

May 12, 2015

Meeting Opened: 7:35 P.M.  
Members Present: William Morris, Chairman; Carol Johnson, Clerk; Richard Bringham (7:37); Richard Beauregard; Mona Bissany

Others Present: Ben Kibler – Animal Permit Application, 40 Walden Drive  
Dr. Lester Hartman, Sarah McColgan, Ken Farstein, Kelsey Matheson – Tobacco Regulations  
Town Residents

**MOTION:** made by Carol Johnson that the Board of Health approve the minutes of the April 28, 2015 meeting as amended. Seconded by Mona Bissany. VOTE: 4-0-0 UNANIMOUS.

Public Hearing Tobacco Regulations - Restricting Sale of Tobacco Products & Prohibiting Smoking in the Workplace and Public Places:

**MOTION:** made by William Morris to open the public hearing regarding Tobacco Regulations:  
**Roll Call: Richard Bringham – aye; Mona Bissany – aye; Carol Johnson – aye; Richard Beauregard – aye. William Morris – aye 7:38 PM.**

William Morris addressed everyone present with a brief explanation about the Tobacco 21 initiative and Dr. Hartman's presentation to the Board at its March 24, 2015 meeting. Mr. Morris said that the purpose of tonight's hearing is to obtain the public's input regarding increasing the purchase age of tobacco products in the Town of Walpole to age 21 and regulate the sale of electronic cigarettes, flavored cigars and cigarillos. Mr. Morris asked that all questions and/or comments be directed to the Board of Health.

- William Hamilton – said that increasing the purchase age to 21 is discriminative to soldiers coming home that may not meet that purchase age requirement and thought the purchase age should be lowered back to 18.
- Roy Lee – said he supports raising the purchase age to 21 and felt that the longer you can delay Walpole's youth from purchasing cigarettes the better.
- Kenneth Southwood – said he opposed increasing the age to 21 and that we as a society have to stop micromanaging our young people and that young people who under the law are considered adults at 18 should be able to make their own decision whether to smoke or not.
- Stephan Ryan, New England Convenience Store Association – said that the Coalition for Responsible Retailing (CRR) is committed to reducing youth access to tobacco products and that based on FDA youth access compliance checks retailers in Massachusetts have a 91% compliance rate. Mr. Ryan voiced concern that the banning/removal of certain legal products (flavored tobacco, single cigars) from store shelves will impact local retailers financially and prevent them from selling a product that is legal. Mr. Ryan asked that the Board of Health to review and consider recommendations made by CRR in their May 11, 2015 letter.
- John Lombardi – said it is the responsibility of parents to set rules and educate their children and that he opposes increasing the purchase age. Mr. Lombardi said educated don't legislate.

- Dr. Hartman – spoke briefly about the adolescent brain and how research has found that the longer you delay an addictive habit (smoking) the less likely one will develop and by increasing the purchase age to 21 you will help prevent chronic health issues and premature deaths due to smoking.
- Sarah McCoglan – spoke about the financial impact tobacco related health issues have had on Medicare, Medicaid and Veteran’s benefits (\$68 billion).
- Ken Farstein – said that not all adolescents have parents who will educate them about the dangers of smoking, that studies have shown that heroin and cocaine are less addictive than cigarettes and that hundreds of thousands of lives can be saved by raising the purchase age to 21.
- John Robinson – said that prevention should be achieved through social engineering and is opposed to the draft regulations because it is not the local Board of Health’s authority but rather state legislators.

William Morris said that the Board of Health will carefully consider all comments made and thanked all present for attending tonight’s public hearing.

**MOTION:** made by William Morris to close the public hearing regarding the proposed Tobacco Regulations; **Roll Call: Richard Bringham – aye; Mona Bissany – aye; Carol Johnson – aye; Richard Beauregard – aye, William Morris – aye 8:15 PM.**

**Animal Permit – 40 Walden Drive:**

**Documents/Exhibits – Animal permit application (on file Health Department)**

The Board of Health reviewed the Animal Permit application to house six or less chickens at 40 Walden Drive.

**MOTION:** made by Carol Johnson that the Board of Health approves Ben & Allison Kibler’s animal permit application to house six or less chickens at 40 Walden Drive. Seconded by Richard Beauregard. **VOTE: 5-0-0 UNANIMOUS.**

**Notice of Intent – 651 North Street:**

**Documents/Exhibits – Notice of Intent (on file Conservation Commission); Deputy Health agent’s summary.**

The Board of Health reviewed for comment the Notice of Intent – 651 North Street, to construct a single family home, attached garage, driveway and utilities. Portions of the driveway, 513 square feet, and portions of the rear lawn, 12,608 square feet, are within the 100 foot buffer of vegetated wetlands.

**MOTION:** made by Richard Beauregard that the Board of Health’s comments to the Conservation Commission regarding the Notice of Intent – 651 North Street are that the Board has concerns about the negative impact construction within the 100 foot buffer zone may have and therefor oppose any new construction in that area. If the project should go forward the Board of Health asks that the Conservation Commission restrict the use of fertilizers and pesticides within the buffer zone. Seconded by Mona Bissany. **VOTE: 5-0-0 UNANIMOUS.**

**Notice of Intent – Nstar Electric ROW #44:**

**Documents/Exhibits – Notice of Intent (on file Conservation Commission); Deputy Health agent’s summary.**

The Board of Health reviewed for comment the Notice of Intent – Nstar Electric ROW #44 to construct on existing Right of Way (ROW) new 115-kV overhead transmission lines to enhance reliability to existing load centers. There are no new structures proposed within wetland resource areas and the project is in full regulatory compliance with the Wetland Protection Act.

**MOTION:** made by Mona Bissany that the Board of Health's comment to the Conservation Commission regarding the Notice of Intent – NStar ROW #44 is that the Board has no specific concerns at this time with the plan. Seconded by Carol Johnson. VOTE: 5-0-0 UNANIMOUS.

Zoning Board of Appeals Variance – 1049 Main Street:

**Documents/Exhibits – Variance request (on file Zoning Board of Appeals); Deputy Health Agent's summary.**

The Board of Health reviewed for comment the Variance Request – 1049 Main Street, to allow a rear addition to an existing business (Red Cherry) to be constructed with a 5 foot rear setback instead of the required 10 foot minimum. The project will require the removal of an existing shed and the relocation of an existing dumpster.

**MOTION:** made by William Morris that the Board of Health's comments to the Zoning Board of Appeals regarding the Variance Request – 1049 Main Street are that the Board of Health has no specific issues with the proposed expansion of the Red Cherry Establishment with the understanding that the establishment will temporarily close during construction and require an inspection by the Health Department before reopening and that the location of the dumpster is far enough away that it does not create a public health hazard for customers enjoying the outside eating area. Seconded by Mona Bissany. VOTE: 5-0-0 UNANIMOUS.

New Business:

Board of Health Reorganization:

**MOTION:** made by Carol Johnson that the Board re-elect William Morris as Chairperson to the Board of Health. Seconded by Mona Bissany. VOTE: 5-0-0 UNANIMOUS.

**MOTION:** made by Richard Beauregard that the Board re-elect Carol Johnson as Clerk to the Board of Health. Seconded by Richard Bringhurst. VOTE:5-0-0 UNIMOUS.

Old Business:

Al Marhama Islamic Cemetery:

William Morris said that the Board of Health's authority is strictly to determine the health and safety implications of siting a green burial cemetery at the proposed location. Mr. Morris said May 12, 2015 continued

that there are three potential outcomes that the Board may pursue: 1) the Board of Health could vote to approve the plan as presented; 2) the Board of Health could vote to not approve the plan; 3) the Board of Health could vote to approve the plan with modification or restrictions. Mr. Morris said that the Board of Health is fortunate to have a physician, pharmacist and an hazardous waste/environmental specialist on the Board because there were a lot of comments and concerns voiced at our public hearing regarding potential contamination from decomposing human remains. Mr. Morris opened the discussion up to the members of the Board.

- Richard Bringhurst – said that the Board of Health is concerned about what potential contaminants may enter into the town's aquifer and that there were a number of specific concerns voiced by residents, the first, drugs that the deceased may have received during his or her terminal care and if those drugs remaining in the body after death and if so what impact to the environment they may have during the decomposition process. Dr. Bringhurst said that in his opinion this is not a concern because the concentrations of such medications administered are so diluted in the body. Second, radiation is not a concern because it passes through the patient and therefore no fixation or potential radiation remaining in the body after death. Third, micro biology related to bacteria and viruses, Dr. Bringhurst said there are thousands of species of bacteria and viruses and that he understands the concern and that he hasn't reviewed, at this time, any good data on the

impact of micro biologics and their potential for migrating into the ground water. Fourth, decomposition, Dr. Bringhurst said that the decomposition product of a cadaver is organic and not bio hazardous. Dr. Bringhurst spoke about ground water test pit data found during the site investigations and recognized that ground water on the property travels away from the town's aquifer.

- Mona Bissany said that the purpose of tonight's discussion is to examine the facts regarding the proposed green cemetery and the impact it may have on the town's aquifer. Ms. Bissany said that initially when the proposed cemetery came before the Board of Health (July 2014) the Board was in support of the proposal because bodies are interred without the use of any toxic chemicals such as formaldehyde and that the intent is to preserve nature and not harm it. Ms. Bissany said that the CDC states that they have not at any point prescribed embalming as a method of protecting public health and that the process of decomposition is nature's way of recycling human elements. Ms. Bissany said that most viruses that cause disease cannot survive more than a few hours in a dead body and that septic systems, underground storage tanks, unsealed wells, fertilizers, chemicals and run off from storage areas cause a greater threat to our ground water. Ms. Bissany referenced site investigations conducted by Sage Environmental and Weston Sampson and that the Massachusetts Department of Environmental Protection determined that the proposed land use did not pose a threat to the town's water supply. Ms. Bissany recommended the following suggestions: 1) that the Board of Health visit the site; 2) that the Board of Health not allow the use of concrete liners because they produce greenhouse gases and strongly recommend biodegradable caskets; 3) that no grave site is located within the 100 foot buffer zone, 4) that grave sites are sited 820 feet from any private well sited by the town's water department; 5) that all cause of death (MGL Chapter 46 section 9) is reported to the Board of Health. In closing Ms. Bissany commented that referring to the deceased as hazardous waste is an insult and that all people regardless of the cause of death should be treated with dignity and that this is a cemetery being proposed not a nuclear dump site.
- Richard Beauregard said that his professional background is in hazardous waste management and environmental protection and that this has been quite an education. Mr. Beauregard said that he never thought the Board of Health would spend so much time on a proposed burial site and recognizes the environmental benefits of a green burial. Mr. Beauregard thanked the residents for their input and acknowledged their concerns in protecting the town's water supply as well as their love for the town. Mr. Beauregard said that he agrees that human remains should not be considered hazardous waste but does have some concerns about the impact the cemetery could have on the aquifer. Mr. Beauregard referenced World Health Organization (WHO) report and some of the data submitted for review regarding private wells in the area and storm water runoff determined during site investigation. Mr. Beauregard said that it is important that we move forward in our decision making and not look back at what is already established in the area. Mr. Beauregard said that with all the information the Board of Health has received the level of risk to the town's aquifer still has not been determined and because of that he could not support the proposal.
- Carol Johnson said that the Board of Health in Walpole has a mandate to provide a healthy environment for the people who live, work and visit the community and that as a Board we take that responsibility very seriously. Ms. Johnson said that Walpole is fortunate to have wells that provide us with water for all our needs, drinking, washing, and irrigation and that recently the Board has considered concerns voiced about the potential of the town's well located in the vicinity of the proposed cemetery becoming contaminated. Ms. Johnson said that whether or not the proposed cemetery will impact this well is uncertain and that the slightest risk would impact her vote. Ms. Johnson said that the proposed cemetery would be an attractive addition to that area of Route 1 and

that family members who want to bury their loved ones in a cemetery in Walpole deserve to do so. Ms. Johnson said that at the April 28, 2015 public hearing John Hasenjaeger (Economic Development Commission) offered to assist the Al Maharma Islamic Burial Service possibly find an alternative location away from the town's aquifer and said that she hopes that could be accomplished.

- William Morris said that the process of a green burial is not a new concept and has been practiced for millennium and that the practice of embalming and caskets is relatively new. Mr. Morris said that he has not found any citations stating that a decomposing body is detrimental to the environment or ground water, provided that a cemetery is situated properly. Mr. Morris said his concern is that the Sage Environmental report found ground water at six and half feet and that the level was caused by recent precipitation. Mr. Morris said that it is very clear from the two public hearing held, from all the residents that spoke, that protecting the town water source is a priority. Mr. Morris said that the Board of Health takes the health and safety of the residents and visitors who visit the town very seriously. Mr. Morris said that the applicant has not been able to provide comprehensive data regarding ground water in the area and a plan to protect it.

**MOTION:** made by Richard Beauregard to deny the approval of the proposed cemetery under Massachusetts General Law, Chapter 114, Section 34, which provides that any new cemetery or any expansion of an existing cemetery shall not lawfully occur without the advanced permission of Town Meeting following receipt by Town Meeting of the written approval of the Board of Health of the location of the lands intended for the cemetery use after the Board of Health has conducted a public hearing with notice. It is moved that the Board of Health will not approve the request of the Islamic Society of Boston to locate a cemetery on lot 34 of the Boston Providence Highway Route 1 at the intersection of Foxhill Drive in Walpole. The reasons for this decision are the following: the proximity to private wells, impact to the wetlands, water levels at/near test pits both on site and proximity of properties, and the noticed storm water runoff located so close to the burial depths as noted in the reports. Seconded by Carol Johnson.

**MOTION AMENDMENT:** made by William Morris to add to the motion in order to clarify, that a detailed and expansive groundwater study was not completed as part of this application process therefore the Department of Environment Protections did not review that study before their consideration and approval. Seconded by Carol Johnson.

**VOTE:** 4-0-1.

4 – in favor – William Morris, Carol Johnson, Richard Bringham, Richard Beauregard

1 – abstained – Mona Bissany

#### **Meet & Greet:**

Robin Chapell said that over forty MRC volunteers attended the annual Meet & Greet night and thanked Siemens Healthcare Diagnostics for hosting the event. Carol Johnson said that she was very impressed with guest speaker Major Mary Newton, Massachusetts National Guard, and the service the National Guard Emergency Response Team provides the residents of Massachusetts.

#### **Superfund Site:**

The Health Director updated the Board of Health about activities on the South Street Superfund site. Ms. Chapell said that contractors for the Responsible Parties are on site and that a Notice of Intent will be filed with the Conservation Commission. Ms. Chapell said that bids for the demolition project (east side former Cosmec building) should go out by the end of May with a contract in place by July 4, 2015.

#### **Correspondence:**

Open Space Residential Development – Case Number 15-2  
DEP – GAF Materials

Michael Griffin – Scoops/Watsons – The Health Director discussed with the Board the events that led up to the questions and concerns voiced by Mr. Griffin in his 4/23/15 letter. The Health Director and Board of Health agreed that working with permit holders is a priority.

**MOTION;** made by William Morris to adjourn. Seconded by Richard Beauregard. VOTE: 5-0-  
0 UNANIMOUS.

Meeting Closed 9:15 PM