

BOARD OF HEALTH MEETING MINUTES

June 6, 2016

Board Members Donna Bagni, Chair; Gary Fine, Clerk, and Lisa Cullity, Health Agent, and Attorney Carolyn Murray of Kopelman and Paige, P.C. were present. Gail McSweeney was not present. The meeting opened at 6:31 p.m. Chair Bagni read the following statement: *"Please note that this meeting is being made available to the public through an audio recording, which will be used to ensure an accurate record of proceeding produced in the minutes of the meeting. All comments made in open session will be recorded."* Bagni noted that McSweeney advised her that she would not be attending the meeting as she was working and the meeting was scheduled on short notice. The Board signed payroll. Fine moved to accept the minutes from the May 16, 2016 meeting; Bagni seconded. All in favor.

Other attendees:

- Rob Adams, Pembroke Town News, recorded the meeting for viewing on youtube.com.
- Resident Vincent Flaherty, 205 West Elm Street, recorded meeting with personal equipment.
 - William Cullity, 155 Elmer Street; Dave Cedrone (WATD); Mark Burrige (Pembroke Mariner).

35 Forest Street – septic variance request. A reduction in the separation between the bottom of the S.A.S. and the maximum seasonal high water table from 5' to 4'. Because of an emergency situation, all members of the Board were emailed a full and complete explanation of the variance request by the Health Agent prior to a scheduled meeting to vote for the variance. A vote via return email was taken: Bagni, yes; Fine, yes. A re-roll call was taken on this date as follows: Fine, yes; Bagni, yes. Bagni noted that McSweeney declined to vote in the original email due to the fact that she said she did not have enough information to make the decision.

171 Birch Street – septic variance request. A reduction in the separation between the bottom of the S.A.S. and the maximum seasonal high water table from 5' to 4'. Fine moved to accept the variances as requested; Bagni seconded. All in favor.

Open Meeting Law complaints – This portion of the agenda was facilitated by Attorney Murray from Kopelman and Paige, P.C., regarding email exchanges and content between McSweeney and Chair Bagni outside of the public meeting.

- Attorney Murray reviewed new open meeting complaint violation protocol per MA Attorney General
- Discussion of complaints as filed by Pembroke town employees Cullity (May 26, 2016) and Mirotta (May 31, 2016)
- Attorney Murray summarized a series of email communication/correspondence between board members McSweeney and Bagni beginning on May 18, 2016
- Attorney Murray will draft a response for the Attorney General. She will forward to Board Member Fine for review. Response will then be submitted to Attorney General for a ruling if Open Meeting Laws were violated.

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Continued.

The Board continued discussions with Attorney Murray present:

- Bagni went over some agenda discussion items for the next scheduled meeting.
 - Discussion of steps to improve and streamline communication in order to avoid future occurrences. i.e. A specific Town email address for Board of Health Chair for communications (Bagni stated the excessive use of her business email with communications with McSweeney: "It's tied up my business email account horrifically")
 - Ethics training.
- Atty. Murray suggested an Open Meeting Law training session.
- Fine asked Atty. Murray when he may expect the drafts for his review. Fine asked if after reading the drafts, is he speaking on behalf of the Board, "giving my blessing so to speak"? Murray replied "Right. Primarily to make sure that you think I've covered all the areas that we covered and accurately reflected our discussion."
- Cullity asked Atty. Murray for clarification and stated that she understands questions were asked about her and another staff member. Had a dialogue ensued after those questions discussing opinions, job performance, terms of contract, terms of work duties, work performance...that would have been a violation of employees' rights, correct? Murray answered that those things should be discussed at open meeting, yes. Cullity continued to ask if the discussion had gone on about the trash, for example. "If Ms. Bagni entertained the conversation, which she wisely did not, and the conversation was if I should not have been working on something, that would have been a violation had that conversation continued". Atty. Murray answered yes, that is something that comes before the Board whether it's a confirmation, affirmation, whatever as to what your role is in the program, yes because that would be a Board member's opinion outside of public meeting. Cullity asked about Ms. Mirotta's complaint, "if Ms. Bagni had dialogue that continued the conversation as to whether it needed to be talked about or some sort of discussion, that would have been a violation, correct?" Atty. Murray said she thought so, yes; but continued to stress that not every conversation about an employee requires an executive session with 48 hours' notice. It depends upon the content and nature of the discussion.
- Bagni stated that she hopes that as a Board they can proceed forward; that in the past 6 years Bagni has been on the Board and the last 2 that Fine has been on the Board, they have done an incredible job; that they are well-respected; that they've done the very best they can for Pembroke and the people of Pembroke and would hate to see all the Board's efforts and volunteer work be tarnished because of personality problems and conflicts. *"And I for one do not want to go there. It's uncalled for. I respect what Lisa gives to the Town; I highly respect Carol and the work she has done; it's been a pleasure serving with Gary; and we welcome Mrs. McSweeney; however, we're going to get down to business because we've got a lot of important things to do. And we're learning adults"*, said Chair Bagni.
- Bagni and Fine thanked Atty. Murray for attending.

Fine moved to adjourn at 7:56 p.m.; Bagni seconded. All in favor.

Donna Bagni
Chair