

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

**FINAL Minutes of Regular Meeting
Wednesday, July 9, 2014**

Note: (Meeting was held at the Charlestown Police Station, Old Post Road, Charlestown, RI. 02813)

1. CALL TO ORDER:

Chairman Ferrio called the meeting to order at 6:13 pm.

2. ROLL CALL:

Present: Commissioners Chairman Mr. Tom Ferrio, Mr. Peter Ogle, Ms. Barbara Lutzel, Vice-Chair Ms. Elizabeth Richardson, Mr. Bob Frost.

Also Present: Town Solicitor Wyatt Brochu, Wastewater Manager Matthew Dowling, Recording Secretary Bonnie Langlois.

Ms. Richardson made a motion to move items 6a and 6b to here in the meeting. Mr. Ogle seconded this motion and the motion passed with five (5) concurring votes. VOTE: Mr. Ferrio – aye, Mr. Ogle – aye, Mr. Frost – aye, Ms. Lutzel – aye, Ms. Richardson – aye.

Note: The below Agenda items are recorded in the way in which they were actually considered.

6. NEW BUSINESS:

(b) Cesspool Temporary Hardship Waiver Application Hearing – CZECH AUDREY A, 35 BAY STREET, Zone 2 (May 2012) WAIVER REQUEST #CWZ2-12-03EXT (EXP 6-1-13).

The applicant, her daughter, Linda Donovan, and her son, Christopher Czech were present for the meeting and were sworn in by Solicitor Brochu. Mr. Dowling presented the applicant's waiver request to the commission. Linda Donovan presented the information to the commission on behalf of her mother.

The Wastewater Management Commission, hearing the applicant's testimony and the report of the On-site Wastewater Manager in the application for a Cesspool Phase-out Temporary Hardship Waiver, makes the following findings:

- a) The Property contains a single family dwelling owned by the Applicant,
- b) The Property utilizes a cesspool to manage wastewater from the Applicant's dwelling,
- c) The cesspool is located in Zone 2 of the Charlestown Cesspool Phase-out Prioritization Overlay, required by Town Ordinance to be removed and replaced with an on-site wastewater treatment system (OWTS) suitable for the Wastewater Management District before June 1, 2012,
- d) A hardship waiver was granted on December 21, 2011 which expired on June 1, 2013,
- e) The December 2011 waiver was conditional on the Applicant actively working to obtain CSSLP or CDBG funding,
- f) Rhode Island Housing documentation indicates that the Applicant did not actively pursue cesspool replacement funding assistance,

- g) The drinking water analysis, required with the December 2011 waiver, has not been received by the Town,
- h) Town records indicate the cesspool was inspected on July 9, 2014, in compliance with Town Ordinance 210 requirements requiring annual cesspool pumping and inspection, however Town records do not show an inspection in 2013, in violation of the December 2011 waiver conditions,
- i) A Notice of Violation was issued by the Town on July 25, 2013,
- j) The Applicant took no steps to resolve the waiver expiration until a court appearance in June 2014, a year after the waiver expired,
- k) The Property is located approximately 500 feet from Quonochontaug Pond on a small (2/10 acre) lot with adjacent homes approximately 50 and 100 feet from the subject dwelling,
- l) The Applicant is actively attempting to sell the property. A buyer may wish to rebuild on the land or extensively remodel the subject property and an Advanced Treatment system installed now may be inappropriate,
- m) The Applicant has offered to not rent the property during 2014,
- n) The Applicant presented their hardship case based on financial hardship and health issues,
- o) The review of financial records provided by the Applicant indicates that the Applicant does meet the HUD Low Income Limits,

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

- a) The Owner has demonstrated an undue hardship,
- b) That hardship is undue because the family is now assisting the owner and they have requested more time to complete the sale of the property,
- c) The family has offered that the property will remain unoccupied during this period,
- d) The WWMC grants the temporary waiver until October 9, 2014,
- e) This waiver is applicable exclusively to the Applicant for the subject property, is non-transferable and does not run with the land.

MOTION TO APPROVE THE ABOVE DETERMINATION MADE BY MR. FERRIO AND SECONDED BY MS. RICHARDSON. VOTE: Mr. Ferrio – aye, Mr. Ogle – aye, Mr. Frost – aye, Ms. Lutzel – aye, Ms. Richardson – aye. Motion passed with five (5) concurring votes.

- (a) **Cesspool Temporary Hardship Waiver Application Hearing – DUCKWORTH JAMES A + CEVILLE H, 5229 POST ROAD, Zone 2 (May 2012) WAIVER REQUEST #CWZ2-12-10EXT (EXP 6-1-14).** The applicants were present for the meeting and were sworn in by Solicitor Brochu. Mr. Dowling presented the applicant’s waiver request to the commission. Mr. Duckworth presented the information to the commission.

The Wastewater Management Commission, hearing the applicant’s testimony and the report of the On-site Wastewater Manager in the application for a Cesspool Phase-out Temporary Hardship Waiver, makes the following findings:

- (a) The Property contains a single family dwelling owned by the Applicants,
- (b) The Property is the year-round residence for 2 people,
- (c) The Property utilizes a cesspool to manage wastewater from the Applicants’ dwelling,

- (d) The cesspool is located in Zone 2 of the Charlestown Cesspool Phase-out Prioritization Overlay, required by Town Ordinance to be removed and replaced with an on-site wastewater treatment system (OWTS) suitable for the Wastewater Management District before June 1, 2012,
- (e) A hardship waiver was granted on August 29, 2012 which expired on June 1, 2014,
- (f) Town records indicate the cesspool was last pumped and inspected on June 30, 2014 which is in compliance with Town Ordinance 210 maintenance requirements,
- (g) A drinking water test in September 2012 showed no evidence of coliform bacteria and low nitrates,
- (h) This Property is on an oversized 5 acre lot north of Route 1, about 2/10 of a mile from Foster Cove,
- (i) The adjacent property, Wind Swept Inn, has a public well. That well has not shown unusually elevated nitrate levels,
- (j) The Applicants presented their hardship case based on financial hardship and health issues,
- (k) The review of financial records provided by the Applicants indicates that the Applicants may meet the HUD Low Income Limits,
- (l) The Applicants have a current RIDEM OWTS Permit for Repair which will expire on September 27, 2014,
- (m) The Applicants have not been accepted for three OWTS loan programs, for reasons of negative net worth and income above the HUD low income limit,
- (n) The current mortgage balance on the home appears to substantially exceed the assessed and market values,

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

- a) The Owner has demonstrated an undue hardship,
- b) That hardship is undue because the owners' financial resources are extremely limited and they have had several medical setbacks,
- c) The WWMC grants the waiver request, to expire June 1, 2017,
- d) The cesspool must be pumped and inspected annually until its replacement,
- e) If the cesspool is deemed a failed system, pursuant to Rule #7 of the RIDEM Rules, it will nullify this waiver and the Applicant will be subject to the RIDEM and the Town of Charlestown repair requirements.
- f) This waiver is applicable exclusively to the Applicants for the subject property, is non-transferable and does not run with the land.

MOTION TO APPROVE THE ABOVE DETERMINATION MADE BY MR. FERRIO AND SECONDED BY MR. OGLE. VOTE: Mr. Ferrio – aye, Mr. Ogle – aye, Mr. Frost – aye, Ms. Lutzel – aye, Ms. Richardson – aye. Motion passed with five (5) concurring votes.

3. REVIEW AND APPROVAL OF MINUTES:

Minutes were reviewed and approved as corrected. VOTE: Mr. Ferrio – aye, Mr. Ogle – aye, Ms. Lutzel – aye, Ms. Richardson – aye, Mr. Frost – aye. All in favor. Motion approved with five (5) concurring votes.

4. COMMUNICATIONS AND REPORTS:

- (a) **Solicitor's Report:** Discussion ensued regarding Municipal Court proceedings on Wastewater

Management matters. Mr. Brochu mentioned that defendants who receive a court summons for a delinquent OWTS inspection of their property, are still required to appear in court and are still required to pay the court fees. Mr. Brochu suggests giving homeowners one notice of inspection due and if that is not completed then they will get a Notice of Violation (NOV) recorded on their property deed. If they still don't get the inspection done, then they get a summons to appear in court. Mr. Brochu thinks that this is plenty of outreach. Mr. Brochu also mentioned that the outreach to the realtors has seemed to help and now the realtors are doing outreach as well, so word is catching on about the OWTS inspection requirements in Charlestown.

(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.**

Data reports were received from URI. Several Commissioners were not able to completely read the reports. Mr. Ogle gave a brief synopsis of the reports. Mr. Ogle thinks this is a good first step. He suggests some modifications to deal with seasonal usage of homes. Mr. Ogle and Mr. Dowling will bring any changes/suggestions to URI for discussion.

7. **PUBLIC COMMENTS:**

None

8. **ADJOURNMENT:**

Motion made by Ms. Richardson and seconded by Ms. Lutzel to adjourn the meeting. All in favor. Meeting adjourned at 8:16 pm.

Respectfully submitted by: Bonnie Langlois

A forty-eight (48) hour notice is required for persons with sensory impairment needing auxiliary aid.

In accordance with Federal law and U.S. Dept. of Agriculture policy, the Town of Charlestown is prohibited from discrimination on the basis of race, color, national origin, sex, age or disability. (Not all prohibited bases apply to all programs.) To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington DC 20250-0410 or call 800-795-3272 (voice) or 202-720-6382 (TDD).

The public is welcome to any meeting of the Wastewater Management Commission. If communication assistance (readers/interpreters/captions) is needed or any other accommodation to ensure equal participation, please contact (711-364-1240) at least three (3) business days prior to the meeting.