

MEETING MINUTES  
November 14, 2001

Board of Health Members Present:

Joseph McManus, Chairman; Dr. Susan Horowitz, Jodi Deuger

Others Present:

Robert K. Overton, R.S.; Debra Butcher

Meeting Called to Order:

Chairman McManus called the meeting to order at 7:00 pm.

Bills Approved/Signed:

- \*Moison Ace Hardware-\$107.20
- \*CCP Industries-\$196.07
- \*CCP Industries-\$323.74
- \*Belledeu & Co., Inc.-\$89.98
- \*Belledeu & Co., Inc.-\$8.97
- \*BFI-\$5886.60
- \*Airgas-\$116.47
- \*CTC Communications-\$58.29
- \*CTC Communications-\$31.18
- \*Covanta Haverhill-\$9782.66
- \*CCP Industries-\$65.39
- \*Groton Electric Light Dept.-\$7.33
- \*Groton Electric Light Dept.-\$12.92
- \*Groton Electric Light Dept.-\$34.33
- \*Atlantic Rubber Co.-\$29.70
- \*Buckley Energy-\$33.81
- \*ApparelMaster-\$77.28
- \*RV Leonard-\$52.92

Permits Approved/Signed:

- \*25 Lakeside Drive; David Hughes (Upgrade)
- \*85 Hubbard Lane; Richard Malagodi (Upgrade)
- \*311 Forge Village Road; Steve Annese (New)
- \*23 Hazel Road; Amy Sherwood (Upgrade)

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**85 Hubbard Lane** – Present: Jeffrey Mosen, H-Star Engineering; Richard Malagodi; several abutters

On behalf of his client, Mr. Malagodi, Mr. Mosen presented a design plan to Board requesting the following variances:

Town of Groton Local Regulations

Section I.E.1 Leaching facilities (including the proposed expansion area) must be located at least one hundred (100) feet from the nearest wetland, water course, wetland vegetation, seasonal streams and drainage ditches. 100 feet required; 63 feet provided.

Entire lot is within the 100 year flood plain.

Section I.A.1 Each individual lot shall meet all applicable requirements of Title 5 and the Groton Board of Health. Two groundwater observation holes and two percolation tests must be performed on each lot to prove a suitable primary and expansion area for each lot. This requirement shall also apply to a subdivision for which a preliminary or definitive plan has been submitted. Approval given for additional testing in the reserve area.

Mr. Mosen reported that an Order of Conditions has been approved by the local Conservation Commission and a

copy was submitted to the file. He stated that the placement of the system was to maximize the offsets to the wetlands.

Member Jodi Deuger asked about the testing in the reserve area. Health Agent Robert Overton stated that deep holes were done; however, the soil evaluation and percolation tests were not done within the reserve area yet.

Chairman Joseph McManus requested comments from the Board's Health Agent. Mr. Overton stated that he visited the site and the 100' required from the wetlands could not be avoided because most of the lot was within the 100 year flood plain. He said he didn't see a better alternative to the plan. Member Jodi Deuger asked additional questions about the existing structure and any flood damage. Mr. Monsen stated the existing system was much lower than the proposed new one.

Chairman McManus made a motion to approve the variances as requested. The motion was seconded by Member Susan Horowitz and approved unanimously.

**23 Hazel Road** – Present: Amy Sherwood, several abutters

The applicant's engineer was not present so the Board's Health Agent presented the plan as designed by the engineer. He stated that the property is an undersized lot that had a building that has been demolished and plans are for it to be rebuilt.

The following variance was requested:

– Town of Groton's Local Regulation

– Section I.E.7 – Minimum of twenty (20) feet must be available between any property line and the entire exterior perimeter of any proposed leach area. Twenty (20) feet required; 10 feet provided.

Mr. Overton stated that the design met all Title 5 and local requirements except the required property line offsets. He said the property is being tied into town water. Mr. Overton stated that there was no alternative solution available. He said this was the smallest system designed under Title 5 with the smallest flow for a three bedroom house.

Member Susan Horowitz asked if a condition could be placed on the property for the bedroom size not to be increased. Mr. Overton stated that a restriction could be included on the deed.

Chairman McManus asked if there were any comments from the audience. Earl Carter stated that he had no concerns. Another abutter asked if his property would be adversely impacted from the construction should his system fail. Mr. Overton stated "no". He stated that he would have the same opportunity for a variance should a system require an offset to an adjoining property.

Chairman McManus stated that he was happy to have abutters present during these discussions and encouraged it to continue in the future. He made a motion to accept the proposed variance as requested. The motion was seconded by Susan Horowitz and approved unanimously.

**Mr. Arthur Monson – 45 Hill Road** – Present: Mr. & Mrs. Monson; Carol & Michael Bouchard

Chairman McManus stated that the Board of Health is in receipt of a complaint about an alleged odor resulting from pigs coming from Mr. Monson's property. He stated that there was a dispute among one of his neighbors in which the Board was asked to intervene and stated that a certified letter was mailed to him. Mr. Monsen denied receiving a certified letter but acknowledged that he was attempting to resolve the problem by laying down a concrete pad to keep the manure area clean. He gave permission for the Board to have access to his property to investigate. Chairman McManus requested a letter from Mr. Monsen allowing access to his property at any time. Mr. Monsen agreed to provide that letter.

**Public Hearing – Draft Live Stock Regulations**

Hearing no objections from the audience, Chairman McManus opened the public hearing at 7:50 pm instead of 8:00 pm as published. He stated that the Board has begun preliminary discussions concerning the adoption of regulations for live stock. He stated that they were in receipt of regulations from 3 other towns in which they

were possibly using as a platform for their own. He stated that it was the Board's normal procedure to hold several public hearings prior to any vote taken and that these were no exception to that. Chairman McManus stated that Massachusetts General Laws, Chapter 111, Section 155 requires towns to license stables having more than five thousand inhabitants (attached). Mr. McManus turned the discussion over to the Board's Health Agent.

Mr. Overton, referencing Chapter 111, Section 155, stated that by having regulations or a licensing procedure in place allows him to investigate situations that involve odor and nuisances. He stated that residents would be required to handle manure in a sanitary manner that would eliminate many odor complaints he receives.

Chairman McManus stated that the one of the duties of the Board of Health is to address these situations and regulations and/or licensing would help.

Barney Blood stated that the adoption of regulations would not encourage Groton residents to keep animals in town. He stated that he is already monitored and licensed through various state and local agencies already and didn't feel regulations were necessary. He stated that very strict controls were placed on his business and acknowledged that court action would occur if he didn't comply.

Ed Kopec commented that the Town already had an Animal Control Inspector who fulfills this requirement and saw no reason for the Board to create another restriction on farms and residents who have live stock animals. He opposed any such restriction.

Member Susan Horowitz stated that the draft regulations were not necessary those that the Board was going to adopt. She stated that the draft was only a "basis" to go on.

James Rutledge asked if the Board was going to regulate cats and dogs in this proposal. Member Horowitz stated that dogs are already required to be licensed through the Town and it was her belief that cats should be also.

Member Susan Horowitz stated that the Board was looking for a census of animals in town should a contagious disease break out and information needed to be distributed to those with animals. She stated that since the terrorist attacks of September 11, she felt a consensus of animals and their locations was critical.

Chuck Patenode stated that farmers are already receiving information on bio-terrorism for over a year for "hoof & mouth" disease. He stated that he understood the motivation to justify actions due to September 11. However, he didn't support the adoption of actual regulations.

Member Susan Horowitz stated that she was also receiving information and took exception to Mr. Patenode's implication that the Board was "late" in addressing these issues.

Attorney Chris Lilly, representing Mr. Blood, stated that a consensus could be obtained through a licensing or permitting process and also questioned the need for regulations.

Nancy Webber requested that the Board require a full farm license instead of requiring a permit fee for each animal. She stated that the proposed written process wouldn't work since animals steadily increase and decrease often.

Mr. Blood asked that the Board revisit language relative to the number of animals allowed based on acreage. He currently is involved in a land sale but would rescind that if this becomes necessary.

Chairman McManus proposed that the public hearing be continued to December 10, 2001 at 8:00 pm. He thanked the audience for attending. The Board took no action. The hearing concluded at 9:50 pm.

### **Public Hearing – Building Moratorium**

Chairman McManus opened the public hearing at 9:55 pm and provided a brief explanation for his proposal on a building moratorium. Mr. McManus stated that the Board of Health conducted a series of public hearings with various town departments for the purpose of evaluating town services and infrastructure. These discussions were prompted by the result of a rapid rate of growth that has occurred over the years. As a result of this growth, Mr. McManus proposed a moratorium on new construction projects to last a minimum of three years. He stated that this would allow town services to meet residential demands. Mr. McManus stated that the Board has not officially voted on the proposal and was still in the preliminary stages of discussion.

Board of Selectmen Member Tom McCuin questioned what authority the Board was acting under. Resident Paula Martin also questioned the legality of the proposal.

Chairman McManus, citing M.G.L. Section 41, Section 81, stated that it was the Board of Health's duty and responsibility to address issues pertaining to uncontrolled growth and its impact on public health. He stated that one of his major concerns was about the lack of town water availability for fire protection. He reported that the Town of Littleton recently enacted something similar concerning their growth concerns. He said that the town has been fiscally shortsighted in its study of town services.

Mr. McManus stated that response time for the fire department, in his opinion, was inadequate and cited a "4 to 6" minute response time for an acceptable timeframe. Fire Chief Joseph Bosselait responded by saying that the Fire Department was a very responsible department and that the current model of "4 to 6" minute response time was up to the town residents to decide is acceptable or not.

Michelle Collette questioned whether the Board had obtained a legal opinion from Town Counsel. Chairman McManus stated they had not. He said that the purpose of the public hearing was to gather public comments and to try to reach a resolution or another course of action.

Selectman McCuin responded that it was not the Board's authority to enact a moratorium. He said a moratorium could only be done if there was a water emergency in town or through zoning.

Selectman Dann Chamberlain also took exception to Chairman McManus' proposal stating that the town has ignored the growth issue. He stated that the Town has a well equipped fire department and was offended by Mr. McManus' proposal. He read a letter from the Board of Selectmen into the record in which all three Selectmen opposed the proposal. He accused Mr. McManus of "showboating".

Selectmen McCuin spoke of the efforts put forward by the Growth Management Advisory Committee in which he is a member. He stated that this committee was evaluating the town's services and infrastructure in which a full report would be presented at a Town Meeting.

Chairman McManus stated another area of concern was the lack of sewer capacity. He stated that the Board of Health recently had a hearing in which a house in the sewer district could not connect due to lack of capacity. This house was being pursued for affordable housing units.

One town resident asked if the remaining Board members supported the proposal. Member Susan Horowitz stated that she did not support the proposal as written. She stated that she did not believe in the proposal either. Member Jodi Deuger stated that the Board scheduled the hearing to listen to concerns and evaluate that data. She was not prepared to vote on the proposal at that time. She stated that whether the proposal is approved or defeated, it has brought attention and increased focus on the need for future planning.

Chuck McKinney questioned the forum to present the proposal. He felt that the hearing showed a lack of understanding and process for town government.

Member Susan Horowitz explained that the Board's intent was to keep an open forum and not to hide what the Board was deliberating on whether it was in support of it or not.

Chairman McManus concluded the meeting by stating that he will take the consideration of a moratorium off the table if that is what the other Board members vote to do. He ended the public hearing at 10:00 pm.

### **General Business**

1. Nashoba Executive Board Meeting – Jodi Deuger agreed to attend the next meeting scheduled for December 13, 2001 on behalf of the Board.
2. Minutes on the Groton Website – The Board of Health agreed to have the approved minutes on the Website.
3. Capital Planning Meeting – Susan Horowitz agreed to attend this meeting.
4. Emergency Management Plan – Jodi Deuger presented an old Board of Health protocol for the Board's review and revision. She stated that the Board has the authority to quarantine if necessary but wasn't sure

- of the procedures involved. Mr. Overton stated that he would obtain a procedure for the Board's review.
5. Transfer Station Update – Bruce Dubey stated that the Department of Environmental Protection was coming to the Transfer Station on Nov. 15<sup>th</sup> at 10:00 am for a routine inspection. Chairman McManus stated that the Transfer Station was well maintained and that Mr. Dubey shouldn't have concerns. He thanked Mr. Dubey for a job well done.

**Adjournment** – Chairman McManus made a motion to adjourn at 10:30 pm. The motion was seconded by Member Horowitz and approved unanimously.

**Approval**

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Joseph McManus, Chairman

Dr. Susan Horowitz

Jodi Deuger

Respectfully Submitted,  
Debra A. Butcher