

**TOWN OF CHARLESTOWN  
WASTEWATER MANAGEMENT COMMISSION  
4540 South County Trail  
Charlestown, RI 02813**

**FINAL Minutes of Regular Meeting  
Wednesday, January 8, 2014**

1. **CALL TO ORDER:** Mr. Ogle called the meeting to order at 6:00 pm.

2. **ROLL CALL:**

Present: Commissioners Mr. Peter Ogle, Ms. Barbara Lutzel, Mr. Robert Frost, Mr. Tom Ferrio.

Also Present: WWMC Solicitor Wyatt Brochu, Wastewater Manager Matthew Dowling, Recording Secretary, Bonnie Langlois. Absent: Commissioner Ms. Elizabeth Richardson.

3. **REVIEW AND APPROVAL OF MINUTES:**

Minutes reviewed and amended as noted. VOTE: Mr. Ogle – aye, Mr. Ferrio – aye, Ms. Lutzel – aye, Mr. Frost – aye. All in favor. Motion approved with four (4) concurring votes.

4. **COMMUNICATIONS AND REPORTS:**

(a) **Solicitor’s Report:** Prosecutions continue in municipal court and last month was very busy, with compliance rate very high. A matter is coming up for Superior Court on an appeal that was taken.

(b) **Wastewater Management Office – Matt Dowling:** See attached report

5. **OLD BUSINESS:**

(a) **Review, discussion and potential action pertaining to the siting of on-site wastewater treatment systems relating to the Planning Commission’s proposed Zoning Ordinance revisions.**

Mr. Ogle spoke with Lorraine Joubert recently and she stated that the new data is available and that she hopes to have a draft of the work by the end of the month. Additionally, Mr. Dowling and Mr. McCandless will put some soil data together for Ms. Joubert and will get that to her. There is a Legislative Task Force meeting on January 21, 2014, which is scheduled to include information on OWTS, presented by George Loomis and Art Gold. Mr. Ogle has asked Mr. Loomis for some information on how waste water travels through the soil and proximity to groundwater wells, etc...Hopefully, some nice quantitative data will be presented.

(b) **Discussion and potential action relating to implementation of Office of Wastewater Management program for collection and analysis of potable groundwater relating to bacteria and nutrients and OWTS in the Salt Ponds Area.**

Topic of conversation includes discussion that encompasses 6e as well, since they both basically relate to the same issue of groundwater testing. According to Mr. Ogle, the East Beach Association services 110 homes and has been tracking nitrate for about 15 years and there is actually data that goes back before that, which has been incorporated into the recent data showing an increase in nitrate levels. This is potentially a problem that is very concerning. Mr. Ogle compared some previous studies done in the

same area and it shows clear evidence that in the Quonochontaug area, the nitrate levels have risen by a couple parts per million over the last 10-15 years. There is no obvious downturn at this point. The samples in the Charlestown Beach Road Area were taken this past year and Mr. Ogle plotted this data out and it suggests that this area supports basically a similar finding to the levels in the Quonochontaug area. Mr. Ogle suggests that additional testing be done in this area.

Mr. Ogle stated that we have identified at least two areas in Charlestown that have elevated nitrate levels, that is substantial areas above 5 parts per million, and at least one of those areas shows a steady increase in nitrate and no obvious reason for the change at this point. Mr. Dowling asked about testing other densely populated areas in Town, such as the Five Seasons subdivision (located off Carolina Back Road/Route 112), and the commissioners agreed that would be helpful to have that data. Mr. Ogle stated that he thinks they should be spoon feeding this information out to the Town Council and maybe to the Town at large. He spoke to the Town Council last month about the elevated nitrogen levels and he says that he can go back and tell him about the Charlestown Beach Road area to inform them of his concerns. Mr. Ogle suggested that perhaps something different ought to be occurring such as rural zone fertilizer use restriction or housing density consideration, types of issues or requirements to replace septic systems, but he thinks this is something that they have to spoon feed out rather than dropping it all at once in the form of a prepared ordinance.

Mr. Dowling believes that it has to be a data driven effort done in stages through projects and factual analyses presentations. Mr. Dowling thinks it is important to keep the Town Council abreast of the data findings. Mr. Ogle stated that he will plan to briefly update the Town Council at the next regularly scheduled Town Council meeting.

## **6. NEW BUSINESS:**

### **(a) Cesspool Temporary Hardship Waiver Application Hearing – SEEMAN WILLIS E & DIANE L, 5077 Old Post Road, Zone 3 (May 2013) WAIVER REQUEST #CWZ4-13-06.**

The Wastewater Management Commission, hearing the testimony and the report of the On-site Wastewater Manager in the application for extension of the temporary hardship waiver for replacement of a cesspool at the subject address, makes the following findings:

- The single-family residence at this address utilizes a cesspool,
- Town records indicate the cesspool in question has not been inspected or pumped since June 2006 despite the requirement for annual pumping and inspection, a violation of the town wastewater ordinance,
- The owners testify that the cesspool has been inspected more recently,
- With the lack of documented inspection there is no evidence that the cesspool has not failed,
- This property has been in violation of the cesspool phase-out ordinance since June 2013,
- While the dwelling is in the Critical Resource Area it is not in an area of dense development,
- The owners have not applied for Town loan funding,
- This hearing, 6 months after the replacement deadline, is the first appearance of the owners before this Commission,
- The owners have a quotation for a new advanced treatment system, for approximately \$24,800, but do not have a construction permit,

- The owners request a temporary hardship waiver without suggesting a date for conformance with the cesspool phase-out ordinance,
- The owners' income exceeds the maximum normally associated with an income-based hardship waiver,

**MOTION MADE BY MR. TOM FERRIO AS FOLLOWS:**

**The Wastewater Management Commission makes the following determination in this case:**

- **The owners have demonstrated hardship,**
- **That hardship is undue because they are not able to afford to fund two systems simultaneously,**
- **The WWMC directs the Town of Charlestown On-site Wastewater Manager to initiate enforcement procedures to resolve the inspection and pumping of the existing cesspool,**
- **The WWMC grants the extension request for 2 years from the violation date, through June 1, 2015.**

**MOTION PASSED WITH THREE (3) CONCURRING VOTES. VOTE: Mr. Ferrio – aye (1<sup>st</sup>), Ms. Lutzel – aye (2<sup>nd</sup>), Mr. Ogle – aye. RECUSAL – Mr. Frost.**

Additional conditions imposed by the Wastewater Manager:

- Term of the waiver – 2 years – to expire June 1, 2015.
- If the cesspool remains after the date of determination of the waiver, or the conditions of the waiver are not met, the matter will be prosecuted accordingly,
- The cesspool must be inspected and pumped annually, until the required replacement date, in accordance with the Town ordinance,
- Proof of current status or compliance with the pumping and inspection ordinance shall be provided,
- If the cesspool is deemed a failed system, pursuant to Rule 7 of the RIDEM/OWTS Rules and/or the Town of Charlestown Ordinance 210, it will nullify the waiver and the applicant will be subject to the RIDEM and the Town of Charlestown's repair or replacement criteria requirements,
- Potable water testing of the on-site well shall be conducted for analysis of nitrates and bacteria,
- The waiver is applicable exclusively to the applicant for the property specified, due to the undue hardship, it is non-transferable and does not go with the land,
- Failure to comply with these conditions will nullify the waiver.

**MOTION MADE BY MR. OGLE TO ADD ABOVE CONDITIONS TO THE HARDSHIP WAIVER. VOTE: Mr. Ogle– aye (1<sup>st</sup>), Mr. Ferrio – aye (2<sup>nd</sup>), Ms. Lutzel – aye. RECUSAL – Mr. Frost.**

**(b) Cesspool Temporary Hardship Waiver Application Hearing – SEEMAN WILLIS E & DIANE L, 120 Columbia Heights Road, Zone 4 (May 2013) WAIVER REQUEST #CWZ4-13-07.**

The Wastewater Management Commission, hearing the testimony and the report of the On-site Wastewater Manager in the application for a temporary hardship waiver for replacement of a cesspool at the subject address, makes the following findings:

- The 6 bedroom multi-family rental dwelling at this address utilizes a cesspool,
- Town records indicate the cesspool in question has not been inspected or pumped since June 2006 despite the requirement for annual pumping and inspection, a violation of the town wastewater ordinance,
- The owners testify that the cesspool has been inspected more recently,
- With the lack of documented inspection there is no evidence that the cesspool has not failed,
- The dwelling is not connected to the community water system,
- The dwelling is in a dense development; several properties could be affected by any cesspool surface or groundwater pollution,
- The owners have not applied for Town loan funding,
- This property has been in violation of the cesspool phase-out ordinance since June 2013,
- The owners testify that they do not collect rental income from this property,
- This system came due for replacement at the same time as the owners' personal residence,
- This hearing, 6 months after the replacement deadline, is the first appearance of the owners before this Commission,
- The owners have a quotation for a new system, for \$19,500, but do not have a construction permit,
- The owners request a temporary hardship waiver without suggesting a date for conformance with the cesspool phase-out ordinance,
- The owners' income exceeds the maximum normally associated with an income-based hardship,

**MOTION MADE BY MR. TOM FERRIO AS FOLLOWS:**

**The Wastewater Management Commission makes the following determination in this case:**

**The homeowner has not demonstrated an undue hardship exists as the financial hardship presented was not judged to be undue for the proper maintenance of a property that could be producing income.**

**The WWMC directs the Town of Charlestown On-site Wastewater Manager to initiate enforcement procedures to resolve the inspection and pumping of the existing cesspool,**

**The WWMC denies the extension request and directs the Town of Charlestown On-site Wastewater Manager to work with the applicant and the Court to establish a schedule for replacement of the cesspool.**

**MOTION PASSED WITH THREE (3) CONCURRING VOTES. VOTE: Mr. Ogle – aye (1<sup>st</sup>), Mr. Ferrio – aye (2<sup>nd</sup>), Ms. Lutzel – aye. RECUSAL – Mr. Frost.**

**(c) Discussion and potential action with Mr. Ernest Morreira, Charlestown Affordable Housing Commission (AHC) liaison to the Charlestown Wastewater Management Commission (WWMC) regarding the AHC's status with affordable housing. No discussion.**

**(d) WWMC Meeting with Ms. Janice Falcone, owner of 4115 A/B Old Post Road – Discussion and potential action regarding status of WWMC Cesspool Phase-out Temporary hardship Waiver # CW12-07E, Expiration date December 1, 2013.** Ms. Falcone stated that she has hired Timpson to install the system, and that they have obtained all the permits from the State. She has the money for this installation in an escrow account. Timpson will begin this work as soon as possible. The potential buyers of the Inn have asked for an extension until February for the closing of the sale. There is currently no one using the Inn. Mr. Dowling will file an NOV on this property deed and will remove the NOV following installation of the system. No formal request for an extension has been made at this time. According to Ms. Falcone, installation of new system should be completed by March 2014.

**(e) Discussion and potential action with members of the Quonochontaug / East Beach Water Association relating to a trend of elevating nitrate concentrations over time in water from the Community Water Supply.** Please refer to discussion in 5b.

**7. PUBLIC COMMENTS:** None

**8. ADJOURNMENT:** Motion to adjourn made by Mr. Frost, seconded by Mr. Ferrio. All in favor. Meeting adjourned at 7:47 pm. Next WWMC meeting scheduled for February 12, 2014.