BOARD OF HEALTH MEETING CORRECTED MINUTES
March 25, 2019
6:30 p.m.
TOWN HALL LOWER LEVEL MEETING ROOM
59 TOWN HALL SQUARE, FALMOUTH, MA 02540
TIMES INDICATED FOR THE AGENDA TOPICS ARE APPROXIMATE

Present: Diana Molloy, Benjamin Van Mooy, Stephen Rafferty, George Heufelder, Kevin Kroeger
Scott McGann

6:30 - Opening Remarks and public comment:
At 6:30 Diana Molloy called the meeting to order.

Stephen Rafferty read the mission statement:
The mission of the Falmouth Board of Health is to protect and promote the health, safety and well-being of residents and visitors of the Town of Falmouth. The primary functions of the Board of Health to achieve our mission are to: prevent and control disease, enforce state and local regulations, promulgate local health regulations, identify and protect from environmental hazards, and advocate for a healthy community.

WELLS

6:32 – 91 Central Ave – Irrigation well setback variance request
Plan provided.
Dennis Scannell appeared with the request. The Board of Health thought that the well could be placed without a variance since the lot appeared large enough. The plan submitted was not detailed enough to determine so Scott McGann sought a GIS map.
George Heufelder moved to table. Stephen Rafferty seconded. All in favor; motion passed.

6:41 – 115 Great Bay Road – Irrigation well setback variance request
Plan provided.
Dennis Scannell appeared with the request. The Board of Health determined that the applicants had 2 options to their request for a variance to use spray irrigation: use of subsurface irrigation or use of town water.
Kevin Kroeger moved to deny the request finding that there are 2 viable alternatives available to the applicant. Stephen Rafferty seconded. All in favor; motion passed.

6:50- 91 Central Ave: Mr. Scannell requested that his request be withdrawn.

7:00 – Request to modify local well regulations relating to irrigation wells
Scannell Well Drilling requests
☐ That Section (3)(B) Irrigation Wells be changed. Request is to remove the following language “provided that only subsurface irrigation be used”.
☐ Reduce the property line setback from 50’ to 10’ for all irrigation wells.
Copy of the well regulation provided.
The Board of Health discussed Dennis Scannell’s request. Concern was expressed that this change could put undue pressure on the Health Department.

George Heufelder moved to take under advisement and discuss further at a later meeting. Stephen Rafferty seconded. All in favor; motion passed.

PUBLIC HEALTH
7:10 –Continued from 3-11-19 - Laura Kelley from Protect Our Cape Cod Aquifer (POCCA) request for Falmouth to cease using Glyphosate (a.k.a. Round-up) and other chemicals on Town owned land.

POCCA is asking the Board of Health the following:

☐ Write a strong letter in opposition to Eversource's YOP to MDAR before the deadline of April 19th at 5pm.

☐ 'VOLUNTEER to NOT use Glyphosate products on town-owned land" and write a new town regulation.

POCCA email correspondences to the Town. Email with active links were provided to the Board of Health prior to the meeting.

Diana Molloy reported that several emails had been received including correspondence from the 300 Committee and the Conservation Committee noting their use of glyphosate and requesting that it not be prohibited on town owned land. Conservation Commission representative Mark Kasprzyk and 300 Committee representative Alexandra Zollo appeared. A discussion included the following:

• Glyphosate and other pesticides have been proven harmful to humans and bees.
• There is compelling evidence for the idea that glyphosate causes non-Hodgkin’s lymphoma.
• The Board of Health should use the precautionary principle and prohibit on town owned land.
• Alternatives to pesticides include mechanical removal such as cutting and mowing and smothering with a barrier such as black plastic.
• Phragmites is an invasive that is difficult to control without using glyphosate. The process used is to cut stems and then drip pesticide into the stem.
• More exotics such as Black Swallowwort are appearing and they are not controllable without pesticides. Studies have shown that in habitats where invasives have taken over, insect populations have declined.
• The 300 Committee has investigated many nontoxic methods for management and remains open to ideas. Very little glyphosate is used and then only by licensed applicators.
• There is risk to applicators. Los Angeles county has just issued a moratorium on use of glyphosate in the county after 2 different juries found that glyphosate causes cancer.
• Does the Conservation Commission or the 300 Committee ever conclude that it must use herbicide repeatedly in some areas? A review of management of phragmites invasions shows some extensive herbicide spraying campaigns with helicopters. Results of these campaigns show areas with some decrease of phragmites and areas where phragmites
increased after herbicide treatment. Often glyphosate is a fast, cheap and effective solution but the cumulative effects of toxins must be considered and put in perspective.

- Homeowners using glyphosate are probably a much bigger problem than limited use on conservation land.
- An effort to educate the public will be very important.
- The town is trying to set a good example. Would the Conservation Commission and the 300 Committee be willing to notify the Board of Health when using glyphosate?
- There is a permit process so it should not be a problem to notify the Board of Health.
- If glyphosate were taken from the tool box what would the Conservation Commission and the 300 Committee do?
- More mowing and cutting which would increase costs.
- Sean Spear, representative from Pure Solutions, noted that he was trained as a golf course manager. He advocated timely mowing, for example, before plants go to seed, and less toxic fatty acid products as alternatives to glyphosate.

Benjamin Van Mooy moved that the Falmouth Board of Health issue a moratorium on the use of glyphosate by employees of the Town on Town-controlled properties and by any other individuals or entities on Town-controlled properties finding that there is an increasing body of scientific evidence that glyphosate at environmentally relevant concentrations poses risks to human health, juries in two recent trials found that glyphosate caused non-Hodgkin's lymphoma in both a non-licensed (Edwin Hardeman V. Monsanto) and licensed applicator (DeWayne Johnson V. Nosanto) of glyphosate, and a recent study clearly showed that glyphosate at environmentally relevant concentrations may cause harm to bees, which are critical to maintaining a healthy and productive environment (Motta et al, 2018, Proceedings of the National Academy of Sciences) Variances from the moratorium for specific uses of glyphosate will be considered on a case-by-case basis by the Board of Health; those requesting a variance may contact the Health Department and request to be placed on the agenda of any regularly-scheduled meeting of the Board of Health.

The moratorium will become effective immediately and remain in effect until March 31, 2020.

The moratorium on glyphosate may be lifted at an earlier date if the Board of Health concludes that the benefits of glyphosate to the Town outweigh the risks. During the period of the moratorium, the Board of Health will conduct a broad examination of pesticide use by the Town to evaluate risks and explore adopting safer alternatives to those pesticides in current use. The Board of Health requests that interested stakeholders participate in a working group to ensure a broad representation of views.

George Heufelder seconded.

Stephen Rafferty left the meeting to attend the Board of Selectmen meeting.

The discussion continued and included the following:

- Does the Board of Health have the legal ability to have a moratorium?
- The Board of Health may pass any reasonable regulation if it has examined evidence and deliberated. The biggest problem probably is the homeowner but at least this is a beginning.
• A moratorium based on the many negative health consequences of using pesticides will at least spur conversation on the topic. Pesticides should be considered guilty of harm until proven innocent.
• Did the Board of Selectmen weigh in on this?
• The Board of Selectmen asked the Board of Health to weigh in.
• The Board of Selectmen should be informed of the Board of Health’s thinking on this issue as any moratorium could incur additional monetary costs. A discussion about all costs involved, public health, monetary etc. should be held.
• The Board of Health will communicate with the Board of Selectmen.
• The issue of educating the public about all pesticides, including glyphosate will be discussed further.

**Benjamin Van Mooy moved to table his motion. George Heufelder seconded. All in favor; motion passed.**

The Board of Health next discussed the requested letter to Eversource. It was decided to defer action until the board had taken a vote on the moratorium.

8:13 – Martha’s Vineyard Tattoo Company – 59 Davis Straits Operating without a tattoo establishment and tattoo practitioner license.
Permitting process for both licenses were still pending as of September/October 2018 when communication with the Health Department stopped. A recent resident complaint and search of online indicated tattooing had begun at the establishment without following through on the permitting process (Health and Inspectional Services). The operation was immediately closed by the Health Department. The applicant seeks to continue the permitting process in hopes of reopening.
Aly Long, proprietor of the business, appeared before the Board of Health. A discussion included the following:

- Scott McGann explained that Ms. Long, sometime in the fall of 2018, stopped contacting the health department in the pursuit of a permit to tattoo, leaving the license unattained and the establishment without a permit.
- Ms. Long explained that she had 12 years’ experience in the field at an establishment in Hyannis, had offered to do a demonstration to the Board of Health last summer and thought that the license had been okayed. She noted she had done 3 tattoos.
- The Board of Health expressed concern that Ms. Long had opened a shop in Falmouth without adequate permits.
- Ms. Long repeatedly questioned the worthiness and motives of the complainant who remained anonymous. She speculated the complainant was the father of her child out to do harm to her business.
- The Board of Health asked how someone with 12 years’ experience in the business could have confusion about having a valid license to practice. The Board of Health noted that it was now dealing with someone who, though they had 12 years’ experience in the tattoo business, now had a history of operating without a license. Consequences must be considered: a public hearing, abeyance.
- Is practicing without a license a violation of state law? Does this violation need to be reported to the state?

George Heufelder moved that when Ms. Long has presented all paperwork needed for the license and permit for the establishment to Scott McGann then a hearing may be scheduled for approval of the license, permit and conditions attached to them that may be appropriate. Benjamin Van Mooy seconded.

Benjamin Van Mooy amended that this should happen within 30 days. George Heufelder seconded.

The Board of Health expressed concern with needles in the hands of Ms. Long as she appeared to be stressed and having difficulty with focus and attention at this meeting as well as at the initial meeting in the summer.

A vote was taken on the amendment and all in favor except Stephen Rafferty who had left to attend the Board of Selectmen meeting; motion passed.

Diana Molloy motioned that Ms. Long’s hearing may only take place when the Occupancy Permit and any other permits have been secured. George Heufelder seconded. All in favor except Stephen Rafferty who had left to attend the Board of Selectmen meeting; motion passed.
SEPTIC SYSTEM RELATED TOPICS
8:50 - 60 Captain Bohnenberger Lane – Request to relax I/A testing requirements
8 samples provided
George Heufelder moved to allow reduction in monitoring schedule to twice a year. Kevin Kroeger seconded. All in favor; motion passed.

At 9:10 George Heufelder moved to table all the rest of the agenda items except for food safety, correspondence from the water superintendent and minutes. Stephen Rafferty seconded. All in favor; motion passed.

FOOD SAFETY
8:59 - Health Agent seeking ability to approve “special process” HACCP plans that require variances under the 2013 Food Code /105 CMR 590.00: State sanitary code chapter X: Minimum sanitation standards for food establishments
Relevant section of the 2013 Food Code and 105 CMR 590.00 provided
Stephen Rafferty moved to approve finding that Scott McGann was the most qualified person to make the determinations. Benjamin Van Mooy seconded. All in favor; motion passed.

GENERAL BUSINESS AND CORRESPONDENCE
9:00 – Correspondence
MADEP Administrative Consent Order/ Notice of Non Compliance regarding Falmouth’s Public Water Supply
Stephen Rafferty relinquished his role as Board of Health board member and reported in his role as water superintendent that Falmouth is not in compliance with backflow regulations and explained he will do a survey in an effort to come into compliance.

9:05 – Approval of meeting minutes
Review of meeting minutes from March 11, 2019:
Stephen Rafferty moved to approve with corrections. George Heufelder seconded.

At 9:10 Benjamin Van Mooy moved to adjourn. Kevin Kroeger seconded.

Relevant Documents:

- Plan for 91 Central Ave
- Plan for 115 Great Bay Road
- Well regulations
- POCCA email correspondences to the Town. Email with active links were provided to the Board of Health prior to the meeting.
- 8 samples from 60 Captain Bohnenberger Lane
- MADEP Administrative Consent Order/ Notice of Non Compliance regarding Falmouth’s Public Water Supply
• Cease and Desist order
• Relevant section of the 2013 Food Code and 105 CMR 590.00