

BOARD OF HEALTH

January 22, 2013

Members present: Duncan Colter, chair, Joanne Ostrowski, Susan Clark

Health Agents present: Carl Nelke

Guests: Debra Nicholson, Suzanne Corbett, Paulette Leukhardt, Betty Stewart, Brian Clark, Ron Coler, Mary Fitz-Gibbon

Meeting called to order by chair at 7:07 p.m.

The following audio recorders were noted: Susan Clark (1), Paulette Leukhardt (2), Suzanne Corbett (1), Debra Nicholson (1).

Health Agent reports:

Carl Nelke reported that there really hasn't been any activity since the last meeting, in part due to the winter season. Carl emailed blank hauler's application and permit forms to the BOH. Duncan has issued a hauler's permit to Greg's and has a request for an application from Superior. Between Duncan and Carl, they will issue the permits as the need arises.

Joanne asked Carl about Conway's enrollment in the FDA Food Inspection Program. Conway was granted \$500 and he is not certain if the funds have been received yet. FRCOG was supposed to get \$2000 from the grant. There was some discussion of the implementation of the program in Conway. Carl emphasized that the whole program is voluntary. Conway's BOH is a 5 member board (currently at 4 members). One member does all the food inspections. Carl is currently chair of the Conway BOH. There was some discussion of the MA food inspection forms vs. the FDA forms. Joanne stated that she heard from a Deerfield BOH member that the FDA form is not approved by the state. She further stated that it is her understanding that the state forms are free.

Claudia Lucas' Updates: updates via email from Claudia, provided by Susan.

The Tavern: Claudia has been trying to locate an alternative address for Jack Dunphy unsuccessfully. Susan explained that she had seen Diana Gruenewald and told her that the letter to Jack Dunphy had been returned. Diana verified that 52 Orchard St., Greenfield is the address to which she sends her rent check. Claudia in her email explained about the change of use for the property being the jurisdiction of the Building Inspector. Claudia will follow up with Jim Hawkins.

Fees for housing inspections: Claudia found out that BOH or HUD can do inspections for Section 8 housing. BOH can bill for Section 8 housing inspections if there is a fee structure in place.

Sidehill Farm pasteurization permit: Paul Lacinski and Amy Klippenstein are moving their operation to Hawley, will be shutting down production for the month of February, therefore Claudia is not going to do a pasteurization inspection/permit for them for the 9 days remaining in January.

295 Main St.: Joanne stated that she had talked to Jason Ferenc, lawyer and member of Colrain BOH. Joanne talked to him about properties in Colrain that had been condemned. He told her that the BOH would have to go through court or the DA's office to have the property put into receivership. Joanne said that Mr. Ferenc looked up 295 Main St. on the Franklin County deeds website and he told her that the property is owned by US Bank NA.

Susan stated that Laura has been working with a Tax Title lawyer who has researched ownership.

Minutes:

December 4, 2012: There had been a question from Joanne about the statement in the minutes of 12/4/2012 concerning Glen Ayers' statement about the necessity for a hearing, etc. Susan checked back on the 11/13/2012 recording and at minute 48, Glen Ayers stated that no hearing was required and there was no requirement for a 14 day advance notice. Susan stated that the 12/4/2012 minutes were correct.

Susan Clark made a motion to accept the minutes of the 12/4/2012 meeting with the comments above and the corrections previously noted in the 1/8/2013 meeting. Joanne Ostrowski seconded the motion. At this point in the meeting, Suzanne Corbett called a point of order from the audience. She stated that in the BOH minute book that "this got slid in August 1st attachment 1, July 1, 2011, it says right here from Glen Ayers the formal policy adoption process will be subject to a public hearing with as much community involvement as possible..." Susan asked Suzanne for a copy of the document she was quoting and Suzanne stated that it was from the minutes of the July 1, 2011 meeting, but that documents seem to get moved around in our minute book and she stated that another point of order is that she took issue with the signed documents for adopting the FDA policy. Suzanne questioned the signatures on the documents. Susan interjected that she had one of the three signed copies which she had inadvertently taken home, but on which she made notation that it was for attachment to the minutes for the 12/11/2012. Suzanne requested that she see the signatures on the document. Suzanne stated that this is not the document that is at FRCOG or that was sent to the FDA and that thus the FRCOG document is a false document. Susan stated that this can be double-checked with Glen Ayers. **Duncan brought us back to the motion and the motion was passed unanimously.**

At this point in the meeting (7:30 p.m.) Duncan brought up the subject of holding an executive session jointly with the Selectboard. Suzanne Corbett, as advocate for Debra Nicholson, again called a point of order and served the committee with an Open Meeting Law violation allegation signed by Debra Nicholson regarding the posting of tonight's Executive Session. Suzanne cited MA Chapter 30A Section 18 through 26. Suzanne alleged that the BOH and the Selectboard did not post the Executive Session correctly. Joanne asked a question about the date of the Selectboard meeting at which Ron Coler was directed to seek an Executive Session with the BOH. Debra Nicholson stated from the audience that she thought it was January 16, 2013. Joanne had questions about what the reason was for the Executive Session. Suzanne stated that the reason for Exec. Session has to be singled out and identified from the list of 9 reasons. Susan at this point recommended that the Exec. Session be postponed because she felt that obstructionist tactics were being employed. Suzanne Corbett stated that she resented the remark. Susan Clark stated, "I don't care. I'm sorry. I don't care. I said I just recommended that we postpone this meeting, that we don't do it tonight." Suzanne Corbett stated that this was a very derogatory remark. Susan stated, "That's the way I feel and I can say it if I want to, okay? I think this whole thing is directed at FRCOG. You are trying to obstruct every step of the way in anything that we get involved in with FRCOG and it's a personal thing against Glen Ayers. And I'm getting tired of it. And that's what I'm going to say about it, and that's it."

There was a short exchange between Ron Coler, Paulette Leukhardt and Mary Fitz-Gibbon (inaudible on tape) and Mary Fitz-Gibbon stated that the Selectboard will not meet in Executive Session tonight. Duncan asked if we will set a future date and Mary Fitz-Gibbon stated that she would like to confer with Town Counsel. Mary Fitz-Gibbon made reference to the fact that the Exec. Session was in regards to a 93A demand letter from Suzanne Corbett which has a deadline, and she will take the opportunity to talk to Town Counsel about rescheduling the Exec. Session in order to respond in a timely fashion and possibly by the soonest Thursday. At that point, Suzanne Corbett stated that since Mary Fitz-Gibbon had just stated that the Exec. Session was in regards to her 93 A demand, that there was no longer a necessity for an Executive Session. Duncan took control of the meeting at this point and strongly recommended that Mary Fitz-Gibbon discuss this with Suzanne in another context other than a BOH meeting.

Minutes:

January 8, 2013: Corrections:

Page 2, FDA Food Inspection policy: change "Joanne's signature" to "Joanne's statement 'not in agreement'" She stated that she wished that she had initialed 'not in agreement', regarding the signature page for the FDA funding.

Page 2, last paragraph, Joanne brought up "Duncan stated that there was no activity between November 2011 and December 2012." Joanne brought up the fact that May 24, 2012 the self-assessment was submitted, so there was some activity within that period of time. Susan stated that she was only reporting what Duncan had stated at the 1/8/2013 meeting.

Page 3, 2nd paragraph, cross out one "to register" (repeated twice accidentally)

Page 5, Flu Shot Clinic: cross out "be" in the first sentence.

Page 5, Food Establishment Inspection Forms: cross out this sentence, "Joanne also brought up the topic of the FDA Self-Assessment form which she had a difficult time finding on the computer."

Motion by Joanne Ostrowski to accept the minutes of the 1/8/2013 meeting with the corrections noted above. Susan Clark seconded the motion and the motion was passed unanimously.

Mail:

1. Catalogues (5)
2. Scheduled department payments: checks for septic haulers (GMG Enterprises) permit and Farmer/Matland permit fee.
3. Greg's Wastewater requesting a hauler's permit.
4. Superior Septic Service: money from Superior with no indication what the money is for. Duncan will check with them.
5. BOH response to OML violation allegation of 1/10/2013: three copies to be signed by Duncan Colter and sent to Suzanne Corbett and the Attorney General's office. Joanne expressed uncertainty about the OML responses because the responses were so simple, but she didn't wish to add anything to the letter.
6. BOH response to OML violation allegation of 1/3/2013 to be signed by Duncan Colter and sent to Suzanne Corbett and to the AG's office. Joanne expressed uncertainty about the OML responses because the responses were so simple, but she didn't wish to add anything to the letter

Old Business:

Suzanne Corbett's letter of 12/3/2012 re. FDA funding: The BOH had worked on a response to this letter at the previous meeting and finished up the response as follows at this meeting:

Page 3, item 3: 3. Susan obtained a copy of the MOU from FRCOG and the dates on the document are September 15, 2011 to September 30, 2012. The reason why it wasn't signed was most likely because the contract with FRCOG was severed as of September 2011, with the termination of Glen Ayers' services. Since there was no signed MOU, there is no need to review this document as suggested by Ms. Corbett in this question.

Since nothing was signed, Duncan stated that he didn't think anything needed to be reviewed.

There was discussion about how to compile the answers to provide the Selectboard with BOH response. It was agreed that Susan would compile the responses from the minutes and put them in a letter form, send the responses to the Selectboard with a copy to Suzanne Corbett. Joanne expressed continuing concern about the Police Dept. DUNS number and Susan suggested that Joanne contact Glen Ayers to ask him about the DUNS number. Joanne stated that she would leave that up to the Selectboard to follow up on.

Document Request Policy:

There was some discussion about the Draft form that Susan had introduced at the previous meeting. Joanne offered some additions to the form which Susan will incorporate into the draft.

Response to Debra Nicholson's emails from December 12 and 13, 2012

December 12, 2012: Susan drew up a timeline of events which might be relevant to the response and shared it with the BOH.

First paragraph: The FDA program was not already in place when Joanne O. and Cindy Scott voted to withdraw. Enrollment in the process started 7/20/2010. The new board voted to complete the process. Joanne raised some questions about why the previous vote to discontinue involvement in the FDA funding wasn't rescinded before the new board voted in favor of continuing. Duncan stated that it wasn't necessary to rescind the previous vote. There was a question about when the Self-Assessment was completed. Joanne raised concerns about Glen Ayers not communicating with the Board about the progress of his work on this FDA program.

Second paragraph: FRCOG is being paid, not Glen Ayers personally. We don't know exactly what each town owes FRCOG, but Conway share to FRCOG was \$2000 according to Carl Nelke. FRCOG is not to receive the money until the funding is received from the FDA. Invoices were sent to Mary Fitz-Gibbon, but have not been acted upon, and are no longer valid because of the dates on them. They need to be updated for the current fiscal year.

Third paragraph: FRCOG's \$2000 share is for the work that Glen Ayers completed by enrolling the town, submitting the self-assessment and completing all paperwork. Glen Ayers did not spend 200 to 300 hours training the BOH. This is a voluntary program; the BOH had to "rectify past decisions" to receive the grant.

Second page:

First paragraph: From Debra Nicholson's email: "The Health Agent for FRCOG seemed to change his mind about contributions other towns would need to make in order to cover

Ashfield's deficit if they did not enroll". Duncan and Joanne stated that this was true, and Duncan stated that Debra Nicholson's statement is a moot point. Joanne expressed her opinion that Mr. Ayers raised this to embarrass Ashfield into meeting the financial obligation, because she felt that the other towns would not have to pay for Ashfield's share. From Debra Nicholson email: "Is the Selectboard comfortable with questionable record-keeping, conflicting statements, and lack of sufficient notice for the public hearing?" Duncan stated that there was sufficient notice for the hearing. Joanne further stated that this question is directed to the Selectboard so they will have to answer this. Regarding the invoices, these were sent to Mary Fitz-Gibbon to be held for future use.

Second paragraph: Joanne stated that she feels that she has not been in the loop, expressing that there should have been a lot more communication that should have been passed on to her concerning BOH business. Susan stated that she does not have the time to hand deliver every email to Joanne. Joanne stated that she is speaking about Duncan, not Susan. Duncan stated that he has not held back information or tried to hide anything.

Fifth paragraph: BOH not sure what meeting is being referred to in this paragraph. Joanne stated that Ms. Nicholson possibly meant the executive session concerning Ms. Kirchener's resignation. Susan stated that if in fact the 3/8/2012 Executive Session is the meeting to which Ms. Nicholson refers, her allegations that the meeting "was never opened properly nor publicized correctly" has not been established, since the OML violation allegation is still under scrutiny by the AG's office.

December 13, 2012 letter from Debra Nicholson to the Selectboard:

Duncan read the entire letter out loud, and then asked for comments. Susan stated that she personally did not perceive that Laura Blakesley had "ranted", though she did not feel that she could answer on Laura's behalf. She further stated that she has received quite a few emails with accusations that are vitriolic and bordering on slanderous to which she cannot really respond. Joanne stated that she felt that Laura's voice had expressed aggression and dissatisfaction that Suzanne was questioning her integrity. Duncan had no comment. He expressed that the letter expresses Ms. Nicholson's opinion and that she is entitled to her opinion.

Debra Nicholson asked how the BOH had obtained her email of Dec. 13, 2012. The email/letter was attached to an email from Suzanne Corbett sent on Friday, December 14, 2012 to the Selectboard, Finance committee, Ron Coler, Paulette Leukhardt, Kachina Yuryan, etc. Susan stated that she assumed the Selectboard made copies of the emails for the BOH since the email dealt with BOH business.

Invoices from FRCOG re. FDA funding: Joanne brought up the subject of the old invoices which Glen Ayers sent to Mary Fitz-Gibbon. She had questions about the MOU.

Minutes Notebook: Joanne stated that there are missing documents in our minutes notebook. She specifically asked about the third copy of the document signed for the FDA funding. Susan explained that she had accidentally taken the third copy home and returned it tonight for inclusion with the minutes. Joanne stated that the photocopy in the minutes had two signatures and her section was blank, although she had written in the signature spot that she was not in agreement. Susan advised Joanne to contact Phoebe Walker at FRCOG to get a copy of the signed agreement to get her questions answered about why her statement "not in agreement" was apparently whited out at some point.

Proposed Document Policy: Joanne proposed that there be a policy established for keeping of documents, agreements, etc. She proposed that originals be kept in the locked filing

cabinet and that two photocopies be made, one kept in the minutes for public viewing and the second one in a separate folder for easy access. Susan suggested that Joanne write that proposal up as a potential policy for us to consider. Joanne agreed to do so.

Flu Shot Reporting: Joanne asked if Susan had heard from Lois Ciccone re. the need for including temperature logs in our reporting to the state. Susan explained that she had contacted Lois with the question, but Lois' only response was to ask if we had any more vaccine available. Susan suggested that Joanne just include the temperature logs with her reporting.

FDA funding: Joanne expressed that she is still not 100% comfortable with the MOU. Susan stated that she had gotten info. on 3 different documents today from Phoebe Walker: the first being an agreement about the Health Agent's general duties not related to the FDA program, the second being an unsigned MOU re. the FDA funding, and the third being the National Registry Record signed 7/20/2010 by both Glen Ayers and Duncan Colter for the FDA program. Joanne got a copy of the signed agreement from FRCOG which appears to have her statement in the signature blank whited out. Susan suggested that Joanne could call Phoebe Walker and ask her about the whited out signature blank. Joanne will call Phoebe Walker about this.

Food inspection forms: Joanne stated that she saw somewhere some information about a catalogue of free materials for Boards of Health and that she recommends that we get free forms for food inspections. Susan suggested that we bring this up with Claudia the next time she is at a BOH meeting.

Filing Cabinet Clean Up: Joanne brought up the subject of going through the filing cabinet to clean up the files. BOH must be cognizant of the records retention requirements.

Budget Discussion for next fiscal year: Susan asked if this needs to be discussed tonight, and Duncan stated no. Joanne is interested in finding out how much income from permitting, etc. has been brought into the town from BOH fees.

Next Meeting: February 5, 2013 7:00 p.m. There will possibly be an Executive Session jointly with the Selectboard.

Motion to adjourn made by Susan Clark, seconded by Joanne Ostrowski. Motion passed unanimously.

Meeting adjourned at 9:55 p.m.

Respectfully submitted by Susan Clark