



Town of Becket
Board of Health
557 Main Street
Becket, Massachusetts 01223
(413) 623-8934 ext. 22 fax 623-6036

Meeting Minutes for April 4, 2018

Board Members Present: Gale LaBelle and I. David Krawet

Board Members Absent: Laurel Burgwardt

Administrative Assistant: Jessica Perotti

Public Present: John Kozinski, Jeanette Thomas, Gail Kusek, Andre Sala, Robert Ronzio, Michele Kenney

Call to Order

Gale LaBelle, Chairperson, calls the meeting to order at 5:03 PM and reads the rules of the meeting. Ms. LaBelle introduces the Board members present and the Administrative Assistant. Ms. LaBelle asks if anyone will be recording the meeting; Robert Ronzio says he will be.

Review of Meeting Minutes for February and March

The minutes are not ready to review. Mr. Krawet makes a **motion** to continue to review of the minutes to the next meeting; Ms. LaBelle **seconds the motion**. All in favor. **Motion passes**.

Reports from the Health Agent:

- a. **1909 Jacob's Ladder Road, 407/151:** The Board approved a plan for this property previously but upon further review, it needed to be adjusted because it required more of a straight path to get the waste to the tank and to also include clear outs. There is also a new well application for this property that needs to be approved. Ms. LaBelle starts with the well application which was reviewed by Jayne Smith, Health Agent. Ms. Smith recommends approval of the well application. Mr. Krawet makes a **motion** to approve the well application for Gerald Moore at 1909 Jacob's Ladder Road. Ms. LaBelle **seconds the motion**. All in favor. **Motion passes**. Ms. LaBelle explains that while a septic plan has already been approved for this property, the plan had to be reworked to address the newly found issues with it. Ms. Smith recommends approval on the latest plan submitted for this property. Mr. Krawet makes a **motion** to accept the septic system plan as presented for this property. Ms. LaBelle **seconds the motion**. All in favor. **Motion passes**.
- b. **3417 Main Street:** Ms. Perotti lets the Board know that she spoke with Barry Searle, the engineer that is designing the septic plan for this property, and he let her know that the neighbor on the other side will need to be notified because the septic system is planned to go inside of the 100' required setback from the neighbor's well and will need a variance. Ms. LaBelle says the review of this septic plan will be continued to next month. Jeanette Thomas, a directly abutting neighbor, asks if she can comment on the situation there. Ms. LaBelle welcomes the feedback and asks Ms. Thomas to continue. Ms. Thomas stands to formally introduce herself. Ms. Thomas says that she lives next to 3417 Main Street and submitted a complaint last year regarding the septic system there.



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Ms. Thomas says someone did come out to do an inspection at that time and later saw some heavy equipment and thought the problem was being resolved as she didn't smell anything. However, no one from the Board of Health had gotten back to her regarding the results of the inspection that was done. Ms. Thomas continues and says that the smell returned a couple of months ago and she realized it wasn't fixed. Ms. LaBelle interrupts Ms. Thomas to find out from Ms. Perotti if the Board was to get back to Ms. Thomas. Ms. Perotti says that Mr. Kaniecki did go out on the initial inspection and observed that the system next door was probably in failure. He went back to witness the percolation (perc) test that was done. The property was then sold and funds were put in escarole for the septic system to be upgraded. Ms. Perotti says it was her assumption that the septic system would be upgraded when the season came around. John Kozinski, a neighbor to the failed septic system, says he was at the last meeting and asks about a letter that was sent out regarding the required upgrade; he wants to know if the homeowners, with the failed system, responded. Ms. Perotti confirms they did. Mr. Kozinski asks what their response was to it. Ms. Perotti says they submitted a plan to upgrade their septic system. Ms. Thomas wants to know if the sale of the property was illegal since a Title V inspection was not done on the property. Ms. Perotti says it is not illegal because an inspection could not have been done at the time of the sale. Ms. Thomas is concerned because she wants to sell and cannot because it stinks. Ms. Thomas claims she had an offer on her house but when the prospective buyer came to look at it, it smelled and the offer was withdrawn. Ms. Thomas can't go into her yard because of the smell. She has a garden right next to the septic area that she can't look after properly. Someone was working next door and told Ms. Thomas that the situation was dangerous and that she should test her well water because of it. Ms. Thomas is upset that she has had to wait this long already and now has to wait until at least May for the plan to be approved and wonders how much longer she'll need to wait after that. Ms. Thomas is looking for a speedy remedy to this situation because she's waited too long already. Ms. LaBelle agrees that it needs to be addressed right away. She wants Ms. Thomas to understand that setbacks need to be followed and explains that the well for the neighbor on the other side is within the required setback distance and that needs to be addressed first. This requires that the neighbor be properly notified of the septic system being installed closer to their well than the allowed setback. Ms. Perotti says she can issue a letter as soon as possible. Ms. LaBelle asks what the status is on the septic plan. Ms. Perotti says that the plans have been drawn up and submitted. Ms. LaBelle assures Ms. Thomas that she will contact Ms. Smith to be sure the system is pumped out. Ms. Thomas wants to know if the septic plan will be deemed acceptable. Ms. LaBelle discusses quit claim deeds with Robert Ronzio. Ms. Thomas is upset that the proper inspections were not done on this property when it changed



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hands. Ms. LaBelle says she will ensure this septic system is brought up to code as soon as possible; she says letters will be sent out to all those necessary regarding this system. Ms. Thomas wants to know how far her well is away from the proposed septic system. Ms. LaBelle reports that it is more than one hundred feet (100') away and shows Ms. Thomas on the plan. Ms. Thomas says that she is mostly concerned with the time frame; she wants the septic system brought up to code as soon as possible. Ms. LaBelle says that it may be possible to hold a special meeting before the next scheduled meeting; Ms. Perotti says she will contact Ms. Thomas to let her know if one will be held. Ms. LaBelle lets Ms. Thomas know that water testing kits are available in the office. Ms. Thomas says she has sent out some samples and will be testing more to be sure. Ms. Thomas is upset that she has to pay for her own well water tests especially when she has been inconvenienced and can't use her yard and has now lost a sale because of it. Ms. LaBelle says she will check with Jayne Smith to see if the town can help out with the costs of the well testing. Ms. Thomas thanks the Board for their attention to this.

c. 298 Long Bow Lane East

Ms. Perotti informs the Board that the fee on this application has still not been paid. Ms. LaBelle says this will be looked at again next month.

Old Business: Route 20 Spring

Ms. LaBelle first gives a brief description of what has happened with the fresh water spring on Route 20. Ms. LaBelle says the definition of a **Public Water Supply (PWS)** is fifteen (15) service connections or twenty-five (25) individuals getting water over a sixty (60) day period; Ms. LaBelle says that the Route 20 Spring was never documented as having that type of usage. In 2016, the water quality standard changed requiring a zero (0) tolerance for coliform. Ms. LaBelle reminds everyone that the **Massachusetts Department of Environmental Protection (MassDEP)** issued a letter to the Select Board notifying them that the coliform levels were exceeding what is allowed. MassDEP required that the Select Board put a filtration system on the Route 20 Spring or to decommission it. Ms. LaBelle reminds everyone that pipe had been cleaned also but it didn't change anything. Ms. LaBelle asked the Select Board that a survey be done to verify the property owner where the base of the spring is located. It was discovered that the town does not own the property. This means that the Town of Becket should have never been considered the operator of the Route 20 Spring. Ms. LaBelle summarizes that while the town should have never been considered the operator of the spring, MassDEP also does not have the documentation to show that at least 25 people per day use the spring for at least 60 days of a year. Ms. LaBelle says that she had the spring tested for Title V standards which includes testing for E. coli, urine and ammonias; the test came back good. The coliforms were still showing up sporadically. Ms. LaBelle says that there are many sources for coliforms. Ms.



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LaBelle would like to have a meeting with MassDEP, the Select Board and the Board of Health. Ms. LaBelle says a survey will be done to verify the property owners; she thinks one done from the past may have been used. Mr. Ronzio says the survey was flagged. Mr. Ronzio says he has surveys going back to when Deerhaven was created. Mr. Ronzio reports that Deerhaven had not yet been created when the spring was first established. Mr. Ronzio says that all of the past surveys were done by Foresight Land Services; one of those surveys has a marking that notes the location of the spring. Mr. Ronzio claims a confirmation survey is can be done very simply by verifying the pins that were placed by Foresight Land Services. Mr. Ronzio reminds everyone that a pipe runs from Horn Pond to Chester going right through Deerhaven that supplies Chester with their town water. Mr. Ronzio says that when a fire hydrant was installed on William Holmes Road, there is no record that the pipe from this point down to Chester's water treatment facility has ever been replaced. Mr. Ronzio is not sure of the exact date but is certain that it pre-dates when Deerhaven was established. Mr. Krawet asks what this pipe has to do with the spring. Mr. Ronzio says that since the pipe is so old, it may have sprung some leaks that may be leaking to the spring; he thinks that pipe may need to be replaced. Mr. Ronzio says replacing this pipe may be a possible solution to save the spring. The surveys are reviewed to see if the two (2) sets of pipes intersect anywhere; it wasn't determined.

The conversation shifts to water testing. Mr. Ronzio says that PWSs are tested by the parties that own them. Since the town doesn't own the land that the spring is located on, they should not be paying for testing. Mr. Ronzio says the Board of Health should be getting reports from all of the PWS in town and asks Ms. LaBelle if she does; Ms. LaBelle confirms that she does not. Mr. Ronzio wants to know why water tests are not provided for the PWSs that are owned by the town and reports are received for the PWS that is not owned by the town.

The Board recognizes Andre Sala. Mr. Sala asks Mr. Ronzio why Foresight surveyed the property years ago before it was Deerhaven. Mr. Ronzio says it was done by the former owner in 1988 which is as far back as he researched.

Ms. LaBelle reviews the status of the spring summarizing that mistakes were made by the town and MassDEP: the town should not have agreed to be the operator of the spring without knowing for sure that the town owns the property and MassDEP has no documentation that at least twenty-five (25) people use the spring for at least sixty (60) days of the year. Mr. Ronzio says that the bottom line is that the Town of Becket does not own the property and it should not be paying for the water testing.

The Board recognizes Gail Kusek. Ms. Kusek reports that she spoke to someone at the MassDEP office, in Springfield, who told her that there was an agreement with the Board of Selectmen



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prior to 1989 stating that they would take responsibility for the public water way. Ms. Kusek says she is researching the meeting minutes to find where this was agreed to be done. She says if she doesn't find it, she will be filing a Freedom of Information Act with MassDEP asking for their copy of it.

The Board recognizes Michele Kenney. Ms. Kenney says that with the spring being on private property and potentially out of the jurisdiction of Becket and MassDEP, she asks if the Town of Becket would still possibly consider to continue testing the water or would the town be relieved of testing the water. Ms. LaBelle says it may be decommissioned and will remain under the control of Deerhaven. Ms. Kenney asks if the pile of rubble will be left for Deerhaven; Ms. LaBelle says it will remain as is and if it's determined that at least 25 people don't use it for 60 days of the year then it's just bubbling water coming out of there. Ms. LaBelle says it would be determined to be a different type of water supply. Mr. Ronzio says that if you were to go and get water from there, you would be on Deerhaven property and they can do whatever they want including putting up a barricade or loads of rubble/rock. Ms. Kenney says they can also decide to keep it just like it is since it's up to them. Mr. Ronzio says they could but it would open them up to liability. Ms. Kusek says that there is another strip of land between the roadway and the spring that belongs to someone else so you would be trespassing twice. Mr. Ronzio disagrees that there is another landowner between the spring and the roadway.

Ms. Kenney says she went to Housatonic Basin and spoke to the water samplers of the spring. She was told that the coliform levels used to be higher seasonally or after a heavy rain; that is no longer the case. She was told that the coliform is "all over the place". Ms. Kenney then told him about their theory that when tanker trucks attach hoses to the pipe to collect water, it causes the water to come out at a faster rate causing a disturbance underground. The water operator surmised that would do it. Ms. Kenney says that with this statement coming from someone who is a water engineer, it gives some credence on a possible solution.

Ms. Kenney was interrupted by a side discussion regarding another probable property owner between the spring and Route 20. Mr. Ronzio says that two (2) options were given to the town to solve the problem: put a filtration system on the spring or decommission it. Ms. Kenney reminds everyone that the source of contamination could not be identified. Since then, a possible source of contamination has been identified as tanker trucks attaching hoses to the pipe and drawing the water out at a faster rate which stirs up the coliform. A suggestion was made during another meeting to attach something to the end of the pipe that would prevent anyone from attaching a hose to it. Mr. Ronzio claims that it didn't work; Ms. Kenney argues that it hasn't even been tried yet. Ms. Kenney says that she spoke with State Representative Pignatelli who said he would sit down with all parties involved to try and come up with a



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solution to keep the spring open and test the plan for one (1) year to see if it works. Mr. Ronzio and Ms. Kenney get into an animated discussion about the spring. Ms. LaBelle calls the meeting back to order. Mr. Krawet says the town doesn't own the spring. Therefore, the town should focus their efforts on withdrawing themselves as owner of the spring and then to get MassDEP to reissue the same order to Deerhaven. Ms. LaBelle says that MassDEP needs to document that at least 25 people use this spring for at 60 days of the year. Mr. Ronzio gives another possible solution: someone or a group can buy that section of land from Deerhaven and then they can take on the responsibility for it. There are discussions about other springs that have been closed down and others that are on private property.

New Business: Robinson Farm

David Robinson, who did not attend tonight's meeting, inquired about installing a work sink in the small farm house to the right of the main house because he wanted to create some seasonal business there. Ms. Perotti shows the Board a letter from Ms. Smith regarding the proposal warning the Board that any increase of water flow may require an upgrade of the septic system. The Board agrees that until Mr. Robinson submits an application, they will not make a decision.

Correspondence

Ms. LaBelle reads an email from Paul Nietupski regarding the need for Title V inspections on septic systems when property is transferred.

The regulation at 310 CMR 15.000, specifically the relevant section of 310 CMR 15.301, does not provide an exemption for a quick claim/cash sale from the requirements of conducting a Title 5 inspection per 310 CMR 15.302. Any property unless specifically excluded under 310 CMR 15.301(4), meets the requirements under 310 CMR 15.301(2) or meets the Applicability to Specific Transfers of Title under 310 CMR 15.301(2), must have a Title 5 inspections conducted at or within two years prior to the transfer of title to the facility served by the system. An inspection conducted up to three years before the time of transfer may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time. If weather conditions preclude inspection at the time of transfer, the inspection may be completed as soon as weather permits, but in no event later than six months after the transfer, provided that the seller notifies the buyer in writing of the requirements of 310 CMR 15.300 through 15.305. A copy of the complete inspection report shall be submitted to the buyer or other person acquiring title to the facility served by the system.

Relevant sections of the code:



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310 CMR 15.301(1), 15.301(2), 15.301(3) and 15.301(4).

In the event the Board of Health discovers that a transfer of title has occurred without a required Title 5 inspection, the Board may and should order the current owner to have a Title 5 inspection done under the authority of section 310 CMR 15.301(9): "All systems shall be inspected when the owner or operator thereof is ordered to do so by the local Approving Authority, the Department or court."

Section 3120 CMR 15.022: Duty of Compliance: "Except as otherwise specified, the duty to comply with the provisions of 310 CMR 15.000 with regard to any system shall be upon the owner(s) and the operator(s) of a facility served by a system, jointly and severally."

Ms. LaBelle questions how quit claim deed sales are being put through without Title V inspections being done. Mr. Ronzio expresses his concern for these inspections not being done in a timely manner. Ms. LaBelle informs everyone there will be a meeting on April 26, 2018 with **BCBOHA** (Berkshire County Boards of Health Association) and this subject will be discussed.

Jayne Smith submitted a draft letter regarding food service establishments and the new steps these establishments will need to take regarding permitting and inspections this season. The Board reviews the letter. Ms. LaBelle makes a **motion** to approve the letter to be sent out to the food establishments in town. Mr. Krawet **seconds the motion**. All in favor. **Motion passes**.

Budget

Ms. LaBelle reports there is \$11,451.86 left in the budget with an outstanding invoice for \$5,500.00 for inspectional services provided by **BRPC** (Berkshire Regional Planning Commission).

Any other business to come before the Board

The Board received a complaint from a parent whose child attended Nature's Classroom at YMCA. It was reported that they saw a cockroach by the bathroom. Ms. LaBelle says that she and Ms. Smith went to do an inspection of the facility including the kitchen and the bathrooms specifically. They found the facility to be spotless and in outstanding condition.

The next meeting is set for May 2, 2018 at 5:00 PM.



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Adjournment

Ms. LaBelle makes a **motion** to adjourn. Mr. Krawet **seconds the motion**. All in favor. **Motion passes**. Meeting is adjourned at 6:30 PM.

Meeting Minutes review and approved on August 2, 2018 by:

Gale LaBelle, Chairman

I. David Krawet, Clerk