll call vote: Martin - aye; Catalano - aye; Hoffman - aye. Motion carried.

A motion to have Chairman Hoffman sign the D-box replacement paperwork was made by Cathie Martin and seconded by Anne Marie Catalano. Roll call vote: Martin - aye; Catalano - aye; Hoffman - aye. Motion carried.

The paperwork was presented and signed by Mr. Hoffman.

General Business Updates:

Approve Any Available Minutes:

Members reviewed the November 10, 2021 minutes and a motion to accept revised minutes was made by Martin and seconded by Catalano. Roll call vote: Martin - aye; Catalano - aye; Hoffman - aye. Unanimous vote.

A motion to accept revised Executive Session minutes of the November 10, 2021 meeting was made by Martin and seconded by Catalano. Roll call vote: Martin - aye; Catalano - aye; Hoffman - aye. Unanimous.

Health Agent Report:

The Board office has received a complaint from DEP regarding a porta-potty business on Crowley Road in regard to sewage transferred into an underground storage tank. DCR property surrounds the address. According to Vincent Vignaly of DEP, the DCR Rangers were verbally abused and threatened when near the site.

Mr. Hoffman suggested the Health Agent confirm the underground storage issue and send a letter to the owner of the porta-potty business. There are new state regulations that apply to this situation. Mr. Favreau will obtain a copy of the new regs and inform the business owner.

Signatures Required:

Food inspections are coming in to the office and need to be signed by one Board member.

DPH - Interagency Updates:

Ms. Martin spoke on the updates: mobile vaccination clinics may be available in the Spring. It appears the Omicron variant is being closely watched. The state of MA is doing well in getting residents vaccinated and is one of the states leading the U.S. in vaccinations of children in the 5-11 year old group.

Adjourn:

A motion to adjourn was made by Martin and seconded by Catalano. Roll call vote: Martin - aye; Catalano - aye; Hoffman - aye. All in favor and the meeting adjourned at 8:01 PM.

Materials: Minutes, Groundwater comparisons, COVID WRSD protocols, DEP High Groundwater Determinations