

WALTER R. WOLF, DPM, Chair  
DIANE DIETZEN, MD, Vice-Chair  
JESSICA COLLINS, Clerk

SHARON HART, Director of Public Health

## BOARD OF HEALTH MINUTES

**March 6, 2019**

**As Approved – April 3, 2019**

Present: Walter Wolf, DPM, Chair; Diane Dietzen, MD, Vice Chair; Jessica Collins, Clerk; Sharon Hart, Public Health Director; Jennifer Jernigan, Assistant Public Health Director; Walter Hamilton, South Hadley; Stephen Frantz, South Hadley; Debbie Boehner, South Hadley; Robert Pleasure, South Hadley; James Canning, South Hadley

*The Board of Health Meeting was called to order at 4:42 p.m. by Jessica Collins. Because there wasn't a quorum yet, Jessica started with the Code of Conduct and would then move onto the Director's Report. Dr. Dietzen had phoned that she was stuck in traffic heading back from New York and Dr. Wolf had stated that he may be late for the meeting.*

### **1. Code of Conduct:**

Jessica Collins read the Visitor's Code of Conduct to the attendees. Director Hart pointed out that copies of the Code of Conduct are on the podium as well as in the Board of Health office.

### **2. Director's Report:**

Jessica Collins discussed the documents the Board has received from various people concerning the gravel pit. She had asked Director Hart to read them and give her feedback. She explained to the attendees of the meeting that there has been an extreme amount of back and forth with information and that Director Hart has documented all of this in her Director's Report. Director Hart stated that she had read and reviewed the monitoring plan. She had some concerns with the Minnesota plan. They are pointed out. The Minnesota Plan includes excavating below the water table and isn't comparable to the current situation here in South Hadley. She really liked the Boston College one, however. Director Hart asked Robert Pleasure if it was his. It was. Director Hart asked if it triggers a MEPA review. Robert Pleasure responded that he didn't know. MEPA is the EPA for Massachusetts, stated Director Hart, and it was mentioned in the Boston College document. There are certain thresholds so it may trigger an environmental impact. Director Hart stated that she just started going through the plan this afternoon and isn't finished with it yet.

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Doctor Wolf arrived at 4:47 p.m.

Robert Pleasure responded that Neva Tolopko would know that. She is an environmental engineer and a member of the Conservation Commission. She has said that a MEPA review may be required. **Robert will share her internal conservation commission email with Director Hart to ask her.** Robert stated that he submitted this article for the point that under 40A Section 9 and the **home rule amendment of the constitution?** that towns have the authority to prohibit or regulate sand and gravel particularly in certain zones. And as your article has pointed out, Robert continued, there has even been substantial litigation in the 1970's on this topic. There seems to be little question that towns have the authority. Unfortunately, the author of the article has passed away. She was a well-known environmental advocate in Western Massachusetts. She passed away a couple years ago. "Dawson?" Director Hart asked. Robert stated that he believes so. She used to be on the Conservation Commission in Hadley, stated Director Hart. Robert stated that he believes so – widely respected.

Jessica Collins stated that at that first Planning Board meeting that was closed but then they allowed people to comment, Darryl Petite Darling, a resident, brought up the idea of a MEPA audit. Dr. Wolf commented that Jessica was the only Board member who attended that meeting. Director Hart stated she thought this was the December 10<sup>th</sup> meeting. Jessica agreed. She thought it interesting that we are now circling back to that. She doesn't know where it stands. Director Hart stated that she likes the Boston College article because it started off with different cases and that it used to be that that was taking away from the use of the property and then they started moving towards court cases that were considering it public, for the community, so it may not be taking the land away. Director Hart feels that it is crafting that 40 or 40A. Robert Pleasure agreed. He stated that the court said that no one has the right to leave the town a wasteland – so that there are limits that the town can regulate. And that was really a change in the approach of the courts, really leading to the legislature. "But it is different in each state." Director Hart said. "Our legislature." Robert pointed out. "The article was focusing on Massachusetts." Director thought it was a really good reference article and Robert Pleasure was glad it was helpful. Director Hart told Jessica that she is able to give some of the articles given to her back -- with her comments. Jessica then updated Dr. Wolf on what they were currently doing – reviewing the articles that Director Hart had looked at as part of the Director's Report.

**The rest of the Director's Report was then discussed:**

Director Hart got a reference from the Fire Department on a house with unsanitary living conditions. The Fire Department did not want to send personnel into the house if there was a fire due to the conditions of the house and the fire load. She wrote a letter and the owner of the house responded that they had a situation and are dealing with it and then the house can be inspected in several weeks by the Health Department.

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Director Hart then asked Dr. Wolf about inviting the Planning Board Chair to today's Board of Health meeting. Dr. Wolf responded that he had emailed her to do the invite but unfortunately, Director Hart did not get it. "Maybe in the future, if need be." Dr. Wolf stated. Director Hart made sure Dr. Wolf got the email invite to the Planning Board Meeting on March 25 at 6:30 pm. He did. Richard Harris had responded that he will get to the Gravel Pit issue right away but they were not sure yet where the meeting would be held – Selectboard Meeting Room or Auditorium. Jennifer Jernigan gave Dr. Wolf a hand-delivered letter addressed to him from the Conservation Commission. It was dropped off to the Board of Health office by the Planning Board and was also emailed to Dr. Wolf with the meeting packet information.

Director Hart emailed Kathy Davis of the Water Testing Regulation Subcommittee the letter from the Town Attorney on the Water Testing Regulations.

We were notified of several community forums: One on February 27 and one on March 27 regarding the Master Plan and Open Space. The emails from Mike Sullivan regarding town meeting timeframes for warrant articles were sent to Board of Health members.

Director Hart stated that they have started with their Tobacco Coalition coming up with the SOP's and governance plans. We have 27 communities that we oversee – in Franklin, Hampshire and Hampden Counties. Between the Coordinator and Director Hart, if the Boards of Health in the 27 communities want them to go and speak at one of their Board meetings, they have done so. Director Hart has done West Springfield and a couple others – a couple of night meetings.

Director Hart has reviewed perc tests, pumping records, certificates of compliance and 255 River Road in terms of septic plans and installation. Well issues there were also reviewed.

Storm updates from MEMA were discussed.

Three new restaurants in town were then reviewed: YardeSide Pizza, Talk of the Town and Duro West African Cuisine. Plan reviews and how that works was covered. Jessica asked about parking with the YardeSide Pizza Restaurant. Director Hart explained that the Zoning Department is in charge of that. The Town is promoting walking and biking and customers can also park at the Village Commons, however. We did pre-inspections on all these new restaurants as well.

Loomis had a kitchen that they remodeled. This was inspected. Big Y came in today on renovation plans as well.

We had an issue with 22 School Street but did a re-inspection and compliance letter.

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149 Old Lyman Road has moved into foreclosure. We had an issue there with a bagster left on the property and no one claiming responsibility for it. We are currently working with the bank to have it removed. The bank thought it had already been taken care of it but only the back yard had been cleaned and not the front yard where the bagster is. The bank is sending someone to remove it today.

Hunter Terrace is good. Director Hart will be going back in there.

We have had some animal control issues. We had a dog in the shelter. We had a complaint of a dog bite from a witness but the victim never came forward so we couldn't do anything there.

We had some trainings.

Jessica Collins and Director Hart met with Town Counsel, which can be talked about under Old Business.

Director Hart had an animal control webinar, tobacco control, and an ADA meeting for the Town. The Town is looking at coming into compliance because some of the grants they apply for may be requiring the Town buildings to be ADA compliant. There is a group coming around looking at that: both for the public and employees and making a list of needed improvements. Director Hart attended a meeting on this.

Jennifer did a suicide prevention webinar.

The Food Code has changed so both Jennifer Jernigan and Director Hart attended a training on the new code. They also did an Emergency Risk Communication training as well. DPH put on a seminar on the homeless and sheltering. It covered different groups of people being homeless and how there are more and more women veterans out there needing shelter. Dr. Hart mentioned that we should not forget this group. Veterans are not just men. Veterans have housing options for them: men and women. There are also trainings about the Veteran culture and how to help each group. **Jessica Collins wants on a future agenda information on homelessness in South Hadley to get a better handle on the issue overall in town.** Director Hart responded that when homeless come up in terms of the Health Department due to housing issues at their current location, we know where they are placed, but as a whole, we don't have much information on it. Director Hart agrees that it is a good topic.

For Professional Development Day, we had the State Ethics Commission in. For our next Professional Development Day, it will be the whole day. Director Hart got in the Mt. Holyoke College Police to teach a RAD (Rape Aggression Defense) Class for the morning session of the day. They had done a training at the Senior Center already and it went over well.

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The Health Department has received several complaints in the past month.

Director Hart condemned 108 Silver Street. We had received a complaint from the Fire Department and the Water Department District #2 that there were broken pipes and no heat, water or electricity. A red “X” was placed on the property by the Fire Department. Director Hart stated that there is such interest in rehabbing houses, however, that it shouldn’t sit long. Mike Sullivan put together the Abandoned Housing Registry so we have a much better grasp on what is out there and they don’t sit so long. Director Hart asked the Board to ratify the condemnation. Dr. Wolf made a motion to ratify the Emergency Order to Vacate 108 Silver Street. Jessica Collins seconded it. All were in favor.

**3: Acceptance of the Minutes of the February 6, 2019 Meeting:**

Jessica Collins motioned to accept the minutes. Dr. Wolf seconded. All were in favor.

**4: Old Business:**

**(a): Gravel Pit Expansion – Chicopee Concrete Services**

Jessica Collins stated that she and Director Hart had met with the Town Attorney. That there were three things that the Board had discussed doing at the last meeting:

- (1) Jessica and Sharon were going to meet with the Town Attorney O’Toole
- (2) Jessica was going to draft a letter with regard to the “forbid” to the Attorney General (and Jessica apologizes that she did not get a chance yet to do this)
- (3) We were going to check in on some bylaw language being put together by some residents’ groups or Planning Board or Conservation.

Jessica then stated that they did meet with Attorney O’Toole who did confirm that the Zoning Bylaw for the Town of South Hadley is contradictory in places and can therefore be interpreted in different ways by different people reading it. He did confirm that we as a Board of Health do not have any jurisdiction to rule on issues that are stated in the Zoning Bylaw to be under the Planning Board. We talked about then what is our ability to do something. There are two strategies. One is obviously creating regulation and the other is adjudication. We didn’t get into details because that is not his place around specific regulations or wording of such regulations, Jessica stated. However, after that meeting, Jessica started forwarding multiple documents to Sharon for review in this regard – documents people in the room and not in the room have been giving the Board. Sharon

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has been reading them systematically and then giving feedback and she has these documents and feedback listed in the Director's Report if people want to see them. Jessica said that the Attorney wasn't really in a place that he could make suggestions but it was pretty clear that regulations were the way to go. For people on the Board of Health who are responsible for water quality, he talked a little about this sort of crisis feeling that people have and the way that is interpreted. DEP sees crisis as an oil tanker driving down the road and spilling. "Reactive measures versus proactive or preventative measures" Doctor Wolf stated. Jessica Collins and Director Hart were in agreement. What we are interpreting as an emergency doesn't always align with DEP, Jessica felt. Jessica went on to say that what they learned at the Attorney's wasn't terribly new but it was helpful and the one good thing is that they need to systematically take in information, find our own information and read it for themselves but also give it to Director Hart for her systematic reading process for her feedback so that we are all on the same page. Jessica then asked Director Hart if she felt the same way or wanted to add something. She stated that she did come away with the same information but she also thinks that having a health regulation will also back up anything that goes through with Zoning that has a health impact to it. "Great." stated Jessica. **Director Hart asked if there is a working group to come up with all those health impacts that could be put into a regulation. Director asked if the Planning Board is going to be part of that committee. Jessica stated that Conservation, Planning and Board of Health and Water District will be and so it is possible to have a comprehensive change to the Bylaws. This is very positive, per Jessica.**

Jessica then stated that they also discussed the "forbid" situation with Attorney O'Toole. Jessica felt that while the Attorney had already given the Board of Health his opinion in the letter, he was not discouraging for us to send a letter to the Attorney General. He would not take it personally, if they did so and was kind of like "Go for it." So that's the takeaway, per Jessica.

Kathy from the Water Testing Regulation Subcommittee asked if they were talking about Chicopee Gravel. Jessica confirmed that this whole discussion was concerning the Gravel Pit. Jessica stated that they did not speak to the Attorney about the Water Testing Regulations in the in-person meeting.

Jessica stated that in regards to residents working on bylaw – she does not have an update that she is comfortable in sharing because the attendees may have more up-to-date information. She wanted to know if any attendees would like to update on this third action. Robert Pleasure indicated that he had some information to share. Robert stated that the Planning Board met on February 25, 2019. Before that meeting, Richard Harris, Planning Director, developed a background document for the Planning Board which talks about the Board of Health, among other things. In it, he took up the question of prohibiting sand/gravel mining in the water protection zone. He said that suggestions had been offered that the type of operation conducted by and proposed by Chicopee Concrete should be prohibited or at least in the Zone 2 area. "That is definitely an option that can be adopted by Town Meeting as an amendment to the Zoning Bylaws.

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To give credence to the rationale for such an action, the Board should also consider similar prohibitions on activities which DEP suggested in the 2003 report – particularly those rated as high threats.” Robert Pleasure then stated that some of them are health threats. He has some of Richard’s comments – the most pertinent are recognizing agricultural releases have a significant degree of exemption from Zoning under Chapter 40. Reading from Richard Harris’ report, Robert stated that “It would serve the Town well to work with the Board of Health to possibly enact a general bylaw or public health regulation to restrict or regulate the agricultural uses of Zone 2.” Richard Harris cites the report that came down from MASS DEP which identifies certain high-risk activities in the water protection zone that are agricultural in nature. Robert Pleasure gave these documents to Director Hart, Doctor Wolf and Jessica Collins. Robert then stated that as he understands it, you may all be meeting together and Richard Harris is asking for assistance from the Board of Health to develop regulations particularly in those areas of higher risk like spreading manure or chemical fertilizers in this entire zone – which is zoned agricultural. **As for their plans, Robert Pleasure stated, he and a few others, they plan to propose to the Selectboard and Planning Board that sand and gravel mining be prohibited in the water protection zone.** Shirley and Acton Massachusetts have already done so under authorization of Mass General Laws. It’s been litigated and within the powers of the town to do so, particularly in water protection zones. Sometimes they do so with a non-zoning bylaw, for example the Conservation Commission prohibits it, or by a zoning bylaw. **They intend to do so but are hopeful that the various departments/Boards will all work together and come up with something that integrates everyone’s responsibilities in one set of changes so they can withdraw it. One set of changes would be ideal for the town, Robert Pleasure feels.**

Dr. Dietzen arrived at 5:30 p.m.

Robert Pleasure then said that as they have appeared at other Boards, they have made the suggestion that it would be great if they all worked together instead of testifying to each other.

Jessica Collins asked Director Hart if she received any other more specifics from Richard Harris that they could add to a regulation or bylaw. Director Hart responded that she had not but the article on “Developing a Local Wellhead Protection Program” has a lot of information in it. Jessica Collins asked her if she felt she had enough information to work with around certain specifics that they can bring forward on March 25 to support a comprehensive bylaw change. It depends on what your bylaw change wants to include, per Hart. Director Hart also stated that she is not sure what the Board is looking for. What’s on page 12 from the DEP looks helpful per Director Hart. “The issue is, is it better in a Board of Health regulation or a Zoning bylaw or do you want both?” she asked. It would be up to the Board, per Director Hart. For instance, do you want the health data? There are also some great resources in the back. It would be good to work with the group on this list on page 12 to see what they like to see excluded as well. There is a list in the document. Things like pesticides, manure application, hazardous waste facilities, auto

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maintenance, septic systems, etc. It would be important to review this list and see what you want to put in, working with this group as well, for their input, stated Director Hart.

Robert Pleasure stated that since the property is zoned agricultural right now, that does limit the use. But there are many agricultural applications, he feels, that Richard Harris is pointing to in his document as well as the document that Director Hart is referring to now. **Robert feels that focusing on those agricultural applications, as well as the housing ones, are a good focus.** Jessica Collins asked Robert if they, or any group, drafted up bylaw language as of now. **Robert responded that they have done one prohibiting the sand and gravel but have not done one with the other items we just talked about.** Jessica then asked him if they have shared that language with anyone. Robert stated that they have met with the Town Administrator briefly on it and will be meeting with him again on the language. **Jessica asked Robert if they expect the Board of Health to review this bylaw. He stated that they will submit it before the March 25<sup>th</sup> meeting and would be happy to share it with the Board of Health and are working on appropriate bylaw measures.** He stated that his group is not doing it for the Conservation Commission. They are doing their own work on it. Director Hart responded that she could see some overlap happening. So, she added, if something goes in there about how many homes and septic systems and what that looks like, then some should be Health regulations too. Jessica Collins stated that we should angle for both a bylaw and regulation, and agrees with Director Hart. We need to back up other concerns, added Director Hart.

Frank Detoma, of the Water Department, asked if the three groups should meet before the March 25<sup>th</sup> Planning Board meeting for the sake of communication at least: the Water Department, Board of Health and Conservation Commission, for one hour. Dr. Dietzen asked that because this is a public meeting, would it still need to be announced? Director Hart responded that yes, it would. It would have to be posted. Dr. Wolf felt that the meeting would be a good idea. Dr. Wolf asked Robert Pleasure if his Water Testing Regulation Subcommittee would be in favor of coming and Robert responded that they would. Frank Detoma added that he mentioned the meeting to Bill DeLuca of the Conservation Commission and he thought it would be a good idea as well. Jessica Collins wanted to clarify that this meeting would be with the staff of each group. Frank Detoma responded that he would not bring any staff. It would be a public meeting, open to the public, for whomever wanted to go. Robert Pleasure added that, as for their group, they would continue to work on the bylaw. **They haven't shared the precise language with anyone yet and it only concerns the prohibition and they will expand their work.**

Dr. Wolf asked if he needed to make a motion on the upcoming meeting so that it could be listed publicly. Director Hart asked Dr. Wolf how he wanted to come up the meeting date and time. Dr. Wolf stated that the date would be the same day as the Planning Board meeting: March 25<sup>th</sup>. It would be before that meeting, on the same day as that meeting, at 5:30 p.m. The rest of the Board responded that they weren't clear on it being for the same day. Jessica Collins responded

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that she thought they would get together a couple of weeks before to get their ducks in a row. Dr. Wolf and Dr. Dietzen responded that the problem is, is that a couple of weeks before is right now.

Dr. Dietzen stated that the meeting could be a couple of days before. Jessica asked about what the desired outcome was. Frank Detoma responded that it is for all the Boards and Commissions to inform each other on their position. Director Hart added that it would help the Boards understand where the others are looking at it from their regulations and then talking about how they all fit together and then coming in on it unified as a group.

Dr. Wolf asked Jim Canning, of the Conservation Commission, when their next meeting was. Jim responded that it was next Wednesday, March 13<sup>th</sup> at 5 p.m. They will be talking about their bylaw. Then their regular meeting will then be at 6 p.m. Dr. Wolf then asked if maybe they should use the Conservation Commission meeting as the forum. Jim Canning agreed. Dr. Dietzen asked if there are any other bylaws being written on this. Director Hart responded that she doesn't know. Jim Canning will check with Anne Capra in Conservation on a joint meeting. Jim will then let Director Hart know because if Anne then posts its, the Board of Health may not need to. Frank Detoma stated that they will be posting it. He thinks they have to. So, we would post it then, stated Director Hart. Jim Canning will talk to Anne and then let Director Hart know. Jessica asked if the Board of Health will be ready by then to state their position and what they are doing. Dr. Wolf stated that they will see some ideas. Dr. Dietzen replied that the idea is to write a bylaw and the timeline is tight. Director Hart added that they can get some ideas out, start sharing them and what would go into Zoning and what would be a Health regulation. If they could go through and look at that. Some it might be Conservation moving forward with a bylaw also. It would be good to get together and talk about it.

Frank Detoma stated that at the last Planning Board meeting, Richard asked the Water Commissioners to give input to members of the Planning Board as to what regulations they would like to see put on any additional regulations on the Sand and Gravel operations down there. Frank sent Richard something this morning. Richard is expecting at the meeting on the 25<sup>th</sup> that we would all come together and agree on some sort of bylaw, in addition to the present bylaw – not one that prohibits it completely. Modifications of the present bylaw – for presentation at the Planning Board meeting on the 25<sup>th</sup> and Town Meeting in May. Richard Harris' timetable is rather aggressive, stated Frank Detoma. Frank is anxious about this being possible. He has concerns about that. Richard wants to move that quickly apparently, Frank stated. Dr. Dietzen said that it is, though, two different things: putting restrictions about what is currently happening there as opposed to writing things that are intended to prevent. Frank Detoma agreed. He wonders if putting additional restrictions on the operation will preclude this other possibility, the broader possibility, that Mr. Pleasure suggested.

Robert Pleasure then spoke. He stated that the Town has, at least since 2001, put many, many restrictions on the operation. Based on the information that they have seen, at least for a decade, if not more, that has not been enforced. It takes a lot of staffing to enforce a whole bunch of

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regulations on an industrial operation. The Town, in all good intentions, doesn't seem to act. So then, one can imagine that we can repeat what we did since 2001, put in a whole bunch of regulations and never enforce them. As a matter of fact, there are people here, not himself,

Robert stated, that are trying to determine if there was ever any permit in place at all. Under state law, 40A, Section 11 of the general laws – no special permit is effective if not recorded at the Registry of Deeds in our county. A man in the audience spoke and stated that he spent a few hours with the Assistant Registrar of Deeds combing through everything and no special permit was registered there. Nothing there that would allow the gravel pit mining operation. Robert Pleasure then added that at the hearings, the Town was asked if they had any special permit(s) on file that they could show them and they were told “No”. Robert Pleasure stated that his group was able to find decisions of the Planning Board going back to 2001, 2002 and he thinks 2005 where they issued a permit but it didn’t appear to be a special permit. And they were time limited to 5 years at that time. Robert went on to say that they are not saying that none exists, but no effective special one on file going to the Registry of Deeds as far as they can tell. So, it could be said that right now there is a problem. We have a major earth removal operation with no permit. Robert stated that they are not accusing anyone of anything but by repeating what they did way back in 2001, saying okay, you can operate with annual inspections, with the Health Board going as well, they went along with Richard Harris way back then, and will require staking to show where they are permitted. We will require proper banking or slope. All that has appeared to unravel. District 2 has not gone onto this property, except for this recent tour this last year. Richard Harris’ document stated that it should be an annual inspection for health purposes and it didn’t happen and we can’t find the permit. No one can. Annual Inspection for health purposes was actually required by Planning Board decision and it still didn’t happen. The Water Department can’t find a copy, Frank Detoma added. A man from the audience stated that he and Vern Blodgett went to the Planning Board office and asked Richard Harris for a copy of the permit and he couldn’t find it. Richard Harris then sent them to the Building Commissioner, who had nothing on it. Kathy Davis and an attorney requested it in writing. The man stated that at a Planning Board meeting on January 14<sup>th</sup> he turned to the applicant who said he had it. The applicant was then asked to furnish it to Richard Harris so that it could be examined. It never happened. It appears from all this, Robert Pleasure stated, perhaps for decades, that there is no permit. No one has asked them to stop that his group knows of. Director Hart then asked if anyone has asked the Zoning Officer to make a decision? They could make a determination or not if the permit valid. Then if valid, give one. If not, make a decision on it. You can ask in writing for the Building Commissioner to make a determination.

Jessica Collins stated that it seems like the Board of Health has already said that they forbid the expansion. She feels that it would be helpful to have the staff there to at the Conservation meeting to help speak if the Board of Health can’t. She would like have Director Hart be their champion. Director Hart stated that the staff can go and document what is said.

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Dr. Dietzen felt that we need to focus and get a timeline together to get ready for town meeting. Director Hart and Dr. Wolf believe it will be a process and that we all need to move in a common way together. Dr. Wolf added that we need to think beyond that one use. Jim Canning stated that each commission can come up with ideas to address their own bylaws. Some can also go to the

Zoning, per Director Hart. Stephen Frantz wanted to know about what happened to the bylaw to enable the Water Department access to the gravel pit.

Robert Pleasure stated that the Health Department has agricultural concerns. They want there to be an option at Town Meeting to vote on, that, if agreement can't be reached, one of the Town departments offers prohibition of the gravel pit as a non-zoning bylaw. Robert stated that they are looking for support on this with the community. Jessica Collins asked for clarification. "Are we asking Sharon to draft up some language that the Board of Health could prohibit that type of activity (sand and gravel) and then have her draft another type of regulation for other uses that might come up outlined in the Water Protection Wellhead information. Director Hart stated that putting it in Zoning is important and then some health data to back that up. Look at the swap list to determine what you want in – resources in the back of the document. Robert Pleasure added that many towns have done it by a non-zoning bylaw – a bylaw and not a regulation and could come from any commission. Stephen Frantz stated that if you go back to the geological survey, they already stated that the existing gravel pit is a risk to the aquifer. You have material.

Robert Pleasure stated that they are going to a scientific conference in April. The scientists they have spoken with have said that primary danger is oil leaks with hundreds of truck trips in and out and trucks running over the aquifer. Robert's group wants the opportunity for the town to have the right to vote on forbidding the pit – hopes that is one of the options.

Jessica Collins asked again on what are we asking Sharon to do? What is the action plan? The next Board of Health Meeting is April 3<sup>rd</sup>. Dr. Dietzen stated that the simple thing is to write a bylaw forbidding the gravel pit. And that is not a Board of Health thing. It is just written by us because someone needs to write it. Director Hart then asked that if this is a town bylaw, does it have to go to the bylaw review committee? Frank Detoma stated that he assumes so. Frank Detoma then said that they sent Richard a note that they would accept a town bylaw mirroring the State regulations. The state regulations refer to other regulations related to protection. Other than that, they are similar to the town bylaw. They want 10 feet of protection level, however. They sent that to Richard today. Frank also said they would support a town bylaw prohibiting excavation.

Director Hart stated that 10 feet covers an area that goes beyond Zone 2 – into an area for Lithia Springs. If you don't make exceptions for septic on Pearl Street you will put a hardship on some people. Frank stated that he was not aware of this problem. Frank stated that this is a good point. Dr. Dietzen agreed that it is more complicated to put in restrictions and inspection schedules. Director Hart asked if they support Frank Detoma's decision since it has already been submitted or

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does the Board come up with their own? Frank stated that he would support a prohibition but he can't draft that. Robert Pleasure stated that simpler is better and that is what they are following.

Dr. Wolf stated why don't we table this discussion until we see Robert Pleasure's subcommittee's bylaw. Then we can support it. Dr. Wolf is in favor of supporting a non-zoning town bylaw

prohibiting excavation. It could also be done by a zoning bylaw, per Robert. He stated that a zoning bylaw can take effect immediately. A non-zoning bylaw may not take effect on a business currently operating but there is no permit or permits may expire so it may not matter. Also, two thirds vote is required for a zoning bylaw and majority is required for a non-zoning bylaw.

**(b) Water Testing:**

Dr. Wolf asked everyone to review the attorney's letter. The attorney stated that the regulation is unenforceable. It needs to be modified. Zero lead levels must be relooked at. Director Hart stated that if you reference the state standard you then have flexibility. In the Town Bylaw you can come up with other programs too to continue to get the level down. But the attorney stated you can't put zero as it is unenforceable.

Dr. Dietzen said that we need to change the language to say the state standard and then we could write an action plan separate from the regulation, correct? Then the funding is up to town meeting? **Dr. Wolf asked Director Hart to blend the two regulations – the one she wrote and the one the Water Testing Regulation Subcommittee wrote and then review it all with everyone because what the Subcommittee submitted is unenforceable and, in some areas, impractical.**

Robert Pleasure of the Water Testing Regulation Subcommittee then spoke up and stated that if they want to go to 1 ppb that is fine with them. They wanted a **target of zero-** something to work toward. **They recommend 15 ppb and a target of zero.**

Dr. Dietzen asked if they are then revising the bylaw or going with the Subcommittee's. Dr. Wolf stated to go with the Subcommittee's and have a public hearing on it. Use a target of zero. He asked Director Hart to review it and make sure it reads this way. Dr. Wolf made a motion on it to have the public hearing next meeting, Dr. Dietzen seconded the motion and all were in favor.

The next meeting of the Board of Health was set for Wednesday, April 3, 2019 at 4:30 p.m.

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**5: Adjournment**

At 6:35 p.m., Dr. Wolf motioned to adjourn. Dr. Dietzen seconded. All were in favor.

Respectfully submitted,

Jennifer J. Jernigan  
Assistant Public Health Director

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**ATTACHMENT A**

**DOCUMENT**

Letter from Attorney O'Toole regarding Water Testing Regulations	BOH File
Visitor's Code of Conduct	BOH File
Town Bylaw – Chapter 237 Water	BOH File
South Hadley Fire Dept.1 report on 22 Lamb Street	BOH File
Director Hart's Time for the Water Testing Regulation	BOH File
Water Monitoring and Response Action Plan	BOH File
O'Reilly, Talbot & Okun Draft Monitoring Plan for Chicopee Concrete	BOH File
Land Use Tools to Protect Groundwater: Overlay Districts	BOH File
Developing a Local Wellhead Protection Plan	BOH File
Delineation of Areas Contributing Water to the Dry Brook Public-Supply Well, South Hadley, MA	BOH File
Protective Zoning Bylaws – Shirley, MA May 2018	BOH File
Planning Board Agenda Background – February 25, 2019 Meeting	BOH File
SWAP report for South Hadley Fire District No. 2	BOH File
40A Concerns	BOH File
Boston College – Earth Removal and Environmental Protection	BOH File
	<i>Draft – Board of Health Meeting Minutes March 6, 2019</i>
Robert Pleasure – email information	BOH File
Letter from the Conservation Commission to Planning Board	BOH File

Building Commissioner and Director of Planning and Conservation	BOH File
MA Board of Health Guidelines on Drinking Water	BOH File
Email to Dr. Wolf on Inviting Planning Board Chair to next BOH Meeting	BOH File
Mass.gov article on Water Commissioners and Local Boards: Roles and Responsibilities for Drinking Water Compliance and Coordination	BOH File
Invitation to Conference (email): First Annual South Hadley Conservancy Conference	BOH File
Invitation to Meeting (email): Planning Board to Conservation Commission, Board of Health and District 2 Water to Meeting on March 25, 2019	BOH File
MS/OSRP Community Forum 2/27/19 at 6pm (email)	BOH File
Email threads on Town Council conversations regarding water Regulations	BOH File
M.E.S.S. Septic Training Informational Sheet	BOH File
Septic Certificate of Compliance – 255 River Road	BOH File
System Pumping Record – 325 Hadley Street	BOH File
Town Meeting Timelines – Email from Mike Sullivan	BOH File
	<i>Draft – Board of Health Meeting Minutes March 6, 2019</i>
Job Descriptions Regarding Tobacco Coalition	BOH File
11 Hunter Terrace – housing information	BOH File
Condemnation Order – 108 Silver Street	BOH File

