

**NOVEMBER 26, 2001**  
Minutes

Board of Health Members Present:

Joseph McManus, Chairman (arrived at 7:30 pm); Dr. Susan Horowitz,  
Jodi Deuger

Others Present:

Debra Butcher

Meeting Called to Order:

Member Horowitz called the meeting to order at 7:00 pm.

Minutes Approved:

None

Bills Approved:

- \*Belmont Springs-\$13.00
- \*Al Collins & Associates-\$620.00
- \*RJ Lacombe Septic Service-\$400.00
- \*CTC Communications (BOH)-\$67.76
- \*CTC Communications (SW)-\$32.61

Permits Approved:

None

Public Hearing – Subsurface Disposal Regulations: Present: None

Member Horowitz opened the public hearing at 7:05 pm and read the public hearing notice into the record. Dr. Horowitz read the proposed changes into the record and explained the rationale for them.

After a brief discussion, Dr. Horowitz made a motion to accept the changes as proposed. The motion was seconded by Member Jodi Deuger and approved unanimously. Dr. Horowitz stated that the regulations would become effective immediately.

Emergency Management Plan

Member Jodi Deuger updated the Board of Health on the status of plan reviews. She stated that efforts are being made to update the plan with current information in preparation for emergencies.

Member Deuger stated that the Fire Chief, or another site charge official such as the Police Chief, wanted authority to quarantine if needed. She stated that the Board of Health can pass that authority to the Chief.

Member Horowitz stated that the Fire Chief seems to be the "charge" department and agreed to give the authorization. Member Deuger stated that Nashoba Associated Boards of Health would also maintain authority in critical situations as well. Member Horowitz agreed that if a situation occurred that needed a representative from the Board of Health that the police request her presence.

Member Jodi Deuger made a motion to authorize the Fire Chief, Police Chief or any site charge official have authority to quarantine in an emergency situation until a member of the Groton Board of Health or the Nashoba Associated Boards of Health arrive. The motion was seconded by Member Deuger and approved unanimously.

Chairman McManus arrived at 7:30 pm.

### Public Hearing-Well Regulations – Present: Mark Deuger

Chairman McManus read the public hearing notice into the record. He opened the discussion to the audience.

Resident Mark Deuger stated his disagreement with the need for the changes being proposed. He said he disagreed with the proposed pumping test requirements and asked why the board was proposing the change.

Member Susan Horowitz stated that the Board recently learned of a situation where a new home in a new subdivision was not receiving adequate water from its well. She stated this prompted the Board to look at the regulations, specifically where it pertains to water quantity. She stated that the changes would be in the best interest of the homeowners – a “buyer beware” situation.

Mr. Deuger stated that there was already certain general language in the Purchase and Sale agreement that would make a potential buyer aware and would require builders to provide an adequate water supply. He asked how many complaints had the Board of Health received for under-productive wells. He stated that during his tenure on the Board that he didn't receive any.

Member Deuger stated the Massachusetts Board of Health guidebook states that local Boards of Health have jurisdiction over both water quality and quantity and it was within the Board's purview to adopt this.

Mr. Deuger asked for a definition of “adequate” in terms of water quantity, i.e. what is the suitable capacity for a well? He stated that site conditions, such as water tables, fluctuate and the seasons influence them.

Member Horowitz stated that the changes would ensure that developers remain responsible to protect the buyers. That comments prompted Mr. Deuger to state, “I don't think the proposed changes gets its hand around the problem.”

Member Horowitz stated that it was her opinion that the Board's Health Agent should review the changes with a hydrologist further. She said that most of the new development going on was on questionable land and the problems are increasing. She stated that it's the Board's responsibility to protect the residents and insist that developers do the right thing.

Mr. Deuger suggested that the Board go back and study if a need exists for the proposed changes and establish reasons why some wells may be going dry. He stated that if the Board wanted to add a section on water quantity, they should establish a need first. He said that there are industry standards available which the regulations should be based on.

Member Horowitz stated again that the Board of Health needs to protect the homeowner. She said that the hardship to the developers didn't concern her.

Mr. Deuger answered by saying that the regulations shouldn't be adopted based on one development. He felt that the Board should try to resolve problems individually even if that meant to simply move the well or drilling a new one.

Member Deuger suggested that the Board continue the hearing to January when the Health Agent would be present. The Board suggested that both Water Superintendents to the hearing.

### General Business

1. Meetings - Dr. Horowitz suggested that the Board evaluate how meetings were being conducted. She recommended that the Board adopt a protocol that has topics discussed among the Board first before bringing it to a public hearing. Chairman McManus stated that the Board had set up an order of discussion where each member voices their concern and ends with the Chairman. He felt that during his tenure on the Board that each Chairman allowed ample discussion. Dr. Horowitz recommended that the Board have working sessions prior to scheduling a public hearing. Member Jodi Deuger agreed with the suggestion.
2. Building Moratorium – Dr. Horowitz asked that Chairman McManus remove his proposal for a building moratorium from discussion. Discussion continued regarding the November public hearing where Dr. Horowitz

felt that the hearing was "the ugliest meeting she had ever attended." She insisted that it never happen again and that future situations like this were discussed in a working session prior to a public hearing. Chairman McManus disagreed. He stated that he tried to control a group of angry residents that best he could. He felt strongly that residents should be included in all discussions and that it was in the best interest of the Board to allow that to happen. After a lengthy discussion, Dr. Horowitz made a motion to take Chairman McManus' building moratorium off the table. Member Jodi Deuger seconded the motion but with an amendment that if there are future public health concerns, the Board should address them. VOTE:

Member Horowitz-Aye; Member Deuger-Aye; Chairman McManus-No

3. Live Stock Regulations – Dr. Horowitz would like a legal opinion on whether the Board's health agent is allowed to enter onto property without consent or a search warrant. She felt that Rob Overton was incorrect when he stated he was not allowed access. She questioned Rob Overton's interpretation versus the language of the Massachusetts Boards of Health Guidelines concerning Nuisance and Noisome trade. She felt that the Board of Health should have been presented with the state regulation concerning stable regulations, not the Town of Shirley's regulation and she had a major problem with the Board of Health not having complete knowledge of this situation.

Chairman McManus strongly disagreed with her. For the record, he stated that it was inappropriate to be having such a discussion without the Health Agent's presence. He also had concerns about running up unnecessary legal expenses for the town. Member Jodi Deuger felt Dr. Horowitz' suggestion would protect the Board and agreed with her.

4. Animal Inspector – Dr. Horowitz suggested that the Board invite the Animal Inspector to a meeting to discuss his/her job description as it relates any regulations being proposed.

#### Adjournment

Chairman McManus made a motion to adjourn at 9:03 pm. The motion was seconded by Member Deuger and approved unanimously.

#### Approval

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Joseph McManus, Chairman

Dr. Susan Horowitz

Jodi Deuger

Respectfully Submitted,  
Debra A. Butcher