

Newburyport Board of Health Meeting  
January 12, 2017

Date of Approval: \_\_\_\_\_

Attendees:

Dr. Robin Blair, Chairman of the Board  
Dr. Sam Merabi, Board Member  
Dr. Robert Slocum, Board Member  
Patricia McAlarney, Note Taker

Adam Costa, Attorney representing Evergreen Commons  
Jim Goodwin, Contractor for Evergreen Commons

**Call to Order:** Meeting called to order at 7:05 p.m.

**Approval of Minutes:** Motion to approve the Minutes of the Board Meeting from December 15, 2016 was made by Dr. Sam Merabi; seconded by Robert Slocum. Votes to approve – 2; Votes to oppose - 0. Minutes were approved as submitted.

**Evergreen Commons:**

Dr. Merabi stated that the question that remains is in regard to the testing of the soil and water. The Applicant has proposed that they will pay for the annual testing throughout the development phase in exchange for approval of the OSRD plan. The Developer does not want to pay for the testing if they are not going to receive approval. Dr. Merabi noted that we have no knowledge of the quality of the soil/water from the period of time before the golf course was built nor do we have information concerning the conditions of soil/water while the golf course was in operation. The Board must review preliminary test results before they can make any decision regarding the proposed development. Secondly, Dr. Merabi stated that even if the Developer decides that they will not agree to make the payment for the testing, this testing should still be done for the protection of City residents. Dr. Merabi noted that the City could find other sources to assist with funding such as crowd funding or utilizing the services of Boston University (which has already expressed interest participating in the testing process.) Dr. Slocum noted that another issue to be determined is that if a chemical contaminant is found, how long it will be necessary to test for this chemical and who would assume responsibility for the cost of testing. Dr. Merabi commented that there is a wide range of possible contaminants and not all present the same degree of concern. The preliminary test should be performed in the spring after vernal equinox in warmer weather with a lot of rain so that it can be determined how much of the chemicals are permeating into the soil. It would also be important to test at various times of year. It is impossible to design any scientific study without the benefit of preliminary data.

Dr. Slocum noted that the City Engineer presented concerns about drainage in the area. Andy Port, Director of Planning & Development, informed the Board that he had attended a meeting with the Water Department and a member of the Water Commission concerning the issue of replacement of the existing well. Mr. Port noted that Paul Colby from the Water Department indicated that he believes that the current well can be relocated on the current property without needing adjacent property to do so. Mr. Port stated that while this is not a final determination it was noted that there did not appear to be any geological obstacles to relocating at this area. Mr. Port provided the Board with a copy of a new site plan that had just been presented to the Planning Board this morning that shows the golf course property and circles in black depicting the location of the water pumping station. Mr. Port informed the Board that the state would allow for the well to be relocated within 250' of this current location without necessarily requiring filing as a new well; it would instead be handled as an upgrade/relocation of an existing well.

Mr. Port pointed out that the plan also demonstrates that if the City needed to relocate the well at this location there is a 400' radius within which the well could be located that is still within the City property. Although the location would not provide the 400' setback that is typically required, Mr. Colby advised the Planning Board that it is very likely that DEP would allow this since the new location would be an improvement over the existing well location. The blue shaded area on the plan shows land that the Developer has indicated would be kept available for the City in the event that it was necessary to encroach on that area. Drainage issues are another concern for the development. Mr. Port told the Board that the City Engineer and AECom had discussed the presence of a clay liner that had been placed at the golf course in 1987 as a means of capturing contaminants. One question was if the clay area is abandoned, what will happen to any chemicals that are present there and would it be possible for the chemicals to infiltrate the soil/water. Mr. Port stated that the City Engineer and AECom had stated that for the proposed development a naturalized drainage system utilizing bio-swales and landscaping retention areas is preferable for treating the storm water than the prior use of a clay liner. Mr. Port said that the contaminants of primary concern are from two areas: run off from the road way which would eventually discharge into a wetland, and contaminants from the 40 homes. Mr. Port noted the difficulty of ensuring that all of the homeowners would adhere to covenants and restrictions placed on their deeds to protect the water supply. Mr. Port stated that the Water Department conveyed at Wednesday's meeting that they are generally comfortable with having homes in this area; however, they want to avoid being permanently prohibited from having access to a location where a future well could be located. Mr. Port explained that the plan that was provided to the Board of Health this evening would be presented to the Planning Board for consideration at their meeting next Wednesday and he hopes that compromise can be reached that will allow some level of development as well as providing the City with sufficient land that would be appropriate for a future well. Jim Goodwin, Developer of the Evergreen Commons stated that his company has taken the suggestion of reducing the scope of the project under advisement but that no decisions have been made at this time.

Dr. Merabi noted that there is also an issue of replenishment of water to the well since the presence of pavement, rather than permeable soil, will have an effect. Mr. Port said that the Water Department did not specifically address the issue of the presence of asphalt, for example, but did focus on how run off from the roadways would be managed. Mr. Port stated that he did not know why the specific site of the proposed future well had been chosen as preferable by the AECom Consultants. Mr. Port stated that the Conservation Commission does have some jurisdiction because of isolated flooding that occurs in the area and the existence of wetlands on the northern area of the site. To date the Conservation Commission has only been involved in the wetlands delineation portion of the project, they have not seen or commented on the engineering aspects of the project.

Dr. Merabi stated that even with the new plan, preliminary testing is still necessary. Also the clay layer was not fully tested so we do not know exactly what chemicals were present there. We do know that nitrates did permeate, so it is conceivable that the golf course was permeated by other agents, as well. The other issue that must be addressed is replenishment of water to the wells.

Mr. Port reminded the Board that the Planning Board is looking for feedback from other Departments (including Health Department and Water Sewer Division) however, since the testing has not been done, the feedback has not been received. He said that it behooves everyone for the Planning Board to receive some feedback from the Health Department whether it is positive or negative based on whatever information is currently available. The Planning Board will need to make a decision by mid-February. Mr. Port noted that in the past sodium was able to migrate to the wells and when the contaminant was removed from the soil, the sodium level in the water fell. Mr. Port informed the Board the wells cause a cone of depression by pulling water downward. At the golf course there were two wells creating two cones of depression and causing an arc between the two. He noted that a member of the Conservation Commission expressed a concern that if the well that had been used for irrigation by the

golf course is abandoned, what affect will there be on the flow of the water toward the City well, and if the irrigation well was recycling out contaminants, will the absence of the irrigation well cause those chemicals to then migrate toward the City well.

Adam Costa – Partner of Lisa Mead of Blatman, Bobrowski, Mead, & Talermin, LLC stated that he was not here to make a substantive statement but rather to raise objection that his firm was only informed today about tonight's meeting and the five substantive issues to be discussed. The Board explained that at the last meeting Ms. Mead had stated that the Board must make it clear what would be discussed at each meeting and, therefore, at that meeting tonight's five discussion points had been identified and were then put on this evening's agenda. Ms. Mead was notified today about tonight's meeting as a mere courtesy.

Mr. Port notified the Board that DPS had taken it upon themselves to have some testing done on the City property and the results are expected to arrive within a day or two. Dr. Merabi noted that because the tests were performed in winter the results may not be beneficial. Also, once the results are received the Board will need some time to review them. Dr. Merabit noted that the test series that had originally been requested by the Water Commission would have been extremely helpful in rendering recommendations for this project.

The Board discussed scheduling for the next meeting taking into account that the Planning Board needs to render an opinion by February 17 and that their next meetings will be held on Feb 1 and February 15. The Board decided to hold off on scheduling the next meeting until information/test results are received.

Dr. Merabi asked the Board to consider the issue of the effect that the Evergreen Development may have on the sodium level in the City's drinking water. Dr. Merabi suggested that the Board consider making a ruling that there be no (road) salt allowed in a Zone 2; or perhaps 'no (road) salt' on new developments in a Zone 2. Dr. Merabi recommends that the City switch to sand for roadways, rather than salt but notes that there will be significant impact from the additional 40 households that may be applying salt to their driveways. Dr. Slocum commented on the difficulty of monitoring the behavior of the residents from multiple homes. He also stated that the presence of sodium in the drinking water serves as a 'marker' for what contaminants are able to get into the water. The Developer reminded the Board that Ferry Road is in Zone 1 (not Zone 2.) Dr. Merabi stated that the Board should look at sodium level fluctuations from well #2 (since Well #2 is not treated.)

The Developer stated that there have been multiple plans considered. The current plan has had three different engineers who say that this plan would "pass their muster." He stated, and Mr. Port agreed, that the current plan is the one seems preferable from most counts.

The Developer pointed out on the site plan the locations of the two monitoring wells (#4 and #5) that were dug in 1985, and the location of the test pits and 9 monitoring wells (of 21') and 13 deep hole tests (of 9' to 12'). The Developer will submit the results of all tests that have been performed so far and explained to the Board that the series of testing that has been requested would cost \$36,000 for each round of testing. The Developer proposed that if any particular chemical is identified, the Developer plans that they would continue to test for that chemical throughout the building period; however, once the chemical is no longer present in the testing it would be eliminated from the testing series.

Mr. Port agreed to repackage and submit to the Board the results of all analysis pertaining to Evergreen that has been completed so far.

Discussion ensued among the Board Members concerning what decision or recommendation would be presented to the Planning Board culminating in the following motion:

**Motion:** The following motion was made by Dr. Merabi and seconded by Dr. Slocum: No plan, including OSRD, should be approved until preliminary testing which is deemed acceptable by the Board of Health has been performed. Votes to approve – 3; Votes to oppose – 0. Motion passed.

Meeting adjourned at 8:14 p.m.