

February 15, 2017  
Sterling Board of Health Meeting  
Butterick Building, Room 205  
1 Park Street, Sterling, MA. 01564

Meeting Minutes

6:32 PM Chairman Donna Clark called the meeting to order.

**Roll Call:** Donna Clark, Chair - present  
Allen Hoffman, Member - present  
David Favreau, Health Agent - present  
Gary Menin, Vice-Chair - absent  
Elaine Heller, Admin. Asst. - present

**Attendees:** Aldrich Cousins, Jr., and Scott Peoples

It was noted that no one was recording the meeting.

**Approve Available Minutes:**

Allen Hoffman moved to accept minutes of the January 25, 2017 meeting, as revised. The motion was seconded by Donna Clark and the motion carried.

**Correspondence:**

None

**Health Agent Report:**

Commonwealth of MA vs. Mike Cove, Cove Septic Corp., court date of February 14, 2017:  
This matter has been continued until April 7, 2017.

The Health Agent Report will be continued after hearing a variance request.

**Variance Request - 4 Goulding Road:**

1. Local upgrade approval is requested for the groundwater offset: 4' is required, 3' is proposed.
2. A variance is requested for the soil absorption system setback to a drain which discharges to a tributary, 310 CMR 15.211; 100' setback is required; 72' is proposed.
3. A variance is requested for the Sterling Board of Health requirement of a minimum 1,000 square foot leaching bed. A 592 square foot Presby leaching bed is proposed.

The architect of the septic system design, Scott Peoples, spoke on the variance request. Mr. Hoffman made a motion to accept the variance request and require a 2-bedroom deed restriction. The Current dwelling has only two bedrooms, this corresponds with the Assessors field card data. Ms. Clark seconded the motion. With both in favor, the motion carried.

Mr. Favreau will send a bedroom count deed restriction form to Mr. Peoples, which must be recorded and returned prior to the issuance of a construction permit.

**Health Agent Report (continued):**

MPHN (Montachusett Public Health Network) Invoice Discrepancy - November, December and January invoices:

Mr. Favreau explained to Board members the discrepancies discovered on invoices prepared by Rita at MPHN, including a charge for a task not requested, an overcharge, and two charges for the same service. After discussion by Board members, a decision was made to have Mr. Favreau and Ms. Clark schedule a meeting with Steve at MPHN, Rita's supervisor, to review past invoices.

Supervisor of Records Response to appeal for public records:

A verbal public records request for meeting minutes of previous 5 years was made by Sterling resident Michael Rivers at the BOH meeting on January 5, 2017. The official public records request from Mr. Rivers to the Records Access Officer was made on January 9, 2017. Public Records were provided by the BOH to Mr. Rivers on January 23, 2017, via seven different emails, all containing meeting minutes as requested.

Mr. Rivers sent a petition to the Public Records Division of the Commonwealth, appealing the Town's response to his request, as being past due.

Health Agent Favreau received a response letter from the Supervisor of Records for the Commonwealth, dated January 24, 2017, noting Mr. Rivers had been provided the requested material on January 23, 2017, within the guidelines of "Public Records Law" for the Commonwealth of Massachusetts. Rebecca Murray, Supervisor of Records from the Public Records Division has reviewed the appeal and found no merit to the appeal as Mr. Rivers had been provided with the requested public records within the legally required time frame and considers the appeal closed.

Annual Meeting with the Finance Committee:

Health Agent Favreau advised members that the meeting with Fin Com will be on Saturday, February 25, 2017, to discuss the FY18 budget.

Present Animal Inspector's Breakdown of Hours:

Louis Massa, the Sterling Animal Inspector, provided a detailed list of hours worked during the year. It was determined, upon examination of his hours that he is earning less than minimum wage. Members agreed to present this issue at the Fin Com meeting on February 25.

Odor Issue at Senior Center:

Mr. Favreau visited the Senior Center due to an odor complaint. It had been determined that the odor problem was a compromised toilet bowl flange/gasket and subsequently replaced.

Other Items:

A draft of an article for the Warrant at the Special Town Meeting regarding the Animal Inspector's salary was reviewed and changes noted. The Administrative Assistant will make the necessary changes and submit to the Health Agent as soon as possible.

Health Agent Favreau mentioned no funds were budgeted for any FY18 Flu Clinics, which are handled by the VNA. The VNA will require a \$30.00 fee for those who do not have insurance to cover the flu shot. After discussion, members agreed to discuss this issue with the Finance Committee at the budget meeting.

Discuss Prohibiting the Possession of Marijuana:

Board members reviewed a letter sent to the Select Board by Sterling resident, Patrick Fox, regarding a proposed by law to be considered by voters at the town meeting. Mr. Favreau had invited Mr. Fox to attend the Board meeting to discuss this issue, but Mr. Fox had previously scheduled commitments. No action was taken.

Discuss Requirements of Minutes:

Board members reviewed information found in the State Open Meeting Law Guide as to the requirements of meeting minutes. Mr. Hoffman also referenced information he found in Robert's Rules of Order. Member Hoffman indicated minutes as written should be subject to minor clarifications only. According to Robert's Rules, minutes should represent what was done, not what was said. The minutes are to be content based and approved by a majority vote. This subject will be discussed at a future BOH meeting.

**Set Next Meeting Date:**

Dates of March 8 and March 15, 2017 were discussed. Mr. Favreau will advise Board members as to which date works best.

**Adjourn;**

A motion to adjourn the meeting was made by Allen Hoffman and seconded by Donna Clark. As both were in favor, the motion carried and the meeting adjourned at 7:53 PM.

### What public participation in meetings must be allowed?

Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the chair. An individual may not disrupt a meeting of a public body, and at the request of the chair, all members of the public shall be silent. If, after clear warning, a person continues to be disruptive, the chair may order the person to leave the meeting. If the person does not leave, the chair may authorize a constable or other officer to remove the person. Although public participation is entirely within the chair's discretion, the Attorney General encourages public bodies to allow as much public participation as time permits.

Any member of the public may make an audio or video recording of an open session of a public meeting. A member of the public who wishes to record a meeting must first notify the chair and must comply with reasonable requirements regarding audio or video equipment established by the chair so as not to interfere with the meeting. The chair is required to inform other attendees of any such recording at the beginning of the meeting. If someone arrives after the meeting has begun and wishes to record a meeting, that person should attempt to notify the chair prior to beginning recording, ideally in a manner that does not significantly disrupt the meeting in progress (such as passing a note for the chair to the board administrator or secretary). The chair should endeavor to acknowledge such attempts at notification and announce the fact of any recording to those in attendance.

### What records of public meetings must be kept?

Public bodies are required to create and maintain accurate minutes of all meetings, including executive sessions. The minutes, which must be created and approved in a timely manner, must include:

- the date, time and place of the meeting;
- the members present or absent;
- the decisions made and actions taken, including a record of all votes;
- a summary of the discussions on each subject;
- a list of all documents and exhibits used at the meeting; and
- the name of any member who participated in the meeting remotely, along with the reason under 940 CMR 29.10(5) for his or her remote participation.

While the minutes must include a summary of the discussions on each subject, a transcript is not required. No vote taken by a public body, either in an open or in an executive session, shall be by secret ballot. All votes taken in executive session must be by roll call and the results recorded in the minutes. While public bodies must identify in the minutes all documents and exhibits used at a meeting and must retain them in accordance with the Secretary of State's records retention schedule, these documents and exhibits needn't be attached to or physically stored with the minutes.



Minutes, and all documents and exhibits used, are public records and a part of the official record of the meeting. Records may be subject to disclosure under either the Open Meeting Law or Public Records Law. The State and Municipal Record Retention Schedules are available through the Secretary of State's website at:  
<http://www.sec.state.ma.us/arc/arcrmu/rmuidx.htm>.

#### Open Session Meeting Records

The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. The Open Meeting Law does not provide a definition of "timely manner," but the Attorney General recommends that minutes be approved at a public body's next meeting whenever possible. The law requires that existing minutes be made available to the public within 10 days of a request, whether they have been approved or remain in draft form. Materials or other exhibits used by the public body in an open meeting must also be made available to the public within 10 days of a request.

There are two exemptions to the open session records disclosure requirement: 1) materials (other than those that were created by members of the public body for the purpose of the evaluation) used in a performance evaluation of an individual bearing on his professional competence, and 2) materials (other than any resumé submitted by an applicant, which is subject to disclosure) used in deliberations about employment or appointment of individuals, including applications and supporting materials. Documents created by members of the public body for the purpose of performing an evaluation are subject to disclosure. This applies to both individual evaluations and evaluation compilations, provided the documents were created by members of the public body for the purpose of the evaluation.

#### Executive Session Meeting Records

Public bodies are not required to disclose the minutes, notes, or other materials used in an executive session if the disclosure of these records may defeat the lawful purposes of the executive session. Once disclosure would no longer defeat the purposes of the executive session, however, minutes and other records from that executive session must be disclosed unless they fall within an exemption to the Public Records Law, G.L. c. 4, § 7, cl. 26, or the attorney-client privilege applies. Public bodies are also required to periodically review their executive session minutes to determine whether continued non-disclosure is warranted. These determinations must be included in the minutes of the body's next meeting.

A public body must respond to a request to inspect or copy executive session minutes within 10 days of the request. If the public body has determined, prior to the request, that the requested executive session minutes may be released, it must make those minutes available to the requestor at that time. If the body previously determined that executive session minutes should remain confidential because publication would defeat the lawful purposes of the executive session, it should respond by stating the reason the minutes continue to be withheld. And if, at the time of a request, the public body has not conducted a review of the minutes to determine whether continued nondisclosure is warranted, the body must perform such a review



## TOP 10 CHANGES IN THE NEW OPEN MEETING LAW

10. All persons serving on "public bodies" to receive Attorney General's version of Open Meeting Law, regulations and educational materials. Town or City Clerk or designee shall maintain written certifications of receipt.
9. 48 hour notice – still required, but now cannot count Saturdays, Sundays or holidays. Example: Monday night meeting must be posted before Thursday night.
8. Notices must (1) include list of topics chair reasonably anticipates will be discussed, i.e., an agenda, and (2) be posted in or on municipal building to be visible to public *at all hours*.
7. Emails are expressly included in definition of "deliberation," which is prohibited outside of open session; but distribution of agendas, scheduling information or reports to be discussed at future meetings is permitted.
6. Attendance by a quorum at a location is not a "meeting" if not intended to conduct business and no deliberation occurs – for example, attending a conference, social event, or a meeting of another municipal board. In addition, a meeting of a quasi-judicial board solely to make a decision required in an adjudicatory proceeding is not a "meeting".
5. Minutes must contain more detailed information. In addition to date, place, time and matters discussed, they must include summaries of matters discussed, list of documents used, and all decisions made and actions taken, including a record of all votes (yeas, nays and abstentions).
4. Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.
3. Chair required to periodically review executive session minutes and determine if they should be released, or if purpose for executive session is still ongoing to keep minutes confidential.
2. Attorney General will assume broad interpretation and enforcement authority over Open Meeting Law; District Attorneys no longer involved.
1. Citizens making complaints of Open Meeting Law violations must file written complaint with the public body first. Then the body submits reply to complainant and Attorney General's office.

Contact Us:  
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**KOPELMAN AND PAIGE, P.C.**  
*The Leader in Public Sector Law*



# Town Of Sterling

## Board of Health

Butterick Building  
1 Park Street • Sterling, Massachusetts 01564

Bus: (978) 422-8111 x2305 • FAX: (978) 422-0289

April 10, 2016

To whom it may concern,

As Animal Inspector for the Town of Sterling I have numerous job functions and responsibilities that need to be done on a Dailey/yearly basis. Below is an extensive list of the main duties that I perform.

- 1) There are between 40 and 45 cat and dog quarantines I do a year. These typically range from 10 to 45 days long and can be up to a 6 month quarantine depending on the circumstance. The process of quarantining an animal involves me going to the resident's house for anywhere from 30 to 60 minutes depending on where they live in town, and I then inspect the animal. At time of release I then re-inspect the animal to make sure it is healthy. Then both the state and the animal owner receive the necessary paperwork.
- 2) There are 12 kennel inspections I do a year which can take from 30 to 60 minutes for each one depending number of dogs. A kennel owner can have from 5 to 25 dogs depending on the level of kennel license they have, there is paper work involved.
- 3) If there is any animal that I am concerned about on possibly being rabid I always have it tested especially if there is possibly Human or Domesticated exposure, you can never take any chances; There has been a range from 2 to 4 animals I have test yearly. This is done by me bringing the deceased animal over to VCA Sterling Animal Hospital within 48 hours (state regulation) for testing with the necessary paperwork. I have been vaccinated with pre-exposure rabies shots because any one of these animals I have tested whether it is a bat, raccoon, skunk and sometimes a feral cat/ Domesticated Animal. Rabies is on the decline but you can never take any chances, there is paper work involved.
- 4) There are between 40 and 45 barns inspections that need to be done on a yearly basis, which can take from 30 to 60 minutes due to varying amounts of farm animals at each resident's house in town. Doing the barn inspections on a yearly basis can help prevent health issue with farm animals that could in turn potentially impact the public, acting as preventive medicine. The state will also send me paper work in the mail on any new farm animal that comes into the town of Sterling, which I have to inspect, usually four or five of these a year, Each one can take 30 to 60 minutes. All these new animals that come into town need proper vaccines which depending on each individual animal, I may have to do some additional research such as a rare instance of when I had to inspect a new camel at Davis farmland. Paper work involved.
- 5) In addition, I have to keep an eye on all the bird flu/viruses that keep coming up yearly, making sure we do not have any problems in town. Some of these viruses never make it to Massachusetts, while others do. I usually listen to conference calls from the state for emergency planning just in case these viruses do make it into Massachusetts. Conference calls range from 30-Minutes to 1 hour. I also help coordinate the rabies/Micro chip clinic two times a year held at VCA Sterling Animal Hospital.

Respectively Submitted,  
Louis Massa  
Animal Inspector  
Town Of Sterling

## David Favreau

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Subject: FW:

-----Original Message-----

From: Louis Massa-Aco <[massaoreo@aol.com](mailto:massaoreo@aol.com)>

To: massaoreo <[massaoreo@aol.com](mailto:massaoreo@aol.com)>

Sent: Fri, Jan 13, 2017 6:57 am

Hi David

I was thinking of coming to the next BOH meeting February-9TH to explain to the them how many hours a work a year but I have two other meetings lined up already for other departments in town January-26 and February 2 so having meetings three weeks in a row a little much.

Here are the figures on how many hours a work a year for the BOH

Cat and dog quarantines a year one hour each one-40 hours even pigs included in this, Ferrets.  
Paper work with the quarantines-5 Hours

Kennel Inspections one hour each one-12 Kennels-12 Hours  
Including paper work

Dealing with possibly rabid animals paper work to fill out at the vet and state-4-Hours

Barns inspection roughly between 40 and 45 a year every farm animal needs to be accounted for in the town of Sterling including chickens- 40-Hours

Allot of paper work associated with this-40 Hours

Being Proactive is important-There are NO issues in Sterling because of this.

New farm animals being brought in from out of state-5-Hours a year. Checking on vaccines , Paperwork ex

Conference calls a year state-5-Hours

Keeping up to date on diseases , Viruses near the state or concerns in the sate-10 hours-Reading paper work

Laws changes happen all the time to improve things need to keep an eye on any new potential law changes 10-hours a year

Rabies clinic- 5-hours a year talking to residents how important to have a undated rabies shot, A State law

Working with the MSPCA on any farm animal issues in town-5-hours a year

Going to seminars related to the BOH- 5-Hours a year

**So the total number of hours I work a year for the BOH IS 186**

Every year can be different on number of hours depending on circumstances- The rabies virus increases, and other viruses increase ex.

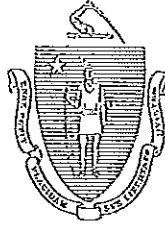
Some years the hours can be more not less.

David if any board member wants to talk to me have them give me a call and I will explain.

*Louis Massa*

**BOH-ANIMAL INSPECTOR**





*File*

RECEIVED

Board of Health  
Town of Sterling

**The Commonwealth of Massachusetts**  
William Francis Galvin, Secretary of the Commonwealth  
Public Records Division

Rebecca S. Murray  
Supervisor of Records

January 23, 2017  
SPR17/096

Michael Rivers  
3 Fox Run Road  
Sterling, MA 01564

Dear Mr. Rivers:

I have received your letter appealing the response of the Town of Sterling - Board of Health to your request for records.

I have directed a member of my staff, Kevin Nathan, to review this matter. Upon completion of the review, I will advise you in writing of the disposition of this case. If in the interim you receive a satisfactory response to your request, please notify this office immediately.

Any further correspondence concerning this specific appeal should refer to the SPR case number listed under the date of this letter.

Sincerely,

*Rebecca Murray*

Rebecca S. Murray  
Supervisor of Records

cc: David Favreau



SP (314) 11

Board of Health  
Town of Sterling

The Commonwealth of Massachusetts  
William Francis Galvin, Secretary of the Commonwealth  
Public Records Division

Rebecca S. Murray  
Supervisor of Records

January 24, 2017  
SPR17/096

David Favreau  
Health Agent  
Town of Sterling  
1 Park Street  
Sterling, MA 01564

Dear Mr. Favreau:

I have received the petition of Michael Rivers appealing the nonresponse of the Town of Sterling – Board of Health (Board) to a request for public records. G. L. c. 66 § 10A; see also 950 C.M.R. 32.08(1). It is my understanding that Mr. Rivers requested various sets of records regarding Meeting Minutes from the Board. Mr. Rivers claims to have not yet received any response from the Board. As such, Mr. Rivers petitioned this office.

Subsequent to intervention by a member of my staff, I learned that the Board provided Mr. Rivers with a response on January 23, 2017 via seven (7) different emails, all containing Meeting Minutes. Whereas this matter was opened on the basis of the Board's failure to provide a written response, I will now consider this administrative appeal closed. Mr. Rivers may appeal the substantive nature of the Board's response within ninety (90) days. See C.M.R. 32.08(1).

Sincerely,

Rebecca S. Murray  
Supervisor of Records

cc: Michael Rivers

30 Tanglwood Road  
Sterling, MA 01564

December 30, 2016

Select Board  
Sterling Town Hall  
1 Park Street  
Sterling, MA 01564

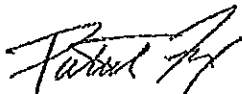
Dear Mr. Kilcoyne, Ms. Cranson and Mr. Lane:

I write to ask whether the Select Board would support lawful restrictions on the implementation, in Sterling, of the recently approved referendum legalizing marijuana for recreational use. While I am not certain of this, I believe that it is legally permissible for municipalities to, in effect, "opt out" of this law within their own borders. If that is the case, Sterling could adopt a local bylaw to prohibit the possession of marijuana within the town.

I am not suggesting that taking this action would eliminate all problems associated with the use of marijuana, but I am suggesting that it would have a beneficial impact on Sterling, by diminishing, to some degree, the harmful effects of this substance in our community, especially with respect to our younger residents.

If you agree, I invite you to seek input from Chief Chamberland, Chief Hurlbut and the Board of Health on this subject. Assuming there is some consensus, the Select Board could then consult with town counsel to determine whether such a bylaw would be valid and, if so, it could be presented for consideration by the voters at a town meeting.

Thank you for your attention to this matter.



Patrick Fox