

CHILMARK BOARD OF HEALTH

Minutes

September 21, 2022

5pm

Via zoom

Present: Katie Carroll, Jan Buhrman, Matt Poole, Wendy Weldon, Deb Hancock, Doug Dowling, David Damroth, Barbara Lee, Robbie Lee, Peter Regen, Bill Rossi, Jim Malkin, Warren Doty, Tim Carroll

Joint Meeting of Selectboard and Board of Health: Title 5 proposed amendments for protection of coastal embayments: Matt Poole gave a summary of the proposed requirements: the Sanitary Code is being amended to require all onsite septic systems within the watershed of a coastal waterbody under a Total Daily Maximum Limit of Nitrogen and other nutrients to be replaced with a system with the “best available” nitrogen removal within 5 years of promulgation of the revised regulation. Roughly $\frac{3}{4}$ of houses in Chilmark will be affected. Properties on the North shore, and some immediately on the ocean, drain directly into the ocean and are not affected by the requirement.

The town will have the option under the Code to develop an approved 20-year plan for nitrogen reduction for a given watershed. This would allow for a more measured septic system replacement process. He indicated that this is likely the better course for the town to take, given the extreme logistical and financial challenge of a 5-year timeline for septic system replacement. To illustrate, he did a rough calculation of the cost of replacing even just 100 systems per year, which, at ca.\$40K per system, is truly astronomical. He therefore felt that, for Chilmark, developing a 20 year nitrogen reduction plan is likely by far the preferable option. The Chilmark Board of Health has already held a preliminary meeting with the Mass Department of Environmental Protection and down-island towns are somewhat further along in the process. He noted that, for the present, this meeting will want to consider what is needed in the way of funding and next steps to be able to engage a consultant who can begin working on a 20 year plan.

But the challenge of developing an engineered plan for nitrogen replacement is also considerable. He noted that, unlike the down-Island towns, up-island towns do not have a firm on retainer to represent the town in the process of getting a 20 year nitrogen reduction plan developed and approved for each coastal embayment and watershed within its jurisdiction. Further complicating this process, of course, is the fact that most coastal ponds and their watersheds do not lie solely within the boundaries of a single town. Tisbury Great Pond, for example, is shared between West Tisbury and Chilmark, while Squibnocket and Menemsha Ponds are themselves shared between Chilmark and Aquinnah. West Tisbury has already indicated interest in joining with Chilmark in development of a 20 year plan. He noted that

Aquinnah may have different circumstances and not opt for a joint approach, but stated they are welcome if they do join.

Squibnocket resident David Damroth asked about the cost of onsite septic system replacement: is it to be borne entirely by the individual resident, or is the town able to fund this? Matt noted that some grant funding is available through DEP, but that it does not come close to the amount required to carry out the project in full.

Reid Silva argued that watershed boundaries provided in the map of the Martha's Vineyard Commission are based on surficial topography, not on actual direction of groundwater flow. The variagated soils of Chilmark add considerable uncertainty to actual groundwater watershed boundaries. For an individual property owner, this could make a great difference.

Warren Doty asked if homeowners are still eligible for funding under the 5-year default replacement option, and expressed dismay at the high estimated cost. Reid Silva confirmed the cost estimates, which can range from \$40 for refit to upwards of \$60K for full system replacement. Matt Poole noted the great logistical difficulties in a proposed full-on replacement of the majority of onsite septic systems on the island. Supplies, installers with the requisite equipment, engineers will not allow for this timetable.

Next steps: Jim Malkin asked Tim Carroll to reach out to West Tisbury and Aquinnah to determine if they would like to take a joint approach to shared watersheds. Matt Poole will look into possible scope of service for an engineering contract that would be needed to develop a 20 year nitrogen reduction plan. The Boards noted that funding for this plan should ideally be before voters at the April 2023 Annual Town Meeting.

The Boards set their next joint consideration of this matter for October 19, 2022 at 5pm.

Substances Prohibited for use in the Squibnocket Pond District: The Board heard from concerned residents of the Squibnocket District about the need to clarify and possibly revisit the prohibited uses as contained in Section 12 of the Chilmark Zoning Bylaw. Matt Poole pointed out that the Bylaw is not under jurisdiction of the Board of Health, and that its provision regarding prohibited uses only empowers the Board of Health to add substances to those already prohibited, namely “chemical fertilizers, pesticides, herbicides and fungicides.” He felt that the bylaw was written in a way that could use further consideration. Jan Buhrman clarified the activity of the Board over the past months and years as responding to residents concerned that the bylaw is not properly understood or enforced in the District, and had developed signs to make both residents and contractors aware of the prohibitions.

Katie Carroll noted that, in order to address concerns about the prohibitions, zoning and planning boards are the ones who can take this up, not the Board of Health.

Robbie Lee of Lake Road asked for more active discussion with the town regarding these bylaws, and David Damroth elaborated on the conundrum of having the prohibition while also having possibly the greatest density of ticks on the island and also the potential prohibition of critical pest control when pests are doing actual structural damage to homes.

Mario Spindola, who operates the OhDeer pest control company, asked that a letter he had written be included in the record, and indicated that review of the bylaw, including provisions for variance from the terms of the bylaw, should be conducted.

A number of participants expressed concern as to whether the signs had been placed on private property without permission of the property owner. Wendy Weldon, chair of the Squibnocket Pond District Advisory Committee said that, to her knowledge, they were on state owned roads or private property of people who had indicated willingness to have them there. It was decided that, for the winter season, the signs would be removed and careful consideration for sign placement in the spring will be undertaken together with Squibnocket Pond District residents. In addition, Katie Carroll urged all interested parties to initiate a process of clarification and review of the bylaw with the town entities responsible.

Summer Season Trash in Menemsha: Jan Buhrman reported to the Board on her ongoing efforts to address this perennial issue. Stickers placed on trash barrels on Basin Road were helpful in curtailing “creative” trash disposal, but the sheer volume and expense for the town remains an issue. She stated that the volume of trash increased by 1.73 tons between last year and this one. The per-ton disposal cost has also risen, from \$175/ton last year to \$194/ton this year, and all indications are that costs will continue to rise.

The real challenge, she said, is how to reduce the amount of trash: Compact, Compost, Educate. She is working closely with the fishmarkets on Basin Road, who are very willing to address these issues. Katie Carroll pointed out that a large volume of trash in Menemsha originates on the boats moored in the harbor. This can be addressed directly. And Matt Poole noted that the large volume of take-out from the Homeport Restaurant also requires active involvement of the Homeport in the solution to Menemsha’s trash problem.

The Board asked Jan Buhrman to continue to take the lead in working with town officials and stakeholders to find ways to reduce and control trash in Menemsha starting with the next summer season.

29 Young’s Way: The Board did not have an application and plan on file for this proposed replacement well, and will take up this item at its next scheduled meeting on October 5.

22 Loon Lane: Doug Dowling presented a plan showing two fully-compliant systems for the main house and guest house, and **approved** the proposed tie-in plan.

7 Bassett Place, Reid Silva requested an out-of-season perc test for a system upgrade. The Board said that, if the existing system can be shown to have failed, an out of season perc test is warranted. Jan Buhrman will do soil observation.

135 Middle Road (12-62) The Board approved a septic upgrade application for an existing 3 bedroom house and 3 bedroom guest house. The Board **approved** the proposed upgrade which does not require variances.

Rosoff, Tilton Way: The Board took note of a Title 5 Official Inspection report which shows the system has failed. The Board asked Marina Lent to write a letter requiring system replacement within 90 days.

Menemsha Bathhouse Committee: Matt Poole reported on the first meeting of the committee formed to address improvements to the Menemsha Bath House. It is still not entirely clear what mandate this committee has received from the town. Both the structure and its wastewater disposal will be examined. Matt will ask Doug Cooper to review the functioning of the existing onsite septic system with a critical eye as to expected lifespan and capacity. The building will also require professional evaluation. As to the septic system, he noted that I/A treatment for a seasonal system like this is not necessarily the best fit, as the performance of an I/A system is often far less reliable with seasonal, rather than continuous use. As for the possibility of installing composting toilets, due to high groundwater in the area, this would require raising the building by at least 6' to accommodate compost storage bins below, and is therefore also not necessarily an attractive option. The next meeting will be in October.