



**Town of Boxford  
Meeting Minutes of the Board of Health**

**February 10, 2016**

**Present:** Richard Fahrner, Louise Kress, Richard Taylor, Heather Forand, Hans Jeppesen, Kendell Longo, Kristin Kwiatek

**Meeting called to order at 7:30 PM by Louise Kress**

**Announcements, Minutes, and Bills**

**H. Jeppesen** read aloud his document on the Zika Virus.

Minutes were reviewed from the January 04, 2016 meeting. **Motion** by **R. Fahrner** to approve with amendments, seconded by **H. Forand**, approved **unanimously**.

Minutes were reviewed from the January 25, 2016 meeting. **Motion** by **D. Taylor** to accept minutes, seconded by **R. Fahrner**, approved **unanimously**.

**Tri-Town Council**

Lisa Teichner and Meredith Shaw from Tri-Town Council Youth and Family services were present to give a presentation. The Tri-Town Council is the youth and family services program that focuses on supporting the social and emotional health and safety of tri-town youth and their families. They offer a variety of prevention based programs. The Coalition is the focused program effort of the Tri-Town council which specifically focuses on substance abuse prevention. The video presentation to The Board was a part of the Youth Risk Behavior Survey. The biennial survey is conducted to collect useful data on the perceptions, attitudes, experiences, and behaviors of Tri-Town middle and high school youth who attend Masconomet with the intention of identifying strengths and opportunities as well as areas of concern.

### Four Mile Village

Thomas Duffield was present to request a variance for a drilled gravel pack well for the potable water system at Four Mile Village.

The Board made the decision that because Four Mile Village is a public water supply and is under the jurisdiction of The Department of Environmental Protection does not require a variance from The Board of Health.

**D. Taylor motioned** that the public water supply at Four Mile Village is not under the authority to require a variance from The Board of Health, seconded by **R. Fahrner**. Approved **unanimously**.

### Crumb Rubber-Haynes Land Project

Chris Huntress was present for the continued discussion on the crumb rubber testing. After reviewing the letter sent by The Board of Health, Mr. Huntress brought to The Board testing recommendations from two laboratories; Alpha Analytical and Sports Labs USA. Both companies sent a written packet of recommendations for testing based on The Boards Request. Mr. Huntress spoke first of Alpha Analytical a testing company out of Westborough Massachusetts. Through email correspondence with the Vice President of Technical Sales, Alpha Analytical would test for polycyclic aromatic hydrocarbons with method 8270D and for heavy metals, method 3050B with 6010 or 6020 for analysis.

**D. Taylor** asked if Alpha Analytical will come take the sample for testing. Mr. Huntress stated that they would provide the chain of custody forms and the samples would be brought to them. Sports Labs USA the second testing company offered a more extensive package and already had the knowledge of crumb rubber. They provided a list of metals that they typically test for synthetic turf. They do have a partner that is a Massachusetts based lab. Both companies are aware of the two phases of testing, baseline and onsite. **D. Taylor** suggested that he would be interested in looking over all the information given and then The Board could possibly modify the letter based on the proposed approach by the firms. The letter could then be signed at the next meeting. Lastly, Mr. Huntress mentions At Global which is a synthetic turf manufacturer. They do not make crumb but it is used in a lot of their fields. They sent a study that was done last year and the only charge they gave to the testing lab was if the rubber was safe for children. That information was sent to The Board via email. It was the same EPA models that The Board had wanted.

### **41 Glen Forest/ 15 Balmoral Drainage Complaint**

**L. Kress** announced that the next item on the agenda being the third time in front of The Board was the complaint made by the property owners at 41 Glen Forest Road against the property owners at 15 Balmoral Road. On the topic The Board has heard from several private parties. The residents at 15 Balmoral had their attorney call and felt the issue belonged in front of a civil lawsuit and was not happy that it was being discussed at the Board of Health meeting. The resident of 16 Balmoral had also sent a letter and does not want any government officials on their land. **L.Kress** stated that she wanted the issue to be a discussion between the members of the Board of Health. **D. Taylor** expressed that water flow was an inconvenience but once the pipe was blocked that carried a lot of the water, there became a backup that may have already inundated a septic system which is a health problem. Also, if a huge amount of fill was put into the Balmoral property which from the site visit was apparent and if that changed the water course. There is an engineering report that states it is threatening the water supply and their septic system.

**D. Taylor** stated The Board of Health under chapter 111 section 31,122,123, and 131 should order Mr. Obrien to cease and desist and unplug the pipe because it has potentially caused a public health problem. The Board should also ask for all information on the amount of fill brought in because regulations would be violated if there is more than 500 yards of material.

**D. Taylor** proposed that a letter he drafted go to Town Counsel asking their opinion before The Board makes a decision. He then read the draft letter aloud for the record which he stated has not been voted on by The Board of Health. **L. Kress** stated that the issue should be a matter resolved in civil court between the two parties. It should be dealt with under civil law and is currently in a court case and is not something The Board of Health should be deciding upon.

**L.Kress** stated under common law naturally occurring water flow comes under the common enemy rule and that rule under common law in cases in Civil court say that if something is naturally flowing and there is water running on both properties that the common enemy is in fact is the natural cause. The common enemy here is the saturated ground waters and the surface water flow and under the common enemy clause the property on Balmoral has the perfect right to defend himself from that common enemy. Likewise both parties have that right.

**L. Kress** mentioned that this could be adverse possession which is a legal matter belonging in Civil Court. **L. Kress** felt that whether the pipe should be there or not, who is causing the nuisance on whom, whether the pipe was put there legally or not, belongs in civil court of law to be worked out including nuisance should be worked out in a civil lawsuit and is not something The Board should be deciding. **L. Kress** stated she does not support the letter that **D. Taylor** drafted. There is a regulation about the fill and is willing to discuss it but is not anywhere

near interested in making the decision that we have enough finding of facts of the history of the situation. To state that the Board looked at a pipe and was able to make a judgement on who has the right to put what where, it is not appropriate to make that decision. It is extensive case law and common law on this matter in a Civil court not for the Board to be deciding whether that pipe should open or close or whether that pipe should have been there or was put there legally. It is not The Boards jurisdiction. There is a regulation about the 500 yards of fill which can be requested but not a regulation on water flow.

**R. Fahrner** stated the real solution would be to get an engineer to assess and resolve the problem but needs to be some expediency. **R. Fahrner** said he would like to hear counsel's weigh in on the subject to find out what the Board is legally able to do and does feel the fill issue is within The Boards jurisdiction. **H. Forand** stated that she is not confident that unplugging the pipe would even fix the issues. There is already a civil suit in place and is not sure they should take a stand on the topic. **H. Jeppesen** stated that he would like to hear Town Counsel's opinion on the issue. **H. Jeppesen** asked if the case was already in civil court. Resident at 41 Glen Forest responded that it is currently in Land Court. **D. Taylor** stated it isn't a water issue it is a health issue. **R. Fahrner** would like the letter to define the term sufficient cause.

**Motion by H. Jeppesen** to accept the letter to Town Counsel as amended seconded by **R. Fahrner**. Four ayes, one nay. **Motion** carried. Vice Chair **H. Jeppesen** to be sign the letter to be sent to Town Counsel.

Photos were submitted by resident of 41 Glen Forest Drive for the record.

### Other Business

#### VNA

**K. Longo** had The VNA contract signed and requested one signature from the board to be sent back to them. **H. Jeppesen** said The VNA would continue to do the MAVEN monitoring. The Board discussed adding to the contract to be renewed January 2016 then annually based on the fiscal year and if the contract is to be ended by The VNA then The Town needs to be informed by February prior to next fiscal year.

#### JRM Complaints

**K. Longo** informed The Board that the JRM truck that was dropping shattered glass was taken off the road and that they have done street sweeping.

### **2017 Budget**

**K. Longo** stated The VNA line item is now at \$5,000. It was increased to \$7,500 to purchase vaccines from last year. Rite Aid saved money on the budget and \$1100 has been paid to The VNA this fiscal year.

### **Annual Report Submissions**

Annual Report submissions were reviewed.

The date for The Board of Health's next meeting to be determined.

### **9:49 PM Adjourn**

With no further business, there was a **motion** made by **D. Taylor**, seconded by **R. Fahrner**, The Board voted **unanimously** to adjourn.

Minutes respectfully submitted,

Kristin Kwiatek

Minutes Secretary



