

HAMILTON BOARD OF HEALTH

MINUTES OF MEETING

May 23, 2018

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

Others Present: Leslie Whelan (Health Agent).

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

**Hearing: To determine whether Wind River Environmental LLC should be granted a license to conduct Title 5 Inspections in Hamilton.**

Leslie Whelan recalled that at the meeting the previous month, local regulation was passed that required companies to obtain a license for Title 5 Inspections. A few months before that, the Board had revoked the license of Rob Herrick as an inspector to do Title 5 inspections. Ms. Whelan thought that the company itself, Wind River was the problem as much as the inspectors they hired and her experience over the previous 16 years, was that Wind River hired people who did not write good reports and did not respond or were slow to respond when Ms. Whelan supplied a list of questions to the report. Ms. Whelan said the problems were systemic of the company in that they did not take responsibility for their inspectors. Inspectors lacked skills, were given no support, and did not experience pressure within the company to get the report correct.

Leslie Whelan said Wind River ignored her and the client. Ms. Whelan recalled that two weeks before the meeting, the realtor for 236 Sagamore was told by Wind River that the report was ready and they should go to the Board of Health and request the letter. In March, Ms. Whelan wrote a letter to the owners and copied Wind River. The letter said there were problems with the report. The inspector never corrected them. Ms. Whelan was currently requiring the company and the inspector to find their own mistakes but they were not capable of doing it. Ms. Whelan continued to receive e-mails from Wind River requesting she send a list. Ms. Whelan had forwarded a similar email from Eric Muller, saying he thought Ms. Whelan was going to give him the list of problems despite Ms. Whelan having multiple documents wherein Ms. Whelan could illustrate that was not what was said.

Regarding 64 Cunningham Drive, Leslie Whelan reported that Dan Johnson had conducted a report and the system passed. Ms. Whelan said Wind River had treated their customers poorly while pretending to give them what they wanted. Walter Row summarized that Wind River wanted Leslie Whelan to be accountable to them when Hamilton was the client. They were not servicing the account in terms of following up with timely, accurate, and appropriate paperwork. Ms. Whelan said that in the past, she walked them through what they needed to do and they still didn't do it. Mr. Row said that to earn one's place to service the Town of Hamilton, Wind River needed to do what it took to get it done and be fully accountable to the Town of Hamilton and Ms. Whelan. Mr. Row recalled the numerous chances given to Wind River of three or four

months and the company did not seem worthy of continuing a relationship. Ms. Whelan appreciated that Mr. Row understood the issues.

In response to David Smith's question regarding the licensing of contractor companies, Leslie Whelan responded that when applicants renewed their license for Title 5 inspection, the application would be rearranged to note that the company would obtain a license with the "following Title 5 inspectors" listed. The one document would provide both company and inspector licenses.

The current action would be to deny a permit to Wind River Environmental to conduct Title 5 work in Hamilton immediately, according to David Smith.

Motion made by David Smith that the Town of Hamilton Board of Health hereby proposes to deny a permit to conduct Title 5 related services in the Town of Hamilton effective immediately. Leslie Whelan requested that the term "permit" be changed to "license."

David Smith amended the motion to say that this Board hereby proposes to deny a license to provide Title 5 services in the Town of Hamilton effective immediately for the company Wind River Environmental.

Walter Row wondered when they could apply for a new license. Leslie Whelan responded that they could reapply in one year. Giselle Perez asked if they should go through the process of reapplying when it had been proven they could not provide proper work. David Smith suggested letting them decide if they wanted to reapply for a license.

David Smith amended the motion to stipulate that the Board of Health was in effect, banning Wind River from providing Title 5 services for a minimum of one year and allowing them to apply in one year. Leslie Whelan requested the period be longer. The duration of a license was one year.

David Smith amended the motion to say the denial of this license shall be for a minimum period of one year and that Wind River may apply for a company license subject to a showing of cause how and why it is that their performance will have improved from past practice. Leslie Whelan suggested a presentation at a Board of Health meeting.

David Smith amended the motion to state: The Board of Health hereby denies a license to provide Title 5 services by Wind River Environment in the Town of Hamilton for a period of one year and a license to provide such services may be applied for subject to a showing and demonstration to the Board of Health as to how and why it is that their performance will be satisfactory in relation to past experience.

Giselle Perez seconded.

Vote: Unanimous in favor.

David Smith felt an obligation to inform Wind River of the action. They would be removed from the list of providers.

Leslie Whelan explained that Title 5 installers and pumpers must have a license with the Board of Health. Septic designs needed to be completed by a Registered Sanitarian or Professional Engineer, which were State licenses. The Town had not taken the step to have a local license for designers as had been done for Title 5 inspectors. The people who provide operation and maintenance services for septic systems that needed annual maintenance were also licensed by the Board of Health. Some Title 5 inspectors did not do good work as they were referred by the realtor to the seller. If Ms. Whelan did not review the documents, people would move into a house and find out the system had actually failed.

**Health Agent Update.**

Regarding 22 Elliot St., Leslie Whelan reported that she had re-inspected the home to find holes in the soffits and fascia boards. The owner had hired someone to cover the holes with sheets of metal, but Ms. Whelan did not think it looked effective as gaps had been noticed where animals might have pulled it apart. Ms. Whelan recalled that one section was nailed with metal, which was done in an unprofessional manner. The owner did not replace the window. Ms. Whelan noted her frustration and said the newly approved By-law would have more strength for enforcement. The owner had indicated that she intended on selling so she was not planning on replacing the window. Ms. Whelan explained that she would not write the owner a letter, which indicated that everything was acceptable. Ms. Whelan was following up on State sanitary code at 22 Elliot St.

David Smith said the Attorney General had not yet approved the new By-law, which would be under the purview of the Building Inspector. A complaint would go to the Building Inspector to determine if the structure was vacant, then he would look at the list of conditions within the By-law that would constitute violations, which he would either accept or not. A boarded up window would be a temporary measure that would need to be fixed within 30 days. Leslie Whelan said if there were no By-law, the only recourse would be to take the owner to court. Mr. Smith said the full-time Building Inspector position, which would be shared with Wenham, had been funded.

Leslie Whelan reported that the inspector for 957 Bay Road Title 5 had e-mailed to say that he had completed everything except pumping the cesspool and that he thought the system would pass Title 5 inspection.

Leslie Whelan had spoken to the company in charge of 15 Roosevelt Ave. The gentleman had the ability to put in the request for the order, but Ms. Whelan had not heard back to date. Ms. Whelan would follow up.

Leslie Whelan had met with Jim and Mary Kroesser regarding Honeycomb Bakery the day of the meeting. The restaurant was approved for 22 seats, but there were 25 seats inside and eight seats outside. The Kroessers indicated that they would investigate increasing the size of the system on the tight lot. Mr. Johnson had not responded to the letter to him. The last option for the Kroessers would be to use disposable plates, which they were not interested in. The size of the system would handle 1,000 gallons of wastewater as the design included 220 gpd for the two bedroom apartment leaving 770 gpd for the dishwasher use for the restaurant. Use would be 35 gpd per seat. If disposables were used, the number would be lowered to 20 gpd. A temporary order was not necessary as they were working with the Board of Health.

Essex Septic had submitted pumping records every two weeks.

#### **Unanticipated Items/Announcements.**

Walter Row's commission term would end in June 2018. An announcement requesting candidates for an open position had been posted but no candidates had come forward. Mr. Row said he would request re-appointment and if someone responded, they could start with timing negotiated. Mr. Row would not be present for several months.

#### **Review Minutes, dated April 25, 2018.**

Giselle Perez moved to accept the minutes, dated April 25, 2018.

David Smith seconded.

Vote: Unanimous in favor.

#### **List of documents and exhibits reviewed.**

Letter from Leslie Whelan to Lauren Moran-Kroesser (Honeycomb Bakery), dated May 14, 2018.

Letter from Leslie Whelan to Paul Johnson regarding Honeycomb Bakery, dated May 14, 2018.  
Meeting minutes of April 25, 2018.

#### **Adjournment**

Motion made by Giselle Perez to adjourn at 7:45 pm.

Seconded by David Smith.

Vote: Unanimous in favor.