

# Board of Health Meeting Minutes

## Executive Session

### September 26, 2013

Present: Rich Maccagnano, Karen McManamon, Eric Dickinson and Ann McCobb. Rich called the meeting to order at 8:00 p.m. following a roll call vote.

Bill Mayer, attorney from Mayer, Antonellis, Jachowicz & Haranas, LLP, joined the meeting.

**41 Pleasant Street:** Bill Mayer explained he visited the site with Ann McCobb and Highway Superintendent, Tom Smith and gave his description of the situation. The site is a multi-family unit with septic system in failure for some time. The property owner had engaged Holliston Sewer Service to pump regularly. The upgrade project has been delayed for a variety of reasons. The Board of Health voted to give the owner a 60 day notice to begin the project. The owner thinks he was entitled to be present at the meeting but he was unaware it would be discussed. Bill thinks the Board proceeded thoughtfully. The system is installed although not fully signed off. Michael Healy, property owner, hires attorney Meltzer to sue the town. Due to prior relations, Bill requires Meltzer to contact him in writing. A judge encouraged them to discuss the matter. Bill thought the case would be dismissed but said that Meltzer pursues cases for other reasons so a lawsuit is pending and all three members of the Board are being sued.

The lawsuit asks the Board:

1. To remove the 60 day notice to proceed;
2. To apologize to Michael Healy;
3. To contribute to the cost of repair of the system.

The judge has made a request to settle the case. The Board discussed the case with Bill reviewing the timeline. Rich stated that the first plan presented by Dean Schofield had a plan for a large mound close to the house due to the wetland delineation line being much closer to the building structure. It took the Town many years to gain approval of all involved property owners, but once approval was received the Highway Department cleared the drainage problem and fixed the culvert that was causing a large flooding problem in the area. The delineation line moved farther back on the property and a new system was able to be designed that was less mounded and much less expensive to build. Rich said the Board did the property owner a huge favor by allowing him to wait until the culvert issue was resolved. It was the proper time to economically and safely replace the system. Karen McManamon said the owner wanted to wait until the spring and the Board did not want him to wait.

Rich said that since the judge has made the request the Board should try to settle the case. He believes the Board was within their rights to act and that they went above and beyond what was necessary for allowances. Rich would like to see Bill write a letter outlining the process from the beginning, explaining the scenario; not an apology but an explanation and acknowledgement of closure. The Board would like to see this situation resolved.

Bill brought up an alternative solution proposing a meeting with Meltzer and perhaps a third party mediator. Rich suggested inviting them to executive session. Bill said he will contact Meltzer and see if what he thinks and get back to Ann.

**Motion:** Rich Maccagnano motioned at 8:35pm to end executive session for the purpose of returning to public session, seconded by Karen McManamon. Rich Maccagnano, Aye; Karen McManamon, Aye; Eric Dickinson, Aye.

Respectfully submitted:

Lisa Deering, Health Department Clerk

Approval Date: 3/5/2015