

HAMILTON BOARD OF HEALTH

MINUTES OF MEETING

May 24, 2017

Members Present: Giselle Perez, David Smith (Chairman), and Walter Row

Others Present: Leslie Whelan (Health Agent) John Hamilton, Bob DeFelice, Mike Roy, and Donna Roy

This meeting was called to order at 7:00 pm at the Hamilton Senior Center by David Smith

**Hearing. Rooster Noise Complaint – Keeping of Animals Regulation 5.1. Claudia Woods 344 Cutler Road.**

Claudia Woods was not present due to a medical appointment. Bob DeFelice (complainant) asked the Board to have Ms. Woods remove the roosters or take some kind of measure so the neighbors wouldn't hear it. According to Mr. DeFelice, the neighbors have expressed the same sentiment. Ms. Woods also had three dogs and the police had visited the home numerous times in response to complaints regarding the dogs and roosters. Mr. DeFelice noted that there was no law regarding roosters, but there was one for sanitary conditions.

Gizelle Perez understood that Mr. DeFelice had written complaints, but wondered why the other neighbors had not written any. Bob DeFelice had spoken with them to find that they did not wish to become involved due to political correctness. Ms. Perez asked if their suffering was as large as that of Mr. DeFelice's. Only commercial farming businesses were protected as roosters would come under farm animals for the exempted use. Claudia Woods was not a commercial farming business. Mr. DeFelice noted that since the last time he called the police, he hardly heard the rooster except for the day before the meeting when he heard the rooster for one minute. The Police had reportedly told Mr. DeFelice not to speak to Ms. Woods, but to call them instead.

In response to Walter Row's question as to whether the Board could engage the neighbors, Bob DeFelice said he would encourage the neighbors to either attend the meeting or write letters of concern. Gizelle Perez said her approach would be to see more discussion amongst neighbors as one would presume that if the rooster was that loud, they would want to discuss the topic. David Smith and Walter Row both agreed.

Bob DeFelice, who noted that when the rooster crowed for two or three hours, every 15 seconds, "one would want to shoot the thing." Mr. DeFelice would ask neighbors if they wanted to come to the next meeting and if they would not come, he would get a statement from them. Walter Row noted that, according to a letter written by Claudia Woods, one neighbor (Henniger) lived closer to her barn than Mr. DeFelice. Mr. DeFelice referred to police records, which were proficient about visiting the home due to the three dogs. Mr. DeFelice would ask the police to come to the next meeting as well.

Gizelle Perez asked the Board if there was a way to ensure that if someone wanted to say something, could they remain anonymous. John Hamilton responded that it was a basic American right to confront accusers and that anonymous testimony was from the Middle Ages. Ms. Perez noted that having the rooster crow continuously could cause emotional distress. Walter Row asked if a neighbor's letter needed to be notarized to determine that the letter was from the person who signed it.

Walter Row asked if the police witnessed the incessant crowing, to which Bob DeFelice said probably not, but they were there and talked to Claudia Woods to quiet the dogs and quiet the rooster. David Smith asked if the request from Bob DeFelice was to eliminate the rooster crowing noise and/or the dogs barking. Mr. DeFelice noted the rooster was more of a problem.

John Hamilton noted there were separate procedures for dealing with noisy dogs, which was a Selectmen's issue and that complaints about dog noise had no place at the Board of Health meeting. Mr. Hamilton asked for a continuance until June 28, 2017, so the Board could hear from Claudia Woods in person.

Motion made by David Smith to continue the hearing until June 28, 2017 at 7:00 pm.

Seconded by Gizelle Perez.

Vote: Unanimous to approve.

Leslie Whelan noted that since this was a continuation of a prior hearing, notices would not be sent again.

**Hearing. Essex Septic Service – Septic Hauler's License and Pumping Reports.**

Leslie Whelan updated the Board and noted the two letters written to Mr. Roy, after the last Board meeting, which included a written record of what was discussed including requests for Mr. Roy to provide a monthly list of all pump outs from January to March 2017. The list was due April 30, 2017. Ms. Whelan recalled that around April 30, 2017, Mr. Roy said his computer system was incapable of completing the work. On May 17, 2017, Ms. Whelan had written to him that he needed to take care of this promptly.

Mike Roy said his computer would not provide the list. Donna Roy had contacted the computer company on a couple of occasions to create a program that would provide the information. Ms. Roy had purchased a certain software platform that would only provide a report that did not include addresses, so the report would not be suitable to provide a list of Hamilton residents who had been pumped. Ms. Roy would need to go into each client's account to determine the history. Ms. Roy could run a financial report with addresses for January, February, and March. Ms. Roy would need to purchase a separate program to obtain addresses and gallons extracted to provide a report.

David Smith said it was apparently possible, with an upgrade to their system, to produce a report that would comply with the Board of Health requirements and asked if they intended on buying and installing it to provide reports. Mike Roy responded that he needed to determine the cost, but that he was prepared to purchase the product so reports could be provided. Mr. Smith asked how the Board should react when the Board had not received a report for a month past the due date.

Donna Roy responded that they had the report but the report didn't have a list of pump out customers. Leslie Whelan explained that the whole point of the list was to see if the reports matched the list. Walter Row asked how many pump outs occurred in a month to which Mike Roy responded it could be five to ten a day between all areas serviced. The Board noted they were looking for the address, date, and how much was pumped.

David Smith was concerned that Mike Roy would not be able to comply with the rules until the software upgrade was purchased. The available report did not give addresses. Donna Roy could cherry pick them on the current list until she was able to get the new computer platform. Ms. Roy said she would do it that evening and could bring it to the Board of Health the next day. Leslie Whelan stated that she wanted the month of April as well to which Ms. Roy responded that she would do this one that evening, then May's report next.

David Smith reviewed the terms that Mike Roy would be installing the upgrade and until then, Donna Roy would create the list manually. Gizelle Perez wondered what might occur in the event that another month passed by without a report submitted, to which Mr. Roy responded that he would bring the report to the Board of Health office the following day. Leslie Whelan suggested continuing the hearing until the next month so there would not be a need for notification if the reports and lists were not submitted. The Board could decide at that time whether to hold the order or issue the fines.

Motion made to continue the topic on the agenda to the next meeting at 7:00 pm. on June 28, 2018 by Walter Row.

Gizelle Perez seconded.

Vote: Unanimous in favor.

### **Discussion – Health Agent Update**

Leslie Whelan announced that Town Hall offices had been moved around. Ms. Whelan distributed a list of topics for discussion. The new septic regulations would be distributed to professionals, including pumpers, installers and Title 5 inspector, of all which were licensed by the Town as well as to septic designers and engineers. A new designer would typically contact the Town to determine local regulations. They would be referred to the webpage.

The Recreational Marijuana Policy Makers Forum was attended by Leslie Whelan in April. There were three presentations. One presentation was from the Walpole Police Chief who talked

about Colorado and its green mile with retail establishments selling marijuana and how there was an increase in Massachusetts of residents driving while under the influence of drugs. Quantities of marijuana were discussed with the amount being quite large. There were public safety issues around having retail establishments in the community. Teenagers and children taking edibles was noted as a concern. The second presenter was a Boston Children's Hospital worker who described an increase in childhood psychosis among children who had been exposed to large quantities of marijuana. Gizelle Perez noted that there was not research to suggest that relationship.

Leslie Whelan recalled that the presentation included the legal vehicles a town could use, such as having a complete ban on establishments or limiting the number or locations of establishments, both of which would go above the State Regulations that would be due out in March. In April 2018, establishments would be able to obtain their licenses. In Hamilton the date was extended by local By-law until June 2018. Some towns were trying to pass a complete ban of retail manufacturing, distribution, and growing of marijuana. Manufacturing created products like oil or baked brownies. Ms. Whelan said she had presented the concepts to the Town Planner, Police Chief, and Town Manager, who all quickly jumped to put together a ban By-law. Ms. Whelan said the Town might want to put together a By-law that had restrictions that allowed an establishment in one location but not another.

Michael Lombardo wanted to have a forum for the public to learn about a ban to avoid the permitting and police enforcement of driving issues. Leslie Whelan was helping to organize the forum and the Walpole Police Chief would be contacted by the Hamilton Police Chief.

Leslie Whelan noted the "webinar" that spoke about how to talk with teenagers about marijuana, which explained that until 25 years old, the brain was more susceptible to drugs.

Peter Britton (Brick Ends Farm) attributed the lack of new complaints to his paying more attention to what the farm was doing as well as the effects its actions. Mr. Britton was paying attention to controls and wind directions to control the odor problem.

The Animal Inspector might be invited to a meeting perhaps next month. In fall (November), the Animal Inspector visited barns to conduct inspections. The Inspector had until the end of the calendar year to inspect barns and send the information to the State Division of Animal Health. The Animal Inspector also quarantined pets that were involved in a bite.

### **Chapter 28 Right to Farm By-law Six Sections, Purpose and Intent, Definitions,**

The term "farm" was for any parcel used for the primary purpose of commercial agriculture or accessories thereto. It was noted that the property of Claudia Woods was not determined to be a farm, according to Leslie Whelan. Gizelle Perez repeated that she wanted to hear from another neighbor.

**Signature for Septic and TB Regulations**

Leslie Whelan distributed the Regulations to be signed.

**Minutes – April 26, 2017.**

Motion to approve the minutes of April 26, 2017 by Gizelle Perez.

Seconded by Walter Row.

Vote: Unanimous in favor.

**Adjournment**

Motion made by Gizelle Perez to adjourn at 8:07 pm

Seconded by Walter Row

Vote: Unanimous in favor.