

# Board of Health Meeting Minutes

## Executive Session

### December 11, 2013

Present: Rich Maccagnano, Karen McManamon, Eric Dickinson and Ann McCobb. Rich called the meeting to order at 7:05 p.m. following a roll call vote.

Bill Mayer, attorney from Mayer, Antonellis, Jachowicz & Haranas, LLP, and Don Kramer, Animal Inspector, joined the meeting.

**Complaint at 312 & 330 Marshall Street:** The Board met with Attorney Bill Mayer to discuss the lawsuit filed by Eric Waldman against the Board of Health using a new attorney.

Bill Mayer visited the site. The Fowlers, at 330 Marshall St, were not home and he did not go on the property. He saw the paddock and shed from the street and the manure dumpster in the driveway near the street. He explained to the Board that their purpose is to simply respond to the plaintiff's complaint and not to add extra information. He said it would not be uncommon for the judge to issue an injunction request from the plaintiff that prohibits the Fowlers from keeping horses until the case is settled. He said the complainant, Eric Waldman, at 312 Marshall St, believes the Board made an error when acting on the Fowlers application and now he is being harmed by that.

Rich Maccagnano explained to Bill that the Board had not held a hearing on the issue but rather discussed at a meeting whether the application was properly issued. The Board determined that Health Agent Ann McCobb acted properly in the acceptance and issuance of the permit. Ann explained to Bill the process and procedure for the Health Department regarding adding an accessory building to a property. There are no Health Department files regarding the specifications of the shallow wells on the property at 312 Marshall St. The file identifies a well in a Title 5 Inspection report from 1997. The wells on Waldman's property do not meet current requirements for a well. There are a number of possible areas of contamination including the Bird DEP hazardous waste site, the adjacent former landfill and his own septic.

Rich stated that the Board is looking at any or all areas under Board of Health jurisdiction and have not found any issues or lapses in judgment.

Don Kramer has visited the site several times and has never seen any problems with the site or the handling of manure or other waste. He said the site is kept very clean and reminded the Board that the property is designated agricultural. Ann noted that all the early complaints received by Waldman referenced odor and not well contamination and that this latest lawsuit did not mention odor.

The Board discussed further details of the case with Bill and he said he will file an answer on behalf of the Board stating that the circumstances show there is not a violation of any regulations and there is not a public health threat.

**41 Pleasant Street:** Attorney Bill Mayer told the Board he has not heard back from Attorney Meltzer on behalf of his client the Healy's. Bill will contact the judge for new dates.

**Motion:** Eric Dickinson motioned at 7:55pm to end executive session for the purpose of returning to public session, seconded by Rich Maccagnano. Rich Maccagnano, Aye; Karen McManamon, Aye; Eric Dickinson, Aye.

Respectfully submitted:

Lisa Deering, Health Department Clerk

Approval Date: 3-19-15