

BOARD OF HEALTH MINUTES  
COUNCIL OF AGING  
APRIL 8, 2019

The meeting was called to order at 7:00 p.m., present were John Schuler, M.D. (JS), Susan Green, (SG), Robert DeFrancesco, DMD (RD) and Arne Soslow, M.D. (AS) (7:10 p.m.). Also present were Julia Junghanns, (JJ) Director of Public Health and Patti White, Department Assistant.

7:00 p.m.        Public Comment: John Sax, 203 Willowbrook Drive. Mr. Sax has concerns about the area of the old Dow Chemical septic system that has not been removed at the site of the proposed Loker athletic field. Mr. Sax took a map from Dow cleanup records (Ransom environment) and overlaid the Weston and Sampson test pit/sample locations. The maps are color coded to show the former burn area, glass disposal and the location of the remnants of the septic system. His maps show that W & S did not do any soil samples in the burn or shallow glass disposal areas. There was a thorough cleanup when it was done, but they chose to not disturb the soil over the septic system. His concern is that when the plant was closing, if they were pouring chemicals down the drains, they might be chemicals in the soils where the septic system is. He wants to understand why the area is not being dug up and cleaned out. He went to the Planning Board and they recommended hiring an independent LSP to review the septic and see if it is recommended to clean up. The ZBA is in charge of the project now and they are not looking to do that. He is looking for the Board to assist in supporting the idea of hiring an independent LSP to review all the documents and recommend if the soils need to be tested. JJ: We sent a pretty detailed memo to the ZBA on this that was shared with the Board, I can resend it and if anyone has comments or concerns we can readdress.

**7:05 p.m.        490 Boston Post Road - Alta at River's Edge Development Project- Variance requests from Local Septic System Regulations and Small Wastewater Treatment Facility Regulations, guests attending: Dave Formato, (DF)P.I. President of Onsite Engineering, Jim Lambert, (JL) Developer and Managing Director of Wood Partners and Town Engineer Paul Brinkman (PB)**

Mr. Formato is attending to present a comprehensive overview of the project proposal (RFP 2016), the variances being requested, as well as the conceptual layout that was approved by Town. To begin with the discussion, DF presented the Wood Partners conceptual proposal layout that was approved by the town. This is a project the town supports and through town meeting, the town approved an area zoned specifically for affordable housing where the project is proposed. The age restricted building will be separate. Wastewater will be handled with a wastewater treatment facility. The facility and the tanks will be located in the back of the building, with the leaching field in the front of the building.

JS: How far is the project to the wetlands? DF: the project is over 200' away. JJ: Paul Brinkman has a plan showing the wetlands offsets on the soil testing detail page. JS: why are you asking for the waiver? The site fills up quickly with the building footprint, parking, emergency access and building setbacks. Onsite has worked with the RFP proposal for the building layout. All sensitive receptors are away from the proposed structures. The project does not lie within a Zone 1 or Zone 2 and meets all ZBA setbacks. Onsite is looking to take the proposed (approved) RFP layout and marry it with the proposed building/septic layout.

#### **SECTION I: Article 3: Soil Testing Dates/Times**

- 1) Testing was done out of our recognized high ground water season (in January 2019), although January was a wet month and water tables were higher than usual so this information will be helpful for the design. They expect more testing to be done this spring (expecting to be done in season as per our regulations), also more information will be gathered from future borings and testing. JJ: As we go

through this process we will have Paul Brinkman, Town Engineer to guide the Board on the process. Paul has a lot of experience with WWTF's and he is a licensed operator. Paul and Julia have spent a good amount of time reviewing the elements of the waivers (also reviewing them with Dave Formato), most of them Paul is quite comfortable with, he will speak to the items he has questions or concerns about (as will Julia).

## **SECTION II: Article C-1 GPD/Bedroom Flow**

- 2) For residential projects Wayland septic design Regulations requires 165 g.p.d. per bedroom to be used to size the leaching area. MassDep Regulations requires 110 g.p.d. DF: For this mixed use development with traditional and age restricted living it is expected that the average daily flow will be between 22,000 to 23,000 g.p.d., using 165 g.p.d. for calculations. Using the state standard of 110 g.p.d. for design, the numbers come up to 20,000 to 21,000 g.p.d. Using state standards with treatment with pre and post equalization, he feels the state sizing is more applicable. The effluent that is going into the ground is treated at a very high level. SG: What is the g.p.d. assumption regarding age restriction and lower flows? DF: A typical apartment often is comprised of a family with children; for age restricted over 55 apartments the state has created a flow for this category down to 150 g.p.d. per unit. 165 g.p.d. is less applicable, with the mixed use. PB: Can you explain your flow calculation of 22,000? DF: That is an actual anticipated flow if designed at 110 g.p.d. PB: I agree with the use of the state calculations, I think that 165 g.p.d. is overly conservative for 1 and 2 bedroom units having lower flows. AS: What is the downside of not using 165 g.p.d.? DF: Operationally, the plant might have mechanical issues with under-use (not enough flow going in), similar to the oversized plant at the High School and the issues they are having there.

## **Section 1:30 – Service Area Limitations**

- 3) 1.30 Service Area Limitation; this is written more for single family residential homes tied to a treatment plant, the intent was for a failsafe backup. With the two buildings, you would not be able to apply that regulation to this project, where the buildings are over 10,000 g.p.d. and state MassDep Regulations have to be followed (a septic system wouldn't be allowed). When these Local Regulations were written in 1988 WWTF technology was much different at the time. Technologies and types of treatment have greatly advanced since that time and the discharge effluent is a much greater quality. PB: agrees, based on the language, it may be against DEP regulations, this section of the regs would require a lower level of treatment (leach field) for backup. JJ: said she agrees. Our Local WWTF Regulations are very old, and we really need to make some decisions about these regulations and either redact them or give them an overhaul. In general, there was a discussion about the regulations being excessive in areas that appear to be put in place to restrict development instead of protecting public health. The MassDep has regulations that are updated more regularly and they have a whole staff of people who review and oversee permitting for WWTF's. Locally we do not see WWTF applications for new facilities that often and it's not our area of expertise so it makes sense to rely heavily on the state input and their regulations. We do, however, take these waiver requests seriously. We are planning to review the Wastewater Treatment plant regulations and get them updated very soon while they are fresh on our mind. We expect that MassDep Regulations will be followed, and we are not aware of any waivers being requested.

## **Section 2.10 Applications, Reports, Plans, Data and Documents**

- 4) 2.10 Applications, Reports- Requesting relief from our waiting for the State application approval before beginning the BOH approval process. The state process is now a 2 step process, starting with the DEP site assessment/SOW and approval and then the treatment plant review. Working the permitting

concurrently makes more sense and Julia has been working on this with us already since the soil testing and Dep application process began. PB: I am fine with this.

#### **Hydrogeological Investigations-**

- 5) 4.30 Hydrogeology; this local regulation requires the mapping of the wastewater discharge plume; we are not requesting relief from this in our understanding. In our discussion with MassDEP this will be regulated under 21E (site assessment process as part of the MCP Regulations). Onsite engineering and DEP both feel this this would be done by Licensed Site Professional (LSP). If pollutants come up during process, the LSP would do the plume analysis and go through DEP. SG: There were contaminants found, including arsenic. DF: on the site over by the location of the old treatment plant, there was some arsenic and manganese found, asbestos was found in the stockpile soils. PB had interest in this item that could be something that comes up after the fact, he is still looking to understand what is being provided or might be provided by the applicant's engineer. DF: If the site tests clean; if there is not plume, you cannot map it. For the hydrogeo, they are doing groundwater analysis, contours and flows now and post discharge. He is not completely sure of what is out there, or if it will be part of the 21E process. Paul B: The regulations are specific to the plumes in the wastewater and looking at the wastewater permitting process. DF: hydrogeo analysis is provided to the LSP to use as model for possible plumes. PB: What about the potential for down the line, should something happen at the edge of the site? Will you be willing to review it? DF: This is not "we do this and go away", the BOH still has ability to review initial permits and monthly reports, there are mechanisms in place locally and at the state level. DF: if there was a concern brought up 2 years after construction, say elevated levels of arsenic the BOH issues permits and has the ability to oversee the treatment plant. The BOH could require to have it looked at, what is going on? JJ: In the scope of work peer review by an LSP we hired from the company "Beta", this fate/transport analysis was recommended to be done. We are still waiting on the final responses from MassDep on the SOW comments for the hydrogeo (and responses from the applicant) which is being looked at on the MassDep level. KB: wants to discuss the response. DF: I did speak with the state, this may need to be done, but it's not automatic. PB: It's not a concern about the site handling the wastewater; it's to be sure that a "what if" down the road is covered for any contaminants. JS: All this testing can be done, approved and 3 yrs. down the road unknown metals could be leaching out. Who is responsible to pay for this to be corrected? DF: whoever is running the plant is responsible. JS: the WHS plant is in failed conditions, how we handle this so this is not a problem down the road. The eventual transfer of ownership down the road will transfer financial responsibility. AS: Is this waiver something that the Board has been granted before? Why defer to the developer LSP? DF: it would be the developer or LSP, there is not town consultant doing any work on this project. JJ: I am not aware if we have waived that previously. AS: if we don't waive, is that creating concerns? DF: this one creates a division of labor, 2 LSP for BOH regulations and one LSP for MCP reporting requirements. DF: he said that DEP feels that it would be ok if the town agrees; this was not addressed in SOW. JJ: I did reach out to Kevin Brander of MassDep to ask if would they require this at DEP level, I do not have an answer to this yet. From my understanding if it is not done as part of the wastewater permitting (as outlined in our local regs.) it is looked at, at least in part, when the environmental review/assessment is done and if required, it would be part of the 21E/MCP process through MassDep. Testing is being done but we don't know what is being found on the site yet for contaminants as part of the phase II environmental assessment. DF: We have not received a formal response from MassDep

#### **Section 4.40 – Wetlands and Floodplains & Section 4.51 – Distances**

- 6) 4.40 & 4.51  
BOH wetlands setback for buildings (WWTF building) and tanks is 100', the State is 50' (conceptual review plan).

Wayland setback for a dwelling unit to an effluent disposal system is 100', requesting to use MassDEP standard of 25' to dwelling.

Wayland setback from dwelling units to the WWTF building is 100', requesting to use MassDEP standard of 50'.

Wayland setback from property lines is 150' for a WWTF building and 100' for effluent disposal system, requesting the MassDEP standard for 50' for WWTF building and 25' for effluent disposal system to property line

Wayland setback from a subsurface drain to the effluent disposal system is 50' requesting the Mass DEP standard of 25'. (The Stormwater drainage system has not yet been designed)

Without these waivers being granted to allow for design at the state standards, the site is not configurable, which is important to viability of project. We are just asking to waive local requirements and default to the MassDEP standards. In some cases when the design has been finalized, the distances may be more than the state but not to the local setbacks. SG: there will be a groundwater discharge? AS: Do we need to grant these or can there be cooperative work to assist first? DF: Wood partners is collaborating with the Town on this design, they need clarity before the agreement is finalized. PB: The agreement regarding the sale of the project has certain functions built into the agreement that need to be done before. For example, the 165 g.p.d. design requirements for the sizing of the leach field would make the project not viable. Some of the setbacks are cost basis, and some are redundancy process. DF: We are looking to be collaborative if you grant these back to the state standards, but we want to work to help get this going forward. JJ: are you asking for any state waivers? DF: No we are not asking for any state waivers. PB: We feel the state standards will work for this property. The setbacks are to wetlands and not to drinking water wells. We agree that the wetlands need to be protected, but the state setbacks will still offer protection. This project will still need to go before the Conservation Commission. DF: This project will be a major improvement from the present site conditions with the old septage facility including the infiltration beds. JJ: This was a wastewater treatment plant that treated and discharged sewage from pumpers and the plant had a lot of problems before it was closed. There were many MassDep violations in their monthly reports. This effluent will have a much higher treatment than before. DF: This system should produce reuse quality effluent. JJ: Do you believe the leachfield will remain in the proposed location? It is a good location; it appears to be a great distance from the wetlands, how far is the distance? DF: Probably 250' away from the wetlands, we don't foresee the leaching area location changing. JJ: The location and distance of the leaching field to wetlands is a positive item, we like to see the leach field as far away as is possible.

#### **Section 4.70 Treatment Plant Reliability**

- 7) 4.70 treatment plant reliability: DF: we are requesting that you consider as collaboration and not as a strict requirement. Work with JJ and PB to work collaboratively. A complete redundancy system is two complete sets of tanks etc., there is a balancing act that can tip the scale and we are looking for selective redundancy. There is a permit approval process beyond this waiver request where the BoH issues a permit. AS: we agree, but need the right level of redundancy. How do we add language that permits the town to request certain times for monitoring and testing with primary developer? DF: Because this is a rental apartment project there is a corporate structure, this will be owned by the developer. JS: If we waive the regulations, if an issue comes up at 10 years with a second owner, can they come back to the town to say "you should not have allowed that?" DF: We just don't want to have to design 2 treatment plants side by side (100% redundancy) we want to allow the permit process to set the amount of redundancy. It depends on the type of technology chosen and the design, we will work with the town to make good decisions and hear concerns and requests. We just don't want redundancy that doesn't make sense and is just a requirement of a regulation. JS: The WHS treatment plant, and the Public safety building, both have problems currently. PB: it is easy to overdesign, that is a problem and there is a need of some redundancy to have pieces to allow the plant to continue to operate when there are operational problems. The town permit process will guide the redundancy process. JJ: I have been

in discussion with PB, and depending on the technology we may have suggestions for consideration in the design that would make sense. DF: at the onset of the project, we can sit down and talk with JJ and PB and work out the details, etc., tank sizes and backups. PB: We won't know what redundancy to waive without knowing the technology. JJ: once the system is installed we can't go back and change the design or components it has to be done in the design phase before installation. DF: We will discuss the conceptual design and technology, sizing and numbers of tanks with town staff. PB: This one is the only waiver I had question with. I know we can get this right we just need to be reasonable and have the assurance that we can do a review and provide feedback that will be considered if it makes sense. AS: what about the sizing of the project? JL- Wood Assoc.: the RFP was quite specific, regarding the number of units, the design of the buildings, and the number of buildings, so there would not be any changes.

## **Section 5.10 – Groundwater**

- 8) 5:10 Groundwater: the State standard is 4' of separation with high level wastewater treatment for groundwater quality effluent. With a septic system you may want a greater offset to groundwater for additional treatment in the soils. The effluent from a WWTF has been treated and the leaching through the soils is not for treatment of the effluent. All data is not in yet, we may have 5' or greater to the groundwater level. The site has good soils so far and the water table is not high. It would not be helpful for the leaching field to be raised higher in that area, as it is right in the front of the project. PB: the system will be using pressure dosing so it will be providing equal distribution, the leaching field to be well utilized. JS: Are there any underground parking areas? DF: There will be underground parking for both buildings, partially underground. JS: is there any chance of flooding in the garage? DF: The separation with groundwater should not be a problem at this site.

## **Section 7.10 Monitoring Well Installation**

- 9) 7.0 monitoring wells: the Wayland regulations are written for monthly testing, with 3 levels of wells (cluster). For this site, this will be a problem, if you need to site 3 wells at each location for a total of 9 wells. Finding locations for well, might involve putting them under parking lots, which then causes issues of access for testing. Mass DEP also requires monitoring well (not clustered) DF: We are proposing a single well with the ability to test at multiple levels. AS: Who monitors these wells? JJ: for a WWTF the operator and O & M would be monitoring not town. This is in regard to the number of wells. Has dep said how many they want? DF: 2-3 downgradient and 1 up gradient, given the water flow to the wetlands, I see 3 or 4 down and 1 up. This will all be done with consultation with the town. PB: You will not get better data with more wells, you find several wells that consistently show the reading and they are the better to have. JS: If we waive this requirement, who sets the number and location? DF: We will work with the town and consultants to locate the wells. SG: Have you done this type of plans in other towns? DF: We have done a similar project with similar regulations, and we eliminated a number of wells. JJ: I would like to see what DEP recommends, and work with their recommendations.

## **Section 8.10 – Wastewater**

- 10) 8:10 Wastewater: This requires additional testing frequency and standards, with the newer technology, operators are doing daily testing, effluent quality is much more improved then what we saw in the late 80's. PB: I believed the requirements looked mostly like they were set for monitoring for an actual septage treatment facility similar to what was previously there (the septage facility).

## **Section 9.30 Operational Guarantee**

11) 9:30 Operational guarantee: In 1988 Wastewater Treatment technology was much different and DEP had not set some of their standards, so these regulations were likely put in place to cover problems. DEP rewrote the Wastewater Treatment Regulations about 5 years ago and updated these requirements. We are looking to avoid duplicate financing funds over and above what is required by DEP. JS: I agree to waive this if there is language in the O & M held by owner, holding the town blameless. You can include a mechanism regarding fines if there are problems, without tying up additional funds over what is with the State. PB: Is this a Planning Board decision? The language will be somewhere. The account level is static, if money is used it must be refunded. The state reviews the balance annually; it's managed by 3<sup>rd</sup> party.

DF: We are looking for formal direction from the Board. The due diligence will be finalized in the next few weeks and we will start development plans for design. We are hoping to start building after the first of the year. The next step is to get formality of the Board's opinion of the waivers.

JS: When does Stormwater get figured in? DF: We will design the septic system first and the Stormwater will be done after we are all designed.

JJ: Does the Board feel they are in a position to vote on these waivers? SG: I would like to discuss further with JJ. JS: what do you need to go ahead? DF: when is closing? Wood: We have to complete all the permitting with the State and Town and then we close

JL: Due diligence ends on 4/30, may need a small extension for several weeks for applications for site plan approval. PB: These waivers cannot wait; they are tied to the Land Distribution Agreement. Can we get a decision by the next BoH meeting? JJ: Our next meeting is scheduled for May 13<sup>th</sup>. I think we should look at an earlier date to meet so we have the information fresh in our minds. We have just gone over a lot of technical information, let's meet on April 22<sup>nd</sup>, this date looks good for 4 of 5. I don't think Brian will be able to attend from what I recall. JJ: we may have more info from DEP by that time. SG: We may be able to approve waivers with restrictions or conditions. DF should be here for 4/22 in case there are questions as they are looking for a decision on the waivers so they can go to next step.

#### **8:45 p.m.      Massage establishments at 310 Boston Post Rd and 70 Boston Post Rd updates**

JS: I had a discussion with the Police Chief regarding the two establishments; 1 located behind Wayland Deli, the other behind Wayland Power. There were questions raised about the two establishments and discussions were initiated by the Police with the establishment managers and the property landlords. The Police have been leading on this issue and have also done surveillance including positioning an extra police car to park in the lot of one establishment for several days, then move to 2<sup>nd</sup> location. Shortly after that, both businesses requested to break their lease and both have since closed. JJ: At the beginning of the police investigation, I was requested to attend a site visit at 310 Boston Post Rd. where the State Division of Professional Licensure led the visit and inspection (massage establishments are licensed by the state). I attended along with the Wayland Police and the state ticketed them for several items that were violations of their regulations (\$400.00). We do not have local regulations for Massage or Body Work, the State has Massage Regulations and some towns have Body Work regulations. JS: Both establishments have left town. JJ: We have had inquiries from residents regarding both locations. Town residents were calling me with their concerns regarding human trafficking and questions about the 2 massage establishments. JS: Are there any regulations in other towns regarding these types of businesses? JJ: There are some regulations in other towns that cover "Body work" that may in some cases discourage some illicit use through town involvement and permitting requirements. SG: I was approached by someone who would like to have a discussion and deferred to JJ. JS: I do not think we want to get involved with this, which is in my opinion a police matter. The police contacted the landlords who were more than glad to cooperate with the police and the issue has been resolved for these 2 business locations in Wayland. JJ: the matter has been led by the police, and I feel it is a police matter.

Dr. Soslow left the meeting at 8:55.

**8:55 p.m. 60 Shaw drive:** Failed system, asked for time, the update is a new septic tank (2 instead of 1) has been inspected and installed and is presently acting as tight tank. House is being worked on for mold issues and is being prepared for one of the owners families to occupy. SG: Do we have a time frame for how long the tight tank will remain? JJ: We do not have a time frame, the house is currently empty and they are working on cleaning up the mold issues and preparing for residency.

**9:05: pm. Minutes of March 18, 2019**

**Motion to accept minutes of March 8<sup>th</sup> small correction to 7:05pm remove (1) by call. Second and vote 3-0 all in favor.**

No update on juuls right now. Will review Beth's retail Tobacco compliance inspection report and will plan to discuss at a future meeting.

**9:10 p.m.** There is no Director's report; JJ is giving a verbal update.

8 Hill St. update- Linda H (Conservation Administrator), Louise M (Town administrator) and JJ will be going to Boston to attend the hearing in Federal Court for the civil case. The owner of 8 Hill St. property believes the well permit for 65 East Plain should not have been issued. After an investigation, new information on the soil conditions at 8 Hill St. has been provided in a report by Peter Fletcher (PF) Soil Scientist), including additional soil test borings. We voided the septic permit for 8 Hill St. based on new information on wetlands that was provided (from the well permit on 65 East Plain St.). We also asked the applicant of 8 Hill St. to reapply for the septic permit and for the installation of a monitoring well in the proposed leaching area location. A letter from owner's attorney was provided to all parties, before the PF report was provided. Initially the attorneys for 8 Hill St. had requested that the septic permit be reissued; now they have the PF letter and we don't have new information yet. Court will be held tomorrow, but we are not aware if we will be asked to present information or testify. The Judge will eventually decide if there should have been a public hearing (notification) for the potable well at 65 East Plain St, even though it is not required in our Local Regulations.

There was a discussion regarding the public comment at the beginning of the meeting this evening: JS: it there a potential for creating a problem regarding the tank with possible residual. JJ: I referenced testing in the memo I sent to the ZBA regarding the abandonment of the septic system with questions regarding ledge and where the stormwater drainage area (parking lot) is proposed. Also suggesting to have all documents reviewed by an LSP to be sure the new locations will be clear of contaminants. SG: former septic area? JJ: the septic leaching area was abandoned and has been in place for years, (leaching area). JS: Is there still an underground storage tank on site? JJ: I am not aware that there is a tank still out there. I believe the tanks had been taken care of at that time, either being abandoned or removed. JJ: I wrote the most recent memo just before the last meeting of the ZBA. We had sent a memo prior to that with a lot of questions, received information regarding our questions and sent another memo. SG: The documents provided at public comment shows there is an underground storage tank. JJ: Often tanks are abandoned in place; they are pumped and removed, or pumped, crushed and filled/ruptured. There were significant reports regarding the cleanup and lot of scrutiny for the project (including a PIP and MassDep involvement). I will resend the memo to the board and review the report to see if I can confirm what was done with the septic tanks.

**9:20 p.m.** JS: He has concerns regarding the wetlands and groundwater for the River's Edge program. JJ: Darren and I witnessed soil testing, more testing is planned; so far there are good soils and therefore good drainage. We need to ensure that we closely look at the Regulations and waivers being

granted, other developers may approach us for the same waivers for other projects. DEP is well staffed with trained Wastewater personnel. JS: DEP is also permitting the treatment plant?? JJ: Yes, we discussed doing concurrent permitting. DEP has revised their regulations over the years but we have not. SG: By the time you rewrite the Wastewater Regulations, put out for comment, revised and publish, we will be long past this project. JJ: We have a number of WWTP in this town and several of them are older, they are located at several of the condominiums at the Hills at Mainstone, the Meadows at Mainstone and Traditions. At this time I am still waiting to hear back from DEP to obtain their comments/concerns on the Scope of Work for the hydrogeo on this project. JS: we will be meeting on April 22 are they looking for us to vote on these at that meeting? JJ: Yes, they are looking for a vote. I think it is important to meet sooner than later to take a vote on this project since the information will still be fresh in our minds. I will check with Paul B to be sure he can attend the meeting, as we prepare to vote on these waivers that night and may have questions for him. As time permits, I will continue to review the Wastewater Regulations, and see what items we may want to keep and/or potentially weave into our septic regulations.

**9:30 p.m. SG: Motion to adjourn, second. All in favor.**

Respectfully submitted  
Patti White  
Department Assistant  
040819minutes  
APPROVED061019