

Town of Pittsford Special Meeting – Health Violations – March 20, 2024 - DRAFT

MEMBERS PRESENT: Alicia Malay, David Mills, Dan Adams, and Thomas Hooker. ABSENT: Mark Winslow. OTHERS PRESENT: David Forrest, Raymond Forrest, Chelsea Cleveland, Greg Hiltz, Kelly Forrest, Sarah Eugair, Michael Eugair, John Eugair, Jeff Biasuzzi, Brett Erickson, Richard Bowman – Health Officer, Sara Ronfeld, Ann Reed, Tom Markowski, Kelly Markowski, David Atherton – Town Manager.

The public hearing was opened at 6:00pm by Alicia Malay. This is a health violation hearing for properties located at 981 Fire Hill Road and 2783 Fire Hill Road.

Exhibit A is the health violation order for 981 Fire Hill Road. Richard Bowman explained the 981 Fire Hill Health Order Violation. This breaks state statute and town civil ordinance for junk and junk vehicles. This property has excessive garbage, the waterway has been inhabited, has non-moving vehicles, and septic issues. The septic issue is not known where residents have been using the bathroom or where the septic is located. R. Bowman explained that he tries to educate first, then threaten that fines will be coming, then do fines and do violations if nothing occurs after the educational conversations. R. Bowman is going through the proper steps to ensure that this will stick as well as making sure that he is not in violation of any Statutes. He does not want to lose any of his licensing for EMS, Fire, and Police that he currently has. Someone from the audience spoke up and asked if there were currently fines. R. Bowman stated there are not fines yet. R. Bowman stated that there had been a dumpster over there at one point for 981 Fire Hill, but it has since been taken off the property and more trash has accumulated.

D. Atherton explained there is a process in the State Statute that states that there is a mandatory hearing within 5 days of the violations being served. The Board will make a decision based on the findings at the hearing. This hearing is for the landowners, who are not here. Those that are neighbors in this room have already given their testimony at the last Selectboard Meeting. The Selectboard will issue a Finding of Facts, then it can proceed up to civil and criminal charges and fines by the Environmental Court.

J. Eugair asked if emergency health citations were issued. R. Bowman stated there have been health violations issued. J. Eugair stated that the health violations constitute a legal document for the properties to start cleaning them up. The court just needs to say they are valid, according to J. Eugair. J. Eugair wanted to make it clear that the Town can go to the Superior court and get criminal and civil charges against the violators once this five day hearing has occurred. Can fines be done? Yes, but we need to follow the steps. R. Bowman let J. Eugair know that by J. Eugair contacting the state, he is stepping on R. Bowman's authority. J. Eugair states the State has already written citations against the violators. The Town has no proof of this, as the Town has not heard from any State agency that has been contacted, with the exception of Fish and Wildlife.

R. Bowman stated that no one from the State has contacted the Town. R. Bowman has emailed photos to the State. If the State wants to go after the property owners for the wastewater issue, it would be up to the State to apply for a warrant. J. Eugair stated that abutting property owners have asked for an investigation into the septic, so the Town is obligated to look into this. The Town knows that residents have asked for follow-up on the septic. The Town needs to

follow process to make sure everything can hold up in Court. D. Atherton reiterated that we need to follow process. If process is not followed, it can fall apart in court like it did in the past. D. Atherton stated he knows that the residents have been dealing with this for a long time. The Town understands their frustrations, but we need to follow process to ensure it holds up in court. We have to follow Statutes.

D. Atherton spoke up and said he had tried contacting the State DEC today again, with no response. R. Bowman stated that this is the first time in three years this health issue has been brought to his attention. There are no files from the past. Someone from the audience asked about the dog. It was explained the dog is not part of tonight's hearing, as that is a different issue. This meeting is for the health violations only. J. Eugair again asked if these citations can go to Superior Court to get an injunction so that trash can stop being dumped on these properties. J. Eugair asked again about search warrants and investigation into wastewater issues on the properties, especially the one in the middle. He feels they are dumping effluent onto the ground, as he does not think there is a system there.

J. Eugair stated there are two citations for health orders and the citizens are asking for a search warrant for the septic from the Court. He also stated DEC is asking for a joint investigation. R. Bowman stated he has not been able to get through to anyone at the DEC to talk to him. J. Eugair stated he would give R. Bowman Patrick's cell number to try to get this resolved. R. Bowman has been contacting the state agencies. R. Bowman explained the process he has gone through and the phone calls he has made trying to get in contact with the correct departments. Due to vacations and movement of offices, things have been slow in order to contact the right agencies/people through Montpelier. R. Bowman stated he can call and leave messages every day, but until someone calls him back, it is futile.

D. Adams asked who J. Eugair is dealing with and if it is through Dave Swift's office in Rutland. J. Eugair stated, no, it is through ANR for all environmental issues. Shawn McVey was contacted and he assigned J. Eugair's complaint to Patrick Wilkes, who went to the properties Tuesday afternoon to write citations according to J. Eugair. J. Eugair is asking for the joint investigation for the middle property with the State of Vermont and the Town. D. Atherton said he would try to get ahold of Patrick again tomorrow. It is hard to work with the State when we have not heard from them yet. J. Eugair said the two investigations should be separate and DEC is doing their own investigation and their own citations.

D. Atherton stated that when the issue was brought up with the trash and the rats, it was decided to go through the health officer route, as it is faster and easier to go after that one thing. Zoning takes longer. We know there are multiple issues up there, but if we can start with one or two of the issues, then get through the others. The rats are a huge problem, which is the public health problem. That is what we are here for tonight. We will follow up with Patrick at the state and do what we need to follow up with the septic. R. Bowman said he had no problem writing the warrant, but he would like to know what the State has found and what they want on the warrant. R. Bowman also has to look at the agricultural land due to the horses and animals on the property. This is an entirely different agency within the State. R. Bowman said he has to do multiple agencies. J. Eugair said they are only asking for a search warrant for the septic. A woman spoke up and said it is not the State's issue, it is the Town's issue for the warrant.

A. Malay stated this is a quasi-judicial process. We want to make sure we are following process. Exhibit A is the health order violation for 981 Fire Hill Road. She asked R. Bowman if there is any further information he wants to give. R. Bowman said he put down for recommendation that they immediately start cleaning garbage up, get the septic inspected, and preserve the wetlands/river corridor. A. Malay verified that these papers had been served. R. Bowman stated yes, they had been served. D. Adams clarified that we are taking care of 981 Fire Hill and that the State has been contacted regarding this property. R. Bowman affirmed this information. Woman from the audience clarified there are no wetlands on that property, but there is a brook. The paperwork said it was wetlands. We do not have a river corridor in Pittsford according to D. Atherton. D. Mills clarified this is the trailer by Theresa Forrest's property. He also clarified that she had taken some garbage out at one point, but it is back worse than it was before. It was agreed that there is more trash and there are vehicles now filled with garbage on the property. D. Adams stated that the violation reads that the septic will need to be inspected. R. Bowman said that if he is given permission to contact someone that is certified to inspect it, he will have that done, but the Town would have to pay for it. D. Adams stated that wastewater and potable water permits are done by the State, not the Town, so the State would need to do the investigation. J. Eugair stated it starts with the Town. D. Atherton stated we are dealing with hearsay. Until we have an inspection done, we will not know if there is a failed system or not. T. Hooker asked if it would be in land records. D. Atherton stated one property has a permit on file, the other one does not. 981 Fire Hill does not by the looks on land records. D. Adams states there was one there at one point. That is when they put the trailer there now, they went under the existing septic.

R. Bowman stated he understands J. Eugair's frustration, but you get more information from asking instead of trying to bully them. R. Bowman stated he has a learning curve with this and he has found he has had better results by being polite instead of confrontational with the land owners. We are following the process per D. Atherton. We will take the next steps and move forward.

D. Mills asked if there are still people living at 981. R. Bowman said it depends on how you look at it. We haven't seen anyone. We do not have any idea currently. They were served at their place of employment in West Rutland. There has not been activity there recently.

A. Malay asked that they move on to Exhibit B, which is 2783 Fire Hill Road.

R. Bowman stated there is garbage all around the property, four pigs, a dead hanging coyote out front, a dead deer carcass in the back, and a peacock, which is a rescue peacock. From what he was told, the peacock was still on the premises.

D. Atherton said that the same process was followed by R. Bowman for this property. D. Adams asked if the game warden was called for this property. R. Bowman stated Game Warden Sierra was out to the property. She says there is nothing the Game Wardens can do, as there are no violations. The carcass hanging is ok. There is nothing in State Statute saying you can't hang a carcass. Wildlife has been out there multiple times, but there is nothing much they can do. There is nothing in the law on how long a carcass can hang. The dogs are a separate issue, not part of this hearing. The hounds are being transported back and forth. There were questions about the dogs, but this is not a hearing about the dogs. Contact R. Bowman if there are dog issues.

A. Malay stated there are the same orders for this property. This one is in the wetlands. There were no additional questions by the Board. A. Malay stated that the testimony given at the selectboard meeting will be used. Exhibit C is an email from a property owner. Artie Forrest sent an email. Exhibit D will be the Emily Klein email. Exhibit E will be an email from Shawn Good. R. Bowman answered questions about how to do a septic test as the Board was trying to label the exhibits.

A. Malay stated the Finding of Facts will be sent to adjoining landowners.

Meeting was recessed for deliberation.

Respectfully Submitted,

Ann Reed

Alicia Malay, Chair

David Mills, Vice Chair

Thomas Hooker, Selectman

Dan Adams, Selectman

ABSENT

Mark Winslow, Selectman