

**Norton Board of Health Minutes of Meeting
For
November 7, 2011**

Call to Order

The November 7, 2011 meeting of the Board of Health, held in the second floor meeting room in the Municipal Center, was called to order at 6:31 p.m. Members attending: Diane Batistello, Clerk; Robert Medeiros, Vice Chair; Steven Corr, Chair; Leon Dumont, Health Agent, and Mary Giorgio, Esq., Town Counsel.

Other parties attending in audience: Mr. Silver, Joe Czerwonka, Attorney representing Mr. Silver; Steven D. Gioiosa, PE and President, SITEC Engineering.

Site of 417 Old Colony Road was referenced.

Mr. Corr spoke of ground rules for the meeting. Mr. Silver requested the meeting for Mr. Gioiosa, PE and President of SITEC, to explain to the Board of Health the work that was done at 417 Old Colony Road. The Board will only allow Mr. Gioiosa to make a presentation. After the presentation, the Health Agent and Board of Health will ask questions of Mr. Gioiosa. The Board will then proceed to other agendas. The Board will not allow Mr. Silver or his attorney any other discussion/presentation relating to 417 Old Colony including items such as fines, etc. Mr. Corr stated that Mr. Silver and his party could then leave the meeting.

Attorney Czerwonka asked if the Board would be entering executive session after the presentation since it is an open public meeting.

Mr. Corr responded, no. Mr. Silver and his party could stay to the end of meeting if they wished.

Mr. Gioiosa spoke of the specific construction work on August 2011, as to what he personally observed and inspected. Mr. Silver the owner and trustee had informed Mr. Gioiosa that distribution box was replaced, and a filter and manhole riser installed on the septic tank. Mr. Silver had indicated that as part of the Settlement Agreement with the Board the distribution box was to be replaced. The contractor was at site and Mr. Gioiosa indicated that a plywood sign placed over the collapsing box was removed by the contractor; the contractor cut the pipes to and from the distribution box and replaced them and installed an effluent filter in the septic tank. A new distribution box was installed. The three pipes from the distribution box to the beginning of the leaching field were replaced. The remainder of the leaching field was not disturbed. Mr. Gioiosa indicated he did not look into the individual pipes in the leaching field.

Mr. Gioiosa said after the excavation was done and more piping removed a garden hose was used to discharge some water into the leaching field to determine if the field was draining and the water was

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entering the stone. The contractor set the distribution box, installed new PVC piping with couplings to the existing pipe, and checked the level of distribution box. A new PVC line was installed from the box to the septic tank. Prior to the work, a company had pumped out septic tank. Clean washed crushed stone was installed and distribution box placed on the stone and leveled. The new line to the septic tank was installed and leveled on the crushed stone.

Mr. Medeiros, Vice Chair, indicated he was present during part of the work and indicated that he told the applicant to inform the Town of the work so that the Health Agent could inspect the site.

Mr. Gioiosa indicated that Mr. Silver requested him to observe installation of distribution box and conduct a Title 5 inspection while the site was open to save expenses and to document the work. Mr. Gioiosa submitted a report to Board of Health dated August 22, 2011 with a memo with photos of the project. Mr. Gioiosa said he was comfortable with what he observed. He left the site prior to backfilling. Mr. Gioiosa indicated that it did rain for the next few days. He believes that backfilling was done because there was concern about leaving an open excavation. Mr. Gioiosa indicated that permitting was not discussed. He was told that a Settlement Agreement was in place and Mr. Silver's attorney, Mr. Lane (former attorney of Mr. Silver) had told Mr. Silver to proceed in accordance with the Settlement Agreement.

Mr. Corr asked Mr. Gioiosa if he had read or seen the Settlement Agreement?

Mr. Gioiosa responded, no he had not read it, he did not believe he had seen the Settlement Agreement.

Mr. Dumont referenced Title 5, which requires every pumper to send in monthly reports concerning pumping. The Board had not received any information on the pumping. It therefore appears a pumper that was not licensed in the Town was used to pump the septic tank. Title 5 also requires that any onsite system work requires a Town licensed contractor and permit from the Board.

Mr. Gioiosa said he did see a pump truck at site.

Mr. Dumont noted that Title 5 requires as built but there was no as built submitted except a small sketch on the back of a drawing.

Mr. Gioiosa said sketch does show swing ties. He did not submit a separate as-built plan.

Mr. Gioiosa said the repairs for the system were minor and did not change the system layout.

Mr. Corr stated there were many changes.

Mr. Corr asked about the manhole ?????

Mr. Gioiosa responded no.

Mr. Dumont asked if Mr. Gioiosa saw original Title 5 report (previous report)?

Mr. Gioiosa responded he had not seen the previous report.

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Mr. Dumont said that original report indicated that the far end of leaching field lines appeared to be plugged and could not be inspected with a camera. He did not understand how a person could determine if lines were clear without inspecting them with a camera.

Mr. Corr referenced the original report and it indicated an attempt of televise the lines failed indicating that the far end of lines were probably clogged.

Mr. Gioiosa said by cutting extra pumping out it assisted/helped.??????

Mr. Dumont further indicated that the report referenced sludge reportedly in the lines.

Mr. Medeiros asked about a “baffle” in the D-box.

Mr. Gioiosa said, yes, a baffle was present. He indicated that Manny Soares was person in charge of construction. He believed the company was Soares Excavating, possibly out of Westport, MA.

Mr. Dumont said that company is unlicensed to do onsite system work in Town of Norton.

Mr. Corr said there was a requirement to test the septic tank for water tightness in Settlement Agreement.

Mr. Gioiosa stated he has not seen Settlement Agreement.

Mr. Medeiros stated he has personally been in this business for 45 years. He indicated that the excavation was large enough to handle rain from a hurricane, it would not have filled the hole. He had asked that Mr. Silver not fill the excavation without an inspection by the Health Agent.

Mr. Gioiosa said he believed backfilling was done on a Saturday.

Mr. Corr stated this was a major repair; bringing a manhole to grade; installation of crushed stone, a new distribution box, etc., and he would expect the Health Agent to observe the site prior to backfilling.

Mr. Dumont said the work would have been done without notifying anyone in the Town if Mr. Medeiros had not been passing the site and happened to observe situation.

Mr. Gioiosa said replacement of distribution box , and piping on the leaching field was a minor repair. He reiterated he did not personally see the Settlement Agreement.

Mr. Dumont referenced “agreed upon conditions” in the Agreement.

Mr. Gioiosa said he was not part of the Agreement and did not view the work a major repair.

Mr. Corr reiterated that Mr. Gioiosa did not read the Settlement Agreement.

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Mr. Gioiosa agreed he did not read Settlement Agreement.

Mr. Medeiros spoke of the baffle in distribution box, which he could not see, and it bothered him there was also no permit and an unlicensed installer.

Mr. Gioiosa said he cannot speak for contractor and contractor's license.

Mr. Medeiros said it is the job of a professional engineer to certify that the project is being done correctly.

Mr. Gioiosa said he believed the contractor was competent and thought the contractor did a good job. The contractor put extra stone in the excavation, etc., and he was comfortable with quality in work.

Mr. Corr stated that Mr. Gioiosa could be comfortable with the effluent-filter, manhole cover, distribution box and leaching field but was concerned that Mr. Gioiosa could not view the end pipe at the far end of the leaching field.

Mr. Gioiosa responded that Mr. Corr was correct he could not see into the leaching field pipes.

Attorney Giorgio asked if Mr. Gioiosa could describe the integrity of the septic tank?

Mr. Gioiosa said septic tank looked fine; there was nothing wet around tank. Liquid level was where one would expect it to be. No ex-filtration was occurring; some flow of water was occurring. It was not below/above the effluent line. Septic tank was in good condition. An outlet baffle was "busted" out. A new sanitary T was installed, etc. It was a struggle to get baffle out. Mr. Gioiosa was comfortable with the new distribution box and new PVC piping. He indicated all joints were glued. Regarding installation, Mr. Gioiosa indicated the contractor did a good job even if he may be an unlicensed contractor.

Mr. Dumont stated the pumper also appears to be unlicensed.

Mr. Corr thanked Mr. Gioiosa for his presentation.

Attorney Czerwonka asked if he could inquire as to where the Board is headed from here?

Mr. Corr responded, now it is an interesting question that needs to be determined. He needed to get a feeling from other Board members as to how they want to proceed. The larger issue remains that although the work that was done appears to be done correctly other issues were not settled. The Board of Health believes that Attorney Czerwonka's client ignored Title 5 requirements' and the Board's regulations. He repaired a system using an unlicensed license contractor or pumper and did not obtain a permit, all of this is in violation of Title 5.

Attorney Czerwonka said Mr. Lane's letter to him indicates there were an agreement and some misinterpretation on both sides.

Mr. Corr said even if there was an agreement, the project still required licensed contractors to work in

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this Town.

Attorney Czerwonka suggested they review Mr. Lane's letter as some interpretation issues are in letter.

Mr. Silver and his party left the meeting.

Attorney Giorgio said Mr. Lane's letter, dated April 25, 2011, was sent to Mr. Silver; Board of Health was not copied on it.

There was a discussion that camera-work be conducted on the leaching field and that the distribution box be excavated to inspect the work.

Mr. Dumont said that as Health Agent he was to be present for any work .

Fines were discussed, fines of \$100/day, the contractor working without a license, the need for a permit fee.

Mr. Dumont also indicated that the septic tank was pumped by an unlicensed pumper.

Attorney Giorgio stated as of November 3, 2011 Mr. Silver's fines totaled \$6200. A cease and desist order currently in place on person working at site.????

The Board then voted to authorize Attorney Giorgio to discuss a best settlement with Attorney Czerwonka, counsel for Mr. Silver.

Aug 2010 photos distributed of what was done at site.

Attorney Giorgio exited meeting at 7:25 p.m.

Rules and Regs

Not done yet; will not do this evening.

Minutes of Meeting

It was noted there were no Minutes of Meeting from previous meeting (not printed).

Consent Agenda:

Mr. Corr said the agenda will be automatically accepted.

Mr. Corr spoke of the work required for December and January to send out notices for new permits and how difficult it would be with Board of Health secretary out on a leave.

Mr. Dumont said the office needed to work with the database.

Mr. Corr suggested the Board look at various ways to send out applications.

Mr. Medeiros asked about the \$1900 bill.

Mr. Dumont responded it was for landfill testing (gas readings).

Next Board of Health meeting scheduled on December 5, 2011.

Health Agent's Monthly Report

Mr. Dumont spoke of the remodel of Dunkin Donuts in Roche Bros Plaza; every ten years the franchise remodels. There was a discussion on odors in the parking lot at Dunkin Donuts-West Main Street. Mr. Dumont said he had not heard anything on the status of the problem.

Assistant Health Agent's Monthly Report

With Ms. Peters on leave, Phyllis may not be able to conduct inspections as often and this may be a problem

Inspector of Animals

Public Health Nurse

Flu shots clinic at St. Mary's on Sunday, Nov. 13- provided free to public.

Norton Energy Fund being introduced to Town (funds for fuel for needy residents).

Informational

No communication back from any of the solar panel discussions.

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Adjournment

MOTION was made by Ms. Batistello to Adjourn at 7:43 p.m. Second by Mr. Medeiros. Vote:
Unanimous

Respectfully Submitted by:

Janet A. Sweeney
Acting-Recording Secretary

Documents Viewed/Distributed at November 7, 2011 Board of Health Meeting

- . Document entitled, "Norton Board of Health Meeting: November 7, 2011" (description of meeting with Mr. Gioiosa, PE and President of SITEC, Inc.)
- . Letter addressed to Mr. Silver from Mr. Lane, dated April 25, 2011 re: site/agreement
- . Report dated 8/22/11 from SITEC, Inc. (Steven D. Gioiosa, PE and President)-memo to Board of Health with photographs of site
- . Photographs of August 2010 of Site

Steve H. Corr, P. E., Chairman

Robert B. Medeiros, Vice - Chairman

Diane Battistello, Clerk

January 13, 2012