

BOARD OF HEALTH MEETING MINUTES

Thursday, October 6, 2022

1. CALL TO ORDER: (Roll Call Vote) – Chairman Michael Lanoue opened the meeting at 6:30pm.

Those present via Zoom: Dr. Ruby Chang, “aye,” Michael Lanoue, “aye,” Peter Stanton, “aye.”

Also present: Health Agent, Rebecca Jurczyk

2. MEETING MINUTES:

a. June, 2022 Meeting Minutes (Discussion/ Roll Call Vote)

b. July, 2022 Meeting Minutes (Discussion/ Roll Call Vote)

i. Date amended to August 2022

c. September, 2022 Meeting Minutes (Discussion/ Roll Call Vote)

P. Stanton made a motion to approve the minutes of the June, August and September 2022 meetings; R. Chang seconded. M. Lanoue asked if any discussion – there was none. Roll call vote: R. Chang, “aye,” M. Lanoue, “aye,” P. Stanton, “aye.” All in favor: 3-0.

3. BOARD OF HEALTH QUESTIONS/ UPDATES:

a. BOH & Department of Environmental Protection Forum Regarding Housatonic Water Works Company.

i. DEP representatives Brian Harrington, Western Region Deputy Regional Director; Deirdre Doherty, Western Region Drinking Water/Municipal Services Section Chief and Mark Smith, Director, Office of Research and Standards replied to questions submitted in advance by the Board and residents/customers. Questions asked by the Board and replies by DEP leads as follows:

- Q: When the DEP gives a time limit to Housatonic Water Works (HWW) to make changes and nothing happens, how can citizens trust the DEP’s authority when there is a lot of communication, but no fines or punitive measures? A: Fines are the last resort, the goal is to bring the system into compliance which requires many communications as there are multiple challenges to reaching standards – i.e., there is a sample and treat process for dealing with haloacetic acids (HAA5) which requires a consistent, progressive approach across the water system to balance biological contaminants and disinfection byproducts. At the DEP, a committee reviews circumstances and recommends how to move forward.
- Q: This has been a long-term situation – is this a normal timeframe? A: It is not unusual to go on for a number of years for study, permitting, and construction especially when there is a lot of deferred maintenance. Manganese is the long-term issue not HAA5 and at this point, manganese is not at the level of imminent threat to public health.
- Q: Is manganese the only contributor to brown water? A: it is the primary contributor, but there could be other causes.
- Q: How is HAA5 being monitored and can testing be more frequent than quarterly? A: Water is sampled on a specific quarterly schedule for consistency – i.e, sampled the same week every quarter, every year and the information is used for compliance and decision-making.
- Q: How long after adding chlorine does it take for HAA5 to subside - can you “game” the system by adjusting chlorine? A: There is tracking and monitoring of

chlorination levels when there is concern about residual/added levels in prior days in a month. It was noted monitoring was increased to two locations due to HAA5.

- Q: How are testing sites chosen? A: One site is close to where the chlorine is added to the system and the other is further into the system away from the disinfection point.
- Q: There have been water quality complaints recently between quarterly tests where people are seeing elevated levels – how does that figure in? A: Regulatory action is based on quarterly tests. Individual samples are informative for personal water use decisions pertaining to raised manganese and HAA5 levels.
- Q: Is there testing for other contaminants, i.e., lead and copper? A: A sample schedule including frequency and locations is given to every water system – testing is for bacteria, lead, copper, etc. Where testing occurs depends on what you are testing for – it is done where contaminants would be expected to be higher.
- Q: What is the scientific evidence to give residents regarding the safety of water – how are long-term concerns addressed to convey safety? A: There is information on the DEP website including research, standards and what levels mean. Links can be added to the Town’s website for easy access and questions can be submitted to the DEP. When public notice provisions are triggered, HWW must deliver that notice under regulatory requirements.
- Q: What is the deadline for upgrading the water delivery system? A: Focus now is on the treatment side to provide the quickest and broadest results. Upgrades are slower and require a capital improvement plan.
- Q: Is there state funding to get safe drinking water? A: All water systems are eligible for the state revolving loan fund, but this is not for bottled water. There are no specific grants available for this situation.
- Q: In a letter dated 9/28/22 to HWW the DEP stated – “consideration should be given to providing alternate water to those most sensitive customers including the elderly and children – is that enforced? A: It is not something we have done re: manganese or HAA5 – the DEP encourages systems/towns to assist if they can – i.e, providing tap access elsewhere. When a drink/use order is issued it may be required, but that is when there is an imminent health threat like e coli and a short window to resolve.
- Q: HWW situation is a long-term problem - is it the responsibility of the consumer to take appropriate action? How can a local Board help the community in awareness and decisions to find alternate/bottled water – and where does this decision come from? People are paying for water they cannot use or will not use for good reason. A: Each individual should make their own health decision and self-educate about HAA5 long-term exposure. Manganese is an aesthetic concern – levels have been consistently over the secondary limit, but not to the level of a health advisory or warning for sensitive populations to consult healthcare providers – though young children are the biggest risk/concern. It is up to the community to take additional action.
- Q: Where water is compromised should customers still be paying for that? A: Rates are in the purview of the DPU.
- Q: In the DEP’s opinion there are not serious health concerns? A: Disinfectant byproducts are a serious concern, but over a longer period of exposure. Manganese levels do not indicate a significant health risk under current guidelines which parallel the EPA.

- Q: Regarding the future, repeated testing requested of HWW to make corrections could take years? A: For manganese there is a pilot study started late summer testing a green-sand filtration system which has been successful with a well water source and

is being tried here on a surface water source. It will be piloted over a year through all conditions to be sure it is effective. For HAA5, an administrative consent order was entered into based on violations of the MCL in the exceedances of HAA5. Immediate actions are trying to reduce water age and chlorine, which requires a professional engineer experienced in drinking water and a plan to address HAA5 long-term.

- Q: What has happened over the last month through multiple communications with HWW? A: Some communications are customer complaints regarding manganese and aesthetics of the water. Additional sampling was done throughout the system to be sure data is current and to track that levels do not go above .3 which would trigger a public health notice. Other communications focused on getting the pilot study issued, finalizing the consent agreement to address HAA5; setting conditions of the permit; and adjustments, engineer final inspections and approval for the pilot. There are regular multi-location sampling for manganese and color in the distribution system – one was over .3, but a follow-up sample was lower and an average is taken. In this week's sample report HWW states that the variability of manganese within the distribution system is due to residual manganese so it may vary at locations. Flushing is required to get out residual manganese and manage it for the longer term. The consent order stipulates penalties regarding short-term water age and requires an engineer's evaluation of alternatives for HAA5 controls to meet compliance.
- Q: What is the relation between HAA5 and water levels and how is that altered in the short-term? A: Reducing water levels in the storage tank will reduce chlorine as less water means more flowthrough and less contact of chlorine with the water.
- Q: Did July-September weather affect chlorine byproducts – i.e., high heat and rain impacting surface water will impact the level of HAA5? A: Temperatures and more organic materials washing into the water source can have a reaction in surface water systems.
- Q: Please comment on the future of the water source Long Pond – is it good and should we continue investing in it? A: Surface water is more expensive and challenging to operate – and disinfectant byproducts are more common. Manganese is more common in ground water. There can be intake and location improvements – the issue is what is the best value re: how customers' money is spent.
- Q: Are there recommendations regarding water testing labs, bottled water and whole house filters? A: There is information on the DEP website re: Massachusetts certified labs, but it is important to get instructions and understand what should be sampled and the appropriate method. Lab price comparisons are recommended. Bottled water options that meet criteria are listed on the website. For whole house water filters, be sure there is independent/third party testing/certification/verification.
- Q: Are there current advisories for Housatonic water? A: HAA5 was the last public notice. The DEP has not yet asked HWW to issue a problem corrected notice. There are concerns there is potential for elevated levels absent a corrective action so DEP can confidently think it is fixed. If levels are lower DEP will be part of that dialogue. Customers should operate under the assumption there are still concerns about the water i.e., that contaminants are an issue.

- Q: Should the Board of Health issue an advisory regarding manganese? A: It can use the DEP's manganese fact sheet. Monitoring stays in place even when the water quality is not bad.
- Q: Does the DEP provide free testing? A: No, testing is not free, it is done at HWW's expense.

4. BOARD OF HEALTH BUSINESS:

- a. Review sample Public Health Advisory for high levels of Manganese in public drinking water. (Discussion/Vote) – The Board discussed that more research/information was needed from the DEP website before issuing an advisory. It was noted that some of the language in the advisory needs editing. It was agreed that information would be looked at more in depth, wording revised on the advisory - it can be discussed at the next meeting.

5. PUBLIC HEARING FEEDING OF WILDLIFE REGULATIONS

a. Open Public Hearing (Vote)

P. Stanton made a motion to open the public hearing; R. Chang seconded. Roll call vote: R. Chang, “aye,” M. Lanoue, “aye,” P. Stanton, “aye.” All in favor: 3-0.

- b. Presentation of the Proposed Regulations/ Board of Health comment period – David Wattles and Nathan Buckhout of Mass Wildlife presented context and implementation examples for the draft regulations. They noted human associated food and feeding is the most serious problem – it draws bears which brings potential for conflict/encounters and a public safety threat. It is addressed most effectively via no feeding ordinances which have been effective in chronic feeding issues especially involving restaurant dumpsters. It was confirmed the draft regulations reflect Mass Wildlife changes and are similar to Stockbridge’s regulations that have been very effective as a means of compelling people to fix these problems. It was noted a preventative and educational approach is preferred.

- i. It was noted that the regulations get at a specific nuisance and dovetail with other general laws/local regulations.
- ii. It was clarified that for visitors/renters the owner/manager of the property would be responsible there is a violation and that backyard bird feeders are not precluded, but if they become a negative attractant then will have to be removed.
- iii. Shep Evans, Conservation Agent, shared a compelling example of the tragic consequences of intentional animal feeding and expressed his strong support for the regulation,

c. Public comment period (time limit 5 minutes per speaker)

- i. Jennifer Tabakin asked if composting is prohibited – the reply was it is not specifically called out, but would be an issue if it caused wildlife to come into the neighborhood - then a warning would be issued. Animal proof compost containers were suggested and not to compost meat products.
- ii. Denise Forbes stated she takes in her bird feeders at night. It was noted Mass Wildlife recommends not feeding birds and animals do not hibernate entirely in winter.

d. Board of Health Discussion & edit period

- i. The board discussed fines and agreed on \$50.00 which is typical for the first offense after a written warning and \$200.00 after a third offense and multiple warnings.
- ii. The Board discussed who should be the investigating authority and agreed Police/Animal Control would be called in first and the Health Agent would do follow up education once there is no immediate public safety threat.

e. Close public hearing (Vote)

P. Stanton made a motion to close the public hearing; R. Chang seconded. Roll call vote: R. Chang, “aye,” M. Lanoue, “aye,” P. Stanton, “aye.” All in favor: 3-0.

4

f. Motion to approve, continue, deny the Local Regulations for Feeding of Wildlife (Roll Call Vote)

P. Stanton made a motion to approve these regulations with the fine set at \$50.00 for the second violation and \$200.00 for the third violation; R. Chang seconded. M. Lanoue asked if any additional discussion – there was none. Roll call vote: R. Chang, “aye,” M. Lanoue, “aye,” P. Stanton, “aye.” All in favor: 3-0.

6. PUBLIC HEARING GLYPHOSATE MORATORIUM.

a. Open Public Hearing (Vote)

P. Stanton made a motion to open the public hearing; R. Chang seconded. Roll call vote: R. Chang, “aye,” M. Lanoue, “aye,” P. Stanton, “aye.” All in favor: 3-0.

b. Presentation of the Proposed Regulations/ Board of Health comment period – R. Jurczyk stated this is an important topic and inquired of the Board what direction to go in over the next few months such as extending the moratorium over the next six months She noted no one has come forward to apply for a glyphosate NOI and there has been one complaint.

i. The Board discussed the need for a permanent regulation or policy and whether the moratorium should be extended for 6 months or a year while working through the complaint as a learning process and then deciding if it should be a permanent Town policy or regulation. It was noted if it was one year that would allow a consistent message until there is a permanent policy/regulation, but it would not preclude adopting it before the one-year mark. It was noted the goal is to finalize before the next season though glyphosate is used year-round.

ii. It was noted it is important to find opportunities to educate the public about why this is an important health concern. The Board discussed a documentary screening for a bigger audience at the Library or Berkshire South and considered Zoom.

c. Public comment period (time limit 5 minutes per speaker)

i. Nan Wilde stated there are two documentaries – “Into the Weeds” is about a class-action suit and is not yet released – there could be a showing, but not on Zoom. N. Wilde agreed to share the trailer which could be put on the Town website. The second film is “Dreaming of a Better World” which is more of an agricultural perspective.

ii. Vivian Orlowski thanked the Board for considering the Agricultural Commission’s concerns, extending the moratorium and enhancing provisions for a longer-term policy. She noted the dangers to people who work in producing food, pollinators and the general public. She also stated there are examples of policies and new practices for dealing with the issue.

d. Board of Health Discussion & edit period

e. Motion to approve, continue, deny the Glyphosate Moratorium. (Roll Call Vote)

P. Stanton made a motion to continue the public hearing to November 3 at 6:30pm; R. Chang seconded. Roll call vote: R. Chang, “aye,” M. Lanoue, “aye,” P. Stanton, “aye.” All in favor: 3-0.

7. HEALTH DEPARTMENT UPDATES:

a. Investigation of herbicide application at Olympia Meadows – R. Jurczyk stated there is a complaint about herbicide potentially using glyphosate at Olympia Meadows. She asked the Board for direction, i.e., sending a letter or taking a soil sample that the Parks Commission will pay for. She stated Parks reached out to the volunteers maintaining the fields, but received no response – and Karen Smith, Parks Chair, stated the Parks Department decided not to allow volunteers to care for the field and excluded little league from using it. It was noted that as the Board has a moratorium to enforce and there may be a new group of volunteers next year. The Board agreed to a soil sample and to send a letter regarding the moratorium as it applies to future use.

b. Community Covid-19 - R. Jurczyk reported more antigen tests will be arriving in a few weeks and noted they will be shared with the Senior Center, Railroad Street Youth and Berkshire South – and she will hold back some for individual requests.

c. Health Inspector – R. Jurczyk stated a new Health Inspector will start October 17 – he is Steven Browning, chef at Prairie Whale. She expects he will attend the November Board meeting.

R. Jurczyk added she received envelopes from Anne Fredericks with scientific literature for the Board’s review.

6. CITIZEN SPEAK TIME:

- a. Trevor Forbes, 325 North Plain Road, stated he was disappointed with the DEP's comments and noted there has been no movement on the water quality for many years. He asked for further assurances that something will be done. He stated he had learned from the DEP that nothing has changed with their process and there is a health problem especially for younger people.
- b. Denise Forbes, 325 North Plain Road, stated she is disappointed the DEP merely referenced website materials for more information. She compared results of HWW and her personal water testing and noted she would continue to make the issue visible to the public.
- c. Anni Crofut stated her disappointment with the DEP and asked that more pressure be put on them as water problems go back 30 years and there are operating/financial issues at HWW. M. Lanoue responded that the DEP maintains its regulatory purview and noted the intention for this meeting was to open a dialogue and take a first step in building a working relationship for the long-term.
- d. Hillary Rush, 60 Main Street, expressed her disappointment with the DEP, and asked for monthly tests where Mercer is not involved. M. Lanoue replied individual testing is not informative to the DEP and reiterated their cautions about sampling. He stated he would consider the suggestion.
- e. John Curletti, 226 Grove Street, thanked the Board for focusing on this topic. He noted for 2018, 2019, 2021 HAA5 exceeded normal levels/parts per billion and only one violation was issued. He asked what indicates/constitutes a violation? He stated if fines are small, they are not a deterrent. He also noted testing is too late - finding out water is unsafe after the fact. M. Lanoue stated the public can email DEP with questions and noted the DEP has graded levels of concern. He reemphasized DEP has not issued an all clear re: HAA5. He stated people need to extrapolate - this is not an immediate health threat, but there are health concerns and people need to make their own decisions.

7. MEDIA QUESTIONS: None

8. ADJOURNMENT: (Roll Call Vote) - P. Stanton made a motion to adjourn; R. Chang seconded. Roll call vote: R. Chang, "aye," M. Lanoue, "aye," P. Stanton, "aye." All in favor: 3-0. Chair M. Lanoue adjourned the meeting by unanimous consent at 9:37pm.

Respectfully submitted,

Stacy Ostrow, Recording Clerk