

**MINUTES OF THE BOARD OF HEALTH MEETING
June 10, 2019**

PRESENT: Thomas Driscoll (Chair), Matt Newman (Clerk), Gary Fine (Member), Lisa Cullity (Health Agent), Sheila Landy (Secretary), Sabrina Chilcott (Assistant Town Manager), Carolyn Murray (KP Law) Ryan Craig (PACTV Videographer) and Charles Mathewson (WATD Reporter).

MR. DRISCOLL OPENED THE MEETING AT 6:00 PM AND READ THE STATEMENT REGARDING AUDIO RECORDING OF THE MEETING

DISCUSSION OF OPEN MEETING LAW COMPLAINT FILED BY GARY FINE REGARDING MAY 20, 2019

Carolyn Murray, KP Law, explained the Open Meeting Law (OML) complaint response procedure. When a complaint is filed, the Board the complaint was filed against has an obligation to meet, discuss and respond to it within 14 business days. The complaint was filed by Mr. Gary Fine on June 4, 2019 concerning the May 20, 2019 Board of Health Meeting. The Board has until June 21st to respond. On May 20th, there was a discussion about streamlining variances. The Agenda for May 20th did not list streamlining variances specifically and it must list specific topics to be discussed and/or voted. Mr. Newman was the Chair at the time the Agenda was prepared. He stated, in past practice, future topics were topics to be discussed at future meetings. They were on the Agenda to let the Board know these items were coming up and ask if they had anything questions or something to add to the preparation materials. Murray stated the minutes say a motion was made, seconded and passed. On tonight's Agenda, there is a topic for discussion, "Discuss and possible vote on specific routine variance streamlining utilizing the stated procedure." One of the requirements in the OML Violation procedure is remedial action. Having this topic on the Agenda satisfies this requirement. Murray stated she needed two votes from the Board tonight: one to appoint her to formulate the response for the Attorney General; one to appoint a member other than Mr. Fine to be a liaison with her to confirm the response to the Attorney General met the intent of the Board. Mr. Fine stated he has been a BOH member for 5 years and has never filed an OML Violation or, to the best of knowledge, been the subject of an OML Violation. The variance streamline topic has been a topic for discussion a few times before and he was shocked it came up again so quickly. He was not at the BoH meeting on May 20, 2019. He is troubled how the topic came up. The last time it was voted down 2 to 1. It felt odd and bizarre for it to come up again. He stated there was an informal agreement that if a topic came up that a member was passionate about it and the member was not present, the topic was tabled until the member was present. Driscoll said he asked the office staff what would make their job easier. One of the things that came up was streamlining variances. Driscoll wanted to be proactive and make things flow easier. He went forward to make things better for everyone. Fine applauded Driscoll's intent to assist the office staff and stated in addition to setting policy, the Board is to provide checks and balance. He agrees in spirit to work with Agent but the Board also has to set policy. There is nothing wrong with having variance appear before the Board. Driscoll stated this isn't about a relationship with staff. He said Cullity was one of, if not the best Health Agents on the South Shore and he trusts her judgement. Fine said he had the utmost respect for Cullity but she wouldn't be here forever and what about the next Health Agent. Attorney Murray redirected the discussion back to the Open Meeting Law Complaint. Driscoll stated he read the Agenda wrong and didn't realize streamlining variances was for future discussion. Murray asked if May 20th was Driscoll's first meeting after the election. Driscoll answered yes. Murray asked if having the streamlining of variances on the Agenda was to cure any possible violation that may have occurred. Mr. Driscoll stated that was the intent. Murray said this was an error, a conversation that went further than it should have. The corrective action is to put it on the Agenda and discuss it again which is what is on the Agenda tonight. She asked if there is anything else anyone would like express in the response from the Board. When no one added anything, Murray asked the Board to appoint her to draft the response. Fine made a motion for Counsel Carolyn Murray to prepare a response to the Open Meeting Law violation working with Clerk Matthew Newman. Newman seconded and all were in favor. The motion carried.

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BOARD ACTION ITEM – Streamline Variance Requests

The Chair opened the discussion of granting the Health Agent the authority to approve five routine variances and the procedure to do so without presenting to the Board. Newman stated this has been brought up before and he felt strongly it would help the citizens of the Town save time when trying to get their septic systems repaired. Driscoll agreed with Mr. Newman. Fine stated he had the utmost faith in the Health Agent but it was a slippery slope to grant those powers to anyone. What would happen when the Agent left and a new Agent was hired? He also likes things to move faster and smoother for the residents. Fine stated he was concerned the subject came up again. The Chair asked Mr. Fine which variance gave him the most concern. Fine stated he already spoke. Driscoll said it will cut a lot of red tape. The Chair asked if there was any more discussion. Hearing none, he moved the motion to accept the streamlining of variances. Newman stated some concern with number five, the use of plastic tanks. Driscoll moved to strike the 5th variance from the allowed variances. Newman made a motion to amend the motion made by the Chair and the Chair seconded. Newman and Driscoll voted in favor. Fine did not answer. Newman seconded the amended motion. Driscoll and Newman voted in favor and Mr. Fine was opposed. The motion carried.

Sabrina Chilcott and Carolyn Murray left the meeting.

BOARD ACTION ITEM – Vote the Minutes of June 3, 2019.

The secretary stated they were not ready and the Chair tabled to the next meeting.

BOARD ACTION ITEM – Nominate Member to Pembroke Titans Against Drugs.

The Chair nominated Mr. Newman to represent the Board of Health on the PTAD Council. Fine seconded and all were in favor.

BOARD ACTION ITEM – Review and vote Summer Meeting Schedule (Begins on June 10, Ends on Labor Day, September 2)

The Chair opened the discussion by stating the Secretary had sent an email to members asking for their availability. Newman stated he was pretty much open and does not have any vacation planned. Fine stated his schedule was fluid. Driscoll asked if everyone was available July 15th. Fine read from the Minutes of May 20th where it was voted to meet once a month. He asked if there was a vote to eliminate meeting twice a month. Driscoll state the Chair has the right to set the meeting schedule. July 15th looked good for all parties involved. Fine wants to know if this is just for the summer. He stated he knows the Chair can set the schedule as he sees fit. Fine says there is not a precedent for meeting once a month by other Boards. Most meet twice per month. Fine would like to hear the rationale of how that would benefit the residents of Pembroke. He stated he was taken aback the meetings were cut in half so quickly. Fine understands the Chair can set the schedule as he sees fit. Driscoll said he looked at the attendance record and it seemed difficult to get a full Board to meet every other week. Going forward, for now, maybe it would be easier for the Board to meet once a month. When the Chair was on the Board before, it met once a month. If additional meetings are necessary, they will be scheduled. The Chair stated the next meeting will be July 15. Fine will check his schedule and notify the secretary.

BOARD ACTION ITEM – Livestock Regulations

The Chair stated in the summer months we have livestock issues. He asked for the Boards thoughts on Livestock. Newman thinks we need a meeting specifically dedicated to just livestock. He is concerned with the density of animals on a given property. The Agent stated there seems to be three major areas of concern with livestock. 1. Livestock Density – the complaints and issues we have with livestock seem to surround when there is a large number of livestock in a highly human dense area. 2. Roosters – Roosters are more than half, possibly three quarters of our livestock complaints. 3. A clean up of existing livestock regulations to ensure they are within accordance of today's standards. Zoning bylaws need to be taken into consideration. Plympton, Carver and Plymouth rely heavily on zoning bylaws in their livestock code. The Chair asked about how many chickens on a given lot of land. The Agent stated it is higher than you would think based on our current space requirements. She said our current regulations are currently set at what is considered factory farming standards

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set by the USDA or the state. Any responsibly livestock owner is not interested in being a factory farmer. In Pembroke, most would want to provide better conditions for their animals. We should strive for more than the bare minimum. The Chair asked if surrounding towns have density restrictions. The Agent stated most do and restrict livestock on lot size and zoning requirements, not number of animals. Variances could be offered if someone's lot did not meet zoning setback as they are for building a shed or some other structure on lot. The individuals who pushed for us to be designated as a Right To Farm (RTF) Community did a wonderful job. The Agent had hoped they would follow through and form an Agricultural Council. Two years down the road, there is yet to be an Agricultural Council. Almost all communities that have a RTF Bylaw also have an active Agricultural Council made up of livestock owners to give valuable feedback to the Town government. We don't have as many farms in Pembroke as we used to. We are losing more and more every day. We've lost 4 large farms in the last nine years. The last working farm was Tom Reading and he sold years ago. There was an increase of backyard chickens but that seems to be leveling off. Predators make it a little bit difficult. The Chair asked if he should table it and the Agent suggested a public discussion forum and give livestock owners interested in being heard a chance to share their thoughts and opinions as well as those that adversely affected by other people's agricultural practices. Newman thought it was a good idea to have a forum and hear opinions. The Agent suggested September or October may be a better time to do it. Fine said there has been a lot of discussion the past year. Density will be tough issue.

BOARD ACTION ITEM –Fertilizers, herbicides and pesticides near the ponds

The Chair asked the Health Agent if she found any information regarding this topic from previous Board discussions from when Driscoll was on the Board before. The only thing found was mention in the Minutes from June 13, 1999: "The Board stated support for implementing a ban on using non-organic fertilizers and pesticides within 1,200 feet of a body of water." The Agent reminded the Chair the Board can change any policy at any time. The Chair tabled the topic until a further time. The Agent volunteered to look into surrounding areas and how they handle such pond pollutions.

BOARD ACTION ITEM – Local upgrade well regulations

The Agent told the Chair of a previous appearance before the Board of James Watt. Mr. Watt helped write the regulations for Hingham and he would like to enhance the Town of Pembroke well regulations, primarily getting the wellhead out of the ground and at least 18" above grade to prevent contamination of the ground water. Newman would like to have Mr. Watt in again and would like pictures of what is done now and what he is suggesting. Fine asked if it would affect just new wells. The Agent said it would affect new wells and well that are repaired for whatever reason. The Chair tabled it for a future meeting. Newman suggested each of these topics could be their own meeting. The Chair stated this is really just a run down on what the Board should take a look at in more depth. The Agent suggested the Board prioritize these topics and then look at them in depth in order. The Chair stated his opinion was Livestock, ponds and then wells. Fine and Newman agreed with the Chairs priority. The other topics on the Agenda would be taken up after livestock, ponds and wells.

The Chair state the next meeting would be July 15, 2019. Newman made a motion to adjourn. Chair Driscoll seconded and all were in favor. The Meeting adjourned at 7:24pm.

Thomas Driscoll
Chair