



TOWN OF SALISBURY

BOARD OF HEALTH

JOHN W. MORRIS, DIRECTOR

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DANIEL RICHARD
RON LAFFELY
SUE RING
DENISE PETERSON

September 4, 2018

BOARD OF HEALTH MEETING MINUTES

7:00 PM Salisbury Town Hall

Board Members Present:

Sue Ring, Ron Laffely, and Dan Richard

Board Members Absent:

Denise Peterson

Staff:

John Morris-Health Director

Meeting called to order at 7:00 PM.

Minutes

Approve minutes from July 17, 2018.

R. Laffely makes a motion to accept the minutes as written. D. Richard seconds that motion. 2 in favor, 0 opposed. Motion carries and is passed.

S. Ring did not sign the minutes or vote; she was not present for the meeting.

Approve minutes from August 7, 2018.

S. Ring makes a motion to accept the minutes as written. R. Laffely seconds that motion. 2 in favor, 0 opposed. Motion carries and is passed.

Mr. Richard did not sign the minutes or vote; he was not present for the meeting.

Old Business

None

New Business

Hearing for fine issued to Fannie Mae regarding 52 Forest Road Housing Code Violations.

(Attorney) Kurt McHugh approaches the podium as **(Mr. Morris)** explains the background of the violations and what lead to the fine imposed. Attorney McHugh gives a handout to the Board.

The original violation letters were sent to the owner, Mr. Hurley. The bank that bought the property was then notified and nothing was done. Fannie Mae took over the property on January 2, 2018. Before this ownership took place, there was a receivership meeting and a receiver was appointed. Between the foreclosure and the deed registration, Judge Swan reversed the receivership and allowed Fannie Mae to correct the violations. During that time, the roof was repaired, testing was done for septic and a few other things. In June, the Town was notified that Fannie Mae sold the property to a Methuen contractor. However, the property was sold with outstanding violations.

(Mr. Morris) explains that he counted from the condemnation order date, February 8th to July 11th which came to roughly 133 days and issued the fine of \$100 per day vs. \$300 per day. The property is still in violation as of today and that is the reason the fine went to Fannie Mae. This procedure is consistent with what the Town has done with other properties.

(Mr. Richard) inquires if the property was occupied when Fannie Mae owned it?
(Attorney McHugh) confirms no, it has been vacant for years.

(Mr. Morris) states that the new owner has done a few things. The septic system is still waiting to be installed. Also, there is a notice to vacate on file at the Registry.

(Attorney McHugh) states that Fannie Mae has (2) arguments. He states the fine should be reduced or abated completely. **(Attorney McHugh)** states that concerning his first argument, that the notice of violation was issued and the timeframe was (30) days. One of these violations was the septic system and in his opinion, there is no plausible way a system can be done in (30) days when the property is in a buffer zone that the Conservation Board has to approve.

(Attorney McHugh) continues that when a contractor was hired to fix the roof, the Town required that certification be made that all repairs would be done, not just the roof, which is not required. Attorney McHugh became involved and the Town relented. The Town requested to inspect the property and they did the inspection the next week.

(Attorney McHugh) states that Fannie Mae's efforts to get the required permits and repairs done were frustrated by the Town. **(Attorney McHugh)** states the property was sold a month earlier to another contractor. When this contractor went to get permits, he was told by Town Hall that the Town was going for another receivership.

(Attorney McHugh) states Fannie Mae's first argument is it could not have complied with the order because of the time it takes to get plans done for the septic system and the Town's efforts to hold up repairs and try to sell the property. The second argument is that Fannie Mae is immune to fines. **(Attorney McHugh)** refers to 12USC4617J4 which is in his appeal brief. He explains that Fannie Mae is in a conservatorship; Fannie Mae and its agency are not liable for any fines on the property.

(Chair) states the Board will need to forward this information to Town Counsel. This business should be tabled until Town Counsel can review the brief. We will notify Attorney McHugh after we get some guidance.

(Mr. Morris) states his points of clarification. A (30) day notice is required by law. However, Mr. Morris notes, it did not prevent Fannie Mae from making other repairs such as fixing the roof, adding siding, update electric and heating system. Mr. Morris states he understands a septic system takes time when surrounded by wetlands. He states he does not think Fannie Mae is exempt from selling a property with violations. The Board has negotiated fines in the past and does the Board want to discuss this now?

(Attorney McHugh) states he has no authority for any type of offer and again, Fannie Mae is exempt.

(Mr. Laffely) inquired as to whom in town prevented the contractor from pulling permits.

(Mr. Morris) states he had no conversation with the roofer. He states the Building Inspector is involved in the permitting process and he knew what had to be done. The Inspector wanted a plan to see how all violations were being addressed.

(Mr. Richard) states that the lawyer present cannot authorize a reduced fine. The Board will need to talk to Town Counsel.

(Mr. Laffely) requests a timeline on correspondence; i.e. what should have been done and wasn't. This can be presented at the next meeting.

(Mr. Richard) motions to take this under advisement until the October 2nd meeting after Town Counsel reviews this.

(Mr. Laffely) inquired about the current owner and if he is allowed to go forward with repairs.

(Mr. Morris) states he is going forward and making a good faith effort. The Building Inspector will be doing inspections and he will have to sign off on the work done.

MOTION: Ms. Ring made a motion to continue the 52 Forest Road case to the October 2nd meeting; Mr. Laffely seconds the motion. Motion passes (3-0)

(Mr. Morris) explained how the fine was calculated and states the property is still in violation as of today. That is why the fine wet to Fannie Mae.

(Mr. Richard) inquires if anyone lived on the property when Fannie Mae owned it.

(Attorney McHugh) states the property has been vacant for a couple of years.

Health Nurse Quarterly Report to the Board

Next quarterly report due September 30th

Health Officer Report

Next quarterly report due September 30th

Correspondence

Mr. Morris discusses information on West Nile cases; stating none reported in Salisbury.

Public Comments

None

Next Meeting is scheduled for August 7, 2018.

Adjourn

Mr. Laffely motions to adjourn, Ms. Ring seconds the motion. 3 in favor, 0 opposed.

Meeting is adjourned at 7:50PM

Date:

Daniel Richard

Ron Laffely

Sue Ring

Denise Peterson

Teresa K. Mahoney 10/5/18

Teresa Mahoney

Date