

Board of Health  
Meeting Minutes  
April 11, 2013

6:30 p.m.	Present: Allen Hoffman, Donna Clark, Gary Menin and David Favreau
	<b>BUSINESS</b>
Minute Approvals	<p>February 28, 2013 – Gary Menin questioned his response to the Associate Health Agent’s increase in pay; he doesn’t remember questioning it. David Favreau re-explained his recent response to Gary’s satisfaction. Gary Menin made a motion to approve minutes with attachment letter from James Greve as amended; Donna Clark seconded; no discussion; Allen Hoffman aye, Donna Clark aye, Gary Menin aye</p> <p>March 14, 2013 – Gary Menin asked to have these minutes reviewed at next meeting. He stated that he hadn’t received them in advance although the other members of the BOH had received them and the email header showed that they had been sent to him. Additional hard copies have been presented for review.</p> <p>March 28, 2013 – Discussion to the amendments of minutes. Donna Clark made a motion to accept minutes as amended; Gary Menin seconded; no discussion; Allen Hoffman aye, Donna Clark aye, Gary Menin aye</p>
Monthly Update	<p>David Favreau</p> <ul style="list-style-type: none"> <li>a. 191-192 Justice Hill Road...requested a variance for new construction septic system design; submittals sent back to the engineer stating no variance would be allowed for new construction lots.</li> <li>b. Brookside Lane....Met with Animal Control...Fox tested for rabies, negative.</li> <li>c. 31 Squareshire Road... Septic system design approved; DCR had review of design and also gave their approval notice.</li> <li>d. School Septic...Contractor will pump all systems during the week of April 22, 2013 and wash all tanks...working with the Town Facility Manager.</li> <li>e. Public Health Network – Montachusett Regional received a grant for Sharp containers which will be located outside Clinton Hospital.</li> </ul>
5 Fern Lane	
18C Riverview	<p>Gary Menin asked about soil testing; David Favreau stated it was canceled and will be re-scheduled later in the year. David will let Gary Menin know the time and date.</p> <p>David Favreau stated that a resident at 18C Riverview complained of noise and vibrations. David has gone to the home 3 times and has found nothing. The resident also stated he has heard them in Oakdale and Clinton where he works. The Board agreed that after the 5<sup>th</sup> visit and if nothing is found then the case should be considered closed.</p>

2013 Agent Performance Evaluation	David Favreau submitted a letter from Oakson stating the date in which Oakson received his testimony. The date of the testimony has been confirmed to be prior to the hire of David Favreau as an employee of the Town of Sterling. The Testimony has been removed from the Oakson handouts, the written confirmation from Oakson regarding this testimony satisfies the previous concern presented to a conflict of interest. Allen Hoffman, Donna Clark and David Favreau signed the performance review albeit, Gary Menin requested to abstain from a point by point review of the agents performance review, and requested that his letter of personal review be attached to the minutes. All agreed to attach Gary Menin' letter to the performance evaluation.
Open Meeting Law Complaint	
Sterling Veterinary Clinic	No Discussion was held; It was noted, that upon receipt of the complaint, copies had been distributed for review following the Open Meeting Law guidelines. Allen Hoffman and David Favreau have 14 business days to respond to the AG. It was made clear that the complaint was made against David Favreau and Allen Hoffman and not the complete Board. Their response will be reported at the next meeting.
34 Princeton Rd	The Board signed a letter of appreciation to Sterling Veterinary Clinic for sponsoring the rabies clinic.
Board of Health Agents comparison	David Favreau stated that the owner will address the situation and complete the project as soon as it dries up.
Chocksett Crossing Septic Design	David Favreau asked Gary Menin for an update of his review of other Board of Health agents in the area. Gary Menin said he is still reviewing and is waiting for a return call from Lancaster Board of Health.  Gary Menin questioned the DEP involvement with the design. Gary Menin also questioned the Campground area DEP involvement. It was noted the Campground septic system is under DEP jurisdiction and not that of the Town. Gary Menin reported on a discussion he had with Bob Kimball of the DEP, not as a Board Member. He stated that the DEP is trying to off-load small items and have this overview responsibility fall to the Towns responsibility.
7:00 pm.	Public Session – no one attended
7:15: p.m. 18 Sherwood Dr Michael McDermott	Discussion continued concerning findings of the housing court and non-compliant matters of subsurface sewage disposal system. Gary Menin made a motion to have his letter dated April 11, 2013 read and attached to the minutes. The motion, in the form of a letter, was not seconded. Although Mr. Menin's motion failed to get a second, the Chair ruled that he would allow Mr. Menin to discuss the 5 points made in his letter. In that discussion, Mr. Hoffman pointed out that the alleged Open Meeting Law violations would be responded to in the manner noted earlier in this meeting. Regarding Mr. Menin's request for executive session at the March meeting, Mr. Hoffman noted that a request for executive session must meet very stringent requirements and Mr. Menin's request failed to meet those requirements.

	<p>There was much discussion between Mr. and Mrs. McDermott and the Board concerning what needs to be done, Mr. McDermott wanted to have another Title V inspection completed. The Board stated that there was no need for a new Title 5 inspection as the decision would be the same as the previous two done by independent State Licensed Inspectors. David Favreau then read from the latest independent inspection report by Russell Leblanc, dated 12/21/21 stating the need for a soil evaluation. Donna Clark made a motion that soil evaluation needs to be completed and presented to the Board on May 8, 2013 at 7:15 p.m.; Allen Hoffman seconded; Gary Menin disagreed; Allen Hoffman aye; Donna Clark aye; Gary Menin nay</p>
7:30 p.m. Medical Marijuana	<p>Donna Clark updated the Board...Research is still in the works as to how this will be handled by towns. Department of Public Health stated that there will be just so many permits allowed; the Federal Government will not prosecute the cases. It will be up to the towns to handle all situations, hardships, etc. Donna Clark said it is still a work in process but they are pushing for an August 2013 deadline.</p>
Warrant Article #51	<p>Maryanne Macleod presented information to the Board as to the reason for this warrant in order to protect the water supply of the Wekepeke. Gary Menin made a motion that the Board of Health support Article #51 as written; Donna Clark seconded; no discussion; Allen Hoffman aye, Donna Clark aye, Gary Menin aye.</p>
Safe Food Handling	<p>The Board of Health Agent and Associate Agent need to be recertified for safe food handling. Donna Clark motioned to authorize payment of \$125 each for the recertification; Gary Menin seconded the motion, all members in favor.</p>
BOH Agendas/Meetings	<p>Gary Menin would like to have the agenda completed by Monday prior to the meeting. David Favreau said he would try to have as much as possible ready. Allen Hoffman stated that they should be more selective in what action items should be discussed at meetings.</p>
8:20 p.m.	<p>Meeting adjourned</p>

From: Gary C. Menin, Sr.

To: Sterling BOH

Date: April 11, 2013

I hereby make the following motion:

***That the Sterling BOH should vacate all current/pending action against the McDermotts regarding all septic systems currently installed at 18 Sherwood Drive.***

My rationale for this motion is five-fold:

(1) The action was precipitated by property entry in violation of MGL by the Sterling BOH in 2011 and beyond.

(2) The action was additionally precipitated by discrepant Title 5 inspection reports (at the time of the property transfer) - by a State Certified Inspector - which - had the McDermott's known the true existing conditions - they might never had bought the involved residence.

(3) As identified in our regularly scheduled March meeting and in the subject McDermott complaint - the Board has regularly violated the OML by not posting actionable agenda items that are subsequently discussed in Board meetings. This has occurred at least four times in the past several months regarding the McDermotts specifically.

(4) At the request of the McDermotts, I in turn requested that related proceedings in our March meeting be held in executive session - as Mr. McDermott considered that his character and reputation might be called into question. This request - which is a "right" of participants in such proceedings - was apparently ignored/overlooked by the Board.

(5) There is not now nor has there been any danger to health/safety of any individual or the environment - certainly no more than currently exists at numerous public/private systems in our Town that were installed prior to 1995 and have yet to go through a property transfer.

I regret that I didn't take this initiative last summer when I first (belatedly) learned of the McDermotts situation - but it's time to stop chasing good money after bad and do what is right. I ask that each member of our Board make their considerations - as to the seconding or approval of this motion - from the perspective if they were on the receiving end of such actions.



Respectfully submitted - Gary C. Menin, Sr. Sterling BOH