



TOWN OF GROTON
Board of Health
173 Main Street
Groton, Massachusetts 01450

MEETING MINUTES
April 7, 2014

Board of Health Members Present:

Jason Weber, Chairman
Robert Fleischer, Member
Susan Horowitz, Member

Others Present:

Ira Grossman, Health Agent
Regina Beausoleil, Interdepartmental Assistant

Meeting Called to Order:

Chairman Weber called the meeting to order at 7:05 pm in the Town Hall.

11 Cedar Road – Wotjas, Title 5 Failure

Mr. Wotjas was before the board again to give an update on his above mentioned property in regards to the Title 5 failure. Previously Mr. Wotjas had enlisted the services of Doug Smith of Soilsmith designs for engineering. It was discussed at the last meeting that the possibility of a tie-in to Town water may solve the failed Title 5 issue. He stated estimates to tie-in to the water supply ranged from 12-30K and that did not include the indoor plumbing. Mr. Wotjas entered the idea of reverse osmosis, stating it would be a lot cheaper.

Mr. Grossman stated that the water line was run down Tavern Road for development purposes and he was not sure why it was not run down Cedar Road. Getting back to the original discussion, treating the water only helps the homeowner and not the public's health and safety. Mr. Gmeiner of the Water Commission stated the Water Department can't afford to run water lines without a guaranteed source of income. They can't afford it and they are not in the business to do it.

Chairman Weber asked if there were any other properties in the same situation that may need the same service. Member Horowitz asked MR. Grossman if the reverse osmosis can be done conditionally, to which Mr. Grossman answered no. He stated that the drinking water was not in question, the groundwater is. The options for Mr. Wotjas is to replace the septic system and/or connect to Town Water. Member Horowitz encouraged the Wotjas' to talk to their neighbors to garner support for the water line as their Title 5 will be failing in the future as well. Member Horowitz suggested Ira send a letter to neighbors to invite them to the meeting in June. The Wotjas's added they basically already know how the neighbors feel in that they don't pay for their water now, why would they want to start.

Member Horowitz made a motion to continue 11 Cedar Road to the June 2nd meeting. Member Fleischer seconded the motion and the vote was unanimous.

Sewer Commission – Jim Gmeiner, Sewer Commissioner

Mr. Gmeiner outlined to the Board there have been a number of changes to the bylaw by Town Counsel. The Sewer Commission had accepted the changes.

Member Horowitz made a motion to accept the new Chapter 190 Regulations agreed upon by the Board of Health and the Sewer Commission as amended by Town Counsel, to be presented in the 2014 Spring Town Meeting. Member Fleischer seconded the motion and the vote was unanimous.

87 Skyfields Drive – John and Nancy Bonenfant, Homeowners – James Morey, Skillings & Son

Mr. Morey was before the Board representing the Bonenfans regarding the well that was drilled and the resulting test. Iron and Arsenic had exceeded limits. No other levels had exceeded. A proposal was sent to include an oxidation filter and 2 guard tanks.

Member Horowitz wanted to note that the Bonenfans stated last time they were before the Board that they were aware and knew the risks they were taking before they decided to move forward with the drilling of the well, and agreed to Town water if the well failed.

Chairman Weber asked various questions as to how much money has been spent so far for drilling and testing, what the lifespan of the system will be, what would be normal maintenance and protocol.

Mr. Morey stated that the system should be serviced every 2-3 years at a cost of about \$300-400. Tank maintenance will run about \$800-900.

Nancy Bonenfant stated they are willing to do whatever needs to be done, also including putting the notice on the deed as well. She also went on to say her understanding of well “failure” was interpreted to mean if the well physically could not be drilled.

Mr. Grossman stated the well is in failure and the recommendation is to require Town water.

Chairman Weber stated there may or may not have been a miscommunication / misunderstanding about the definition of well “failure”. He suggested ~~to~~ allowing a whole house system, but at time of any title transfer, whether by gift or sale, or failure of quality or quantity, that Town water be tied in.

Member Fleischer reminded the Bonenfans that their Building permit was issued upon the predication that Town water would be utilized.

Mrs. Bonenfant stated that was true, but they had to do what they had to do in order to pass papers.

Member Horowitz made a motion to allow a whole house system, but at time of any title transfer, whether by gift or sale, or failure of quality and/or quantity, and/or physical problem with the well and/or elevated contaminants, that Town water be tied in. Testing to be conducted at a 6 month focused and a 12 month test based on Groton Standards. Deed Notice also to be recorded prior to occupancy permit being issued.

Member Fleischer seconded the motion, Member Fleischer – Aye, Chairman Weber – Aye, Member Horowitz – Opposed

29 Allens Trail – Jim Burns, Contractor – Joshua Paul, Homeowner

Mr. Burns was before the Board to present finish basement plans for homeowner Joshua Paul. He is requesting a pump prior to and also a deed restriction for a 4 bedroom house. Mr. Grossman stated that he agrees with the plans presented.

Member Fleischer made a motion to approve the deed restriction request, the pump prior to and the finish basement plans. Member Horowitz seconded the motion and the vote was unanimous.

81 Boston Road

This is in regards to a signed agreement between the homeowners and the Board of Health that the homeowners will connect to the sewer system prior to an occupancy permit being issued for work being done at 81 Boston Road.

Member Fleischer made a motion to sign the agreement. Member Horowitz seconded the motion and the vote was unanimous.

Camp Variances

Member Fleischer made a motion to grant annual camp variances of Chapter 105 Minimum Standards for Recreational Camps for Children:

- 105 CMR 430.101 (A) – The ratio of supervisory staff persons for Camp Kaleidoscope Summer Camp is to be one supervisory staff person for every eight campers age six and under.

*Camp Kaleidoscope
Nashoba Paddler*

Member Horowitz seconded the motion and the vote was unanimous.

Raw Milk – Helen Cahen, Applicant - George Moore, Animal Control Officer – Jean Nordin-Evans, Supporter

Continuation of Raw Milk discussion between various applicants, supporters and the Board. Bruce Easom asked if there was ever an opinion given from Town Counsel in regards to the sale of Raw Milk in the Town of Groton. Chairman Weber read aloud the opinion of Town Counsel received on March 27, 2014:

The statutory provisions (last amended in 1961) referenced in the Board of Health's milk regulation (section 295-1) relate to establishment of a local "medical milk commission," as a non-profit corporation, by "any five or more registered physicians." (Chapter 180 of the General Laws deals with non-profit, or charitable, corporations.) The members of the local board of health must be ex-officio members of the corporation and at least one member of the board of health must be an ex-officio member of the corporation's board of directors. G.L. c.

180, §20. (Milk includes “goats’ milk” for purposes of the statute. G.L. c. 180, §20.) A medical milk commission may enter into agreements with “dairymen for the production of milk under the supervision of such corporation” and the conditions of such production, which must be approved by the Department of Public Health “and shall not fall below the standards of purity and quality for certified milk as fixed by the American Association of Medical Milk Commissions and the standards for milk fixed by law.” G.L. c. 180, §23. Section 25 of Chapter 180 sets a fine of not more than \$100 for the sale or exchange “as and for certified milk any milk not conforming to the regulations prescribed by and bearing the certification of a corporation organized under sections twenty to twenty-five.” Thus, violation of the statute occurs when milk not meeting the production requirements of a medical milk commission is offered for sale or exchange as “certified milk.”

By its terms, section 295-1 of the Groton Code prohibits the sale of milk or cream unless it is a) certified in accordance with the statutory provisions for medical milk commissions or b) pasteurized as required under Chapter 94 of the General Laws. In my view, sale of milk not meeting either of those standards would be a violation of the regulation.

There are two options here: repeal of the regulation or amendment to address more recent developments in milk production. There are many provisions of state law and regulations governing the processing and sale of milk, so that repeal of Chapter 295 would not, in my opinion, leave raw milk producers completely unregulated. For example:

- Section 12 of Chapter 94 of the General Laws provides that the “commissioner of public health shall, subject to the provisions of chapter thirty A, adopt and promulgate rules and regulations establishing other legal standards as well as labeling requirements and sanitary standards for milk, cream and products thereof.”
- Chapter 94A of the General Laws, captioned “Milk Control,” authorizes and provides for the regulation of “the production, manufacture, processing, storage, transportation, disposal, distribution and sale of milk within the commonwealth” by the Department of Food and Agriculture.
- Regulations of the Department of Food and Agriculture at 330 CMR 27.000 govern the sale of milk from a dairy farm (“a place or premises where more than two cows are kept and a part or all of the milk produced thereof is sold or delivered for sale to any person.” 330 CMR 27.02), including the retail sale of raw milk (see 330 CMR 27.06 - 27.08).

Therefore, if the Board wishes to amend the existing regulation, I would recommend that there first be a process of consultation with the Departments of Food and Agriculture and Public Health for coordination and consistency with existing state law, and a process of information gathering regarding the raw milk activities being proposed.

Mr. Easom asked if the prohibition of the sale of raw milk is a by-law or a regulation. Interdepartmental Assistant, Regina Beausoleil answered that it was a Board of Health Regulation. Member Flesicher asked other members of the Board if the Board of doctors has ever existed. Mr. Grossman stated it has not been applied by the state. Member Fleischer stated he didn’t want to set it up and be the first if no one else has.

Mr. Grossman stated the Board should focus on 2 elements: If they are not willing to amend the regulation then discuss that. If they are then discuss the steps in order to do so. Member Fleischer stated he has heard very strong opinions from both sides. He still cannot find any conditions from the state regarding sales. Mr. Grossman stated raw milk is raw milk, a person is 150 times more likely to have a negative reaction. The more gain in popularity equals double the reported negative incidents. His recommendation would be to not allow the sale without the milk commission. He stated the area for milking and storage needs to be properly sanitized, any drainage cannot go into the ground or into a septic system.

Member Fleischer asked if a milk commission would make a difference. Mr. Grossman stated there is no doubt a milk commission would enforce compliance. Member Horowitz asked if allowed the health agent would be allowed to adjudicate sales. She stated she has seen cow farms but have no experience with goats. Mr. Moore stated the state inspects. Ms. Cahen stated the state inspects twice/year and also monthly if they feel they need to, if a farmer has a history of failing. Member Horowitz asked if there is anyone within a 25 mile radius that sells raw milk. Ms. Cahen replied there was a place in North Andover that she had visited over the weekend and took a look at their operations. Mr. Easom stated their biggest problem was getting the milk temperature down fast enough. He stated there had to be some negotiation between the farmers and the state depending on the amount of production.

Mr. Grossman stated waste and drainage would have to be addressed. He suggested an informal poll on whether or not the board was willing to amend the regulation. Member Horowitz asked if Ms. Cahen stated that the state has been doing this for 20 years and asked if the Board could just put faith in the states hands that they are taking care of this properly.

Ms. Evans-Nordin asked Mr. Grossman where he heard of examples of people getting seriously ill from consuming raw milk. Mr. Grossman stated he had spoken to at least 2 individuals.

Chairman Weber stated that raw milk advocates seemed to be lazy in providing positive arguments regarding the safety of raw milk. There are no studies that support the safety as they claim it to be. Mr. Weber stated that he can only find evidence that people are 150 times more likely to fall ill from consuming raw milk and that there was some evidence for protective effects with regards to asthma and allergies in two European studies, but the data was very messy. Ms. Nordin-Evans asked Chairman Weber if he knew who was behind the science of the studies that claim raw milk is dangerous. She stated it was the Pasteurized milk corporations with an agenda that put up the money for these studies and that small businesses cannot put up the money or the time to perform such studies. She stated that her children went from breast milk to raw goat's milk and never have fallen ill. She stated this is being requested to do on a small scale. The BOH can do any additional testing if they wanted to.

Member Horowitz asked if the state supervises the housing and production room of the goats.

Ms. Cahene stated the state has to approve before she opens.

Mr. Moore stated he will do the following to help all parties be more informed:

- Speak to Winston Pitkoff of the MA Agricultural Resource
- Find out the number of raw milk sellers in the state (if any)
- Find out the agency that visits and frequency of visits
- Find out a number of illnesses as a direct result of consumption of raw milk

Mr. Barry Pease, candidate for Selectmen stated that a citizens petition can be put forth in order to change the by-law, he urged the applicants to contact the Moderator Jason Kauppi.

8 Hazelwood Road

Mr. Comeau who has been in the audience hoping for a chance to speak with the Board came forward to request that he get a refund on his fees that he had submitted to Nashoba regarding a Title 5 application. Mr. Grossman stated he was familiar with this application and would speak with Mr. Comeau about a refund minus 15%.

Chairman Weber made a motion to adjourn the meeting at 9:44PM. Member Fleischer seconded the motion and the vote was unanimous.

Respectfully submitted,

Regina Beausoleil
Interdepartmental Assistant