

**BOARD OF HEALTH  
MINUTES  
SEPTEMBER 8, 2008**

MEMBERS PRESENT: Helen Shah, DNSc, Chair  
Charles Kelliher, Vice Chair  
Robert Brown, Ph.D, Clerk  
Ann Greenbaum, RN  
Evelyn P. Hayes

OTHERS: Bruce G. Murphy, MPH, Health Director  
Charles Sabbatt, attorney, Blue Water Holding Corporation,  
350 Route 28, West Yarmouth  
Matthew Stusse, attorney, A & B Canco, 350 Route 28,  
West Yarmouth  
Brian Yergatian, BSC Group, consultant for Blue Water  
Holding Corporation  
David Burnie, Blue Water Holding Corporation, 350 Route 28,  
West Yarmouth  
Mark White, Blue Water Holding Corporation, 350 Route 28,  
West Yarmouth  
Jeff Conklin, abutter, 4 Hemeon Drive, West Yarmouth  
Phil Renaud, foodservice inspector, Yarmouth Health  
Department  
Peggy Rose, Board Secretary

**I. Hearing – Sewage Collection License and Transfer Location - Blue Water Holding Corporation, 350 Route 28, West Yarmouth (Continued from Meeting of July 21, 2008)**

The Chair advised that this is the continuation of the hearing on July 21, 2008 which was regarding the issues of odors, dust and traffic. Town Counsel was consulted regarding the Board's jurisdiction over these issues and the cease and desist order that was issued in July is still in effect.

Attorney Charles Sabbatt presented an aerial photo of the Cannon property and pointed out the location of the tanks. The tanks, which were installed in 1958 and 1964, were recently tested by EAG Engineering. The tanks were filled with water which was held in the tanks for 24 hours. The water level was inspected the next day and was found to be the same as it was when the water was placed in the tanks.

Mr. Sabbatt advised that Blue Water is conducting the same business as A & B Canco did which is septic installation and repairs and septic pumping. The company operates 5 trucks from the site. On occasion, the Yarmouth treatment plant is closed because it has reached its capacity for the day so it is necessary to empty the trucks into the tanks.

The process that Blue Water uses when pumping septic systems is to remove everything in the septic tank. The liquid and solids are separated in the truck and the liquid is then pumped back into the tank. The Vice Chair asked how much of the liquid is put back into the tank. David Burnie replied that the level is within 1 foot of the outlet pipe. Mr. Kelliher asked about the nitrogen content of the liquid returned to the tanks. Mr. Burnie responded that it was not an issue with the state. He said that the tanks are pressure washed before returning the liquid to the tanks. The state does require that the liquid be returned to the tank from which it was originally pumped.

The Vice Chair asked how many days was the Yarmouth treatment plant closed. Mr. Sabbatt said that the company will be called when the plant is closed. Mr. Burnie replied the time that the plant closes varies from year to year. Last year it was a serious issue but this year it has only been closed 3 days for septic loads and 5 days for grease loads. Mr. Kelliher asked if the reason that the company was being charged more was because they are dumping more solids. Mr. Sabbatt replied that it was.

The Chair advised that the Vice Chair, Health Director and herself had met with Town Counsel. He advised them that the operation of the business is under zoning authority and not the Board of Health. The question of the tanks is under DEP regulation. Mr. Kelliher stated that truck to tank transfer was under Board of Health jurisdiction.

Attorney Matthew Stusse advised that prior to 1992, the town had trenches at the town dump for septic disposal. That facility would close at noon on Saturday for the weekend and the tanks would keep Canco's business operating on the weekends.

Attorney Sabbatt advised that the hose into the tank operation creates the noise and odors. With the system that the company's consultant is proposing, those would be eliminated.

Consultant Brian Yergatian from the BSC Group advised that all access roads within the property will be covered with crushed stone, the loam pile will be worked down and a 3 to 4 foot earthen berm will surround the area. There will also be plantings to reduce the sound coming from the site. Mr. Kelliher was concerned about the possibility of washout of the area. Mr. Yergatian stated that the grade would be maintained and it would be hydroseeded.

Mr. Yergatian advised that the company is proposing to replace the tank covers with stainless steel ones and a welded steel connection which will connect with the trucks. Each tank will have a vent with a charcoal filter and a submersible ejector pump. Trucks will be loaded and unloaded by gravity and will be shut off. There will be high water silent alarms which will be wired with a light that can be seen by the neighbors.

Mr. Kelliher suggested that the alarms be directly wired to an alarm company. He asked if Mr. Yergatian thought these measures would eliminate the problems at the site. Mr. Yergatian hoped there would be a drastic reduction in them.

Ms. Greenbaum asked how long it took to unload the trucks. Mr. Yergatian replied it took about 30 minutes. Ms. Hayes asked how long he thought it would take to implement all the proposed changes. Mr. Yergatian thought it would take between 4 to 6 months.

The Health Director asked if the tank vents should be relocated. Mr. Yergatian stated that they wanted them located at the highest point. The Chair thought they could be located higher than proposed.

Mr. Burnie stated that they would like the help of the Board to remedy the situation. He said it might be a process of trial and error. Mr. Kelliher thought the Board was receptive to the company's plan. Mr. Burnie said that the company wants to solve the problems.

Abutter Jeff Conlin stated that he thought he wasn't hearing anything different from the company since the last meeting. The only time the neighbors have been able to enjoy their property is since the cease and desist order has been in effect. He did not see the need to lift it.

Mr. Kelliher suggested that the Health Director or the Chair work out a timeframe for the work with the company. Mr. Yergatian stated that with the order in place, the company can't touch the tanks. Mr. Kelliher thought it could be lifted for work on the tanks and testing of the tanks. Ms. Hayes stated that she had no problem with lifting the order and if the work is not performed in a reasonable length of time, it could be put back on.

**MOTION: (Ms. Hayes)** To lift the cease and desist order for Blue Water Holding Company.

Seconded: Ms. Greenbaum

Discussion: None

Vote: Unanimous

Mr. Burnie stated that the company would be aggressive in implementing the plan and will work directly with the Health Director. There will be no testing of the tanks or transfer of septage until it is approved.

**II. Hearing – Reinstate Motel License - Thunderbird Motel, 216 Route 28, West Yarmouth**

The Health Director advised that the owners are still getting all the signoffs they need before coming to the Board for a motel license. There will be no hearing until they have all the signoffs.

**III. Discussion – 2008 Board of Health Goals**

It was determined that the Board would eliminate goals 4, 5, 7 and 8 and to continue goals 9 and 10. The first goal will need the input of the VNA and the second goal will be forwarded to Town Counsel and the Building Department.

**IV. Discussion - Review of Board of Health Foodservice Regulations**

Ms. Hayes asked about inspection of supermarkets. The Health Director replied that they are governed by stated Department of Health regulations. The department inspects them once a year and responds to any complaints that are received.

The Chair said that she did not notice any reference to seating capacity in the regulations. The Health Director stated that seating capacity is governed by Title 5. If there is waitress service outside, it is counted in the total number of seats. It is not clear in Title 5 that if the establishment has picnic tables for takeout service, whether those seats are included in the septic design.

Mr. Kelliher raised the question of restaurant restrooms. He specifically mentioned one restaurant that he knows of that has 19 seats inside and 24 seats outside. There was also no dishwasher. The Health Director replied that the restaurant was limited to paper service only.

Mr. Kelliher also asked that the foodservice inspector check on dumpsters when inspecting and also remind establishments that serve breakfast and have trays of eggs stacked next to the grill to rotate the supply.

The Health Director stated that there are 3 to 4 inspections of restaurants yearly. The department also investigates any complaints that are received.

Foodservice inspector Phil Renaud advised that when he conducts an inspection, he first meets with the restaurant manager to review practices and cleaning schedule of the restaurant. He then checks refrigerator temperatures, handwashing stations, dishwasher temperature and the general cleanliness of the bar area and rest rooms. If he finds any food items with a temperature of 41 degrees, the food must be discarded.

Ms. Greenbaum asked if restaurant staff check temperatures during operating hours. The Health Director responded that it is not a requirement.

**IV. Approval of Minutes of Board of Health Meeting – Meeting of August 18, 2008**

**MOTION: (Ms. Greenbaum)** To approve the minutes of August 18, 2008.

Seconded: Dr. Brown

Discussion: None

Vote: Unanimous

**V. Other**

**23/25 New Hampshire Avenue**

Mr. Kelliher again raised his concerns about the septic system that is to be installed at 23/25 New Hampshire Avenue. He had been approached by some neighbors who told him about a second story addition to the property. He questioned whether the perc test used to design the septic system was still current.

The Health Director replied that the perc test had been done according to National Geodetic Vertical Datum (NGVD). The owners had to go to the Board of Appeals in order to be granted a second story. The department had signed off on the plans which included a second story. The floor plan showed 2 bedrooms located on the second floor and the first floor will have an open floor plan with no bedrooms for each side of the duplex..

Mr. Kelliher stated that adjoining properties had septic systems that were 2 to 3 feet higher than the proposed septic for this location. The Health Director said that the property was located higher than the abutting properties. Even though the property location is higher, there will still be a raised septic system.

**VI. Adjourn**

There being no further business, the Chair adjourned the meeting at 5:02 PM.

Respectfully submitted,

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Robert Brown, Ph.D, Clerk

Minutes Taken by Peggy Rose