

# MINUTES OF TOWN OF BERKLEY SELECTMEN'S MEETING OF 2/06/2019

SELECTMEN IN ATTENDANCE: George F. Miller, Chairman Heather Martin-Sterling, Clerk Wendy F. Cochrane, Member

TOPIC		ACTION
	Meeting Convened at 6:00 pm at Town Hall Hearing Room, 1 North Main St.	
Soil Board	<p><u>Hearing regarding Third Written Warning of Noncompliance on Soil Conservation Permit #2018-1 for 180R Bayview Ave., Berkley, MA 02779</u></p> <p>Pontes was sworn in by Miller. Michael Vaz was sworn in by Miller. Atty. Vaz was sworn in by Miller. Pontes provided documentation stating that he only removed soil in November. Letter stated that nothing removed for the months of Aug., Sept., Oct., Dec., and Jan. Atty. Vaz presented photos to the Board taken over the preceding Monday through Wed. as well as in November. Miller asked if there was anything in the photos that indicate that Pontes is in violation. Atty. Vaz stated it appears that he is digging everywhere in the property rather than just where the septic was stated to go. Miller asked if he was digging just where the septic and the leaching field are to go or are you digging everywhere on the property. Pontes stated he is installing a d-box, leaching filed, and tank. Miller is it your testimony that you are doing grading to install the system. Pontes stated yes. Miller asked if they have the BOH take a look at the property would that be their opinion as well. Pontes stated yes he is going by the site plans. Atty. Vaz noted that the permit includes the soil that was already removed and we know that hundreds of trucks of soil has been removed and he would like to know how much is left, otherwise it's an illegal business he is running. Pontes stated Monday February 4, 2019 about 11 more trucks were removed and brought to the same place over on Green Street. Pontes asked what all of this is for, if it's for comparison to the surveyor estimate? Miller stated they are gathering information pursuant to the permit. Miller stated that Pontes knows how much he has taken out so far, Pontes replied yes he knows that. Miller asked so then how much more do you have to go? Pontes replied he doesn't know. Atty. Vaz noted that Mr. Pontes does this for a living and it's what he has done for years and years that he is clearly lying when he says that he has no idea. Cochrane asked Pontes that he is keeping such good records this time how much more do you need. Pontes stated he didn't know. There were an additional 234 yards taken Atty. Vaz says. Miller asked Pontes if he is in the business of installing systems. Pontes replied yes he was for 30 years. Miller questioned how do you not know how much has to be removed? Pontes stated it doesn't work that way. Miller asked how much sand has to go in? Pontes stated he didn't know. Miller asked how much has to be removed from the leaching field. Pontes stated he does not know. Miller asked if Pontes is removing any material from the leaching field. Pontes stated that the material removed for the leaching field was stock piled on site. Miller noted that the leaching field was completed in 2004. Pontes it is in yes the leaching field is in. Miller asked when was the last time he removed material from the leaching field? Pontes stated it was in 2004 and it has stone and infiltrates. Pontes went over the plans. Miller asked what else has to be done why it is taking so much longer than everyone else. Pontes stated the site needs to be graded. Miller do you believe you will have to remove more than the 9000 give or take yards. Pontes replied he does not know, it might be, it might not be. Cochrane noted Pontes was already stopped for removing too much by a court. Sterling asked Pontes, "So, you have no idea how many truck loads you had removed before?" Pontes stated no. Sterling noted that he must have brought it to someone and they must have records of that. Pontes replied he would assume so.</p>	<p>Motion to open hearing continuation regarding noncompliance for permit #2018-1 made by Cochrane, Sterling sec. – Voted</p>



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Sterling asked if he could ask them for that information. Pontes replied no. Pontes stated he believes he only sold it to Lopes back then. Miller wanted to get an opinion to see if he is in fact doing what he was permitted to do. Miller noted that Pontes is moving soil from several parts of the property to grade it properly. Atty. Vaz noted there are no boundary markers like the permit conditions require and that would be necessary and that there are no permanent markers on the property both of which are mandatory. Miller asked Pontes if they were there. Pontes stated that they are there. Miller asked who made the determination of the boundaries. Pontes stated it was done when he bought the property. Miller asked if they were clear if they went to go look for them would they see them. Pontes replied yes. Miller asked when they were done. Pontes they were done in 2000. Miller noted that if he originally used the septic as measurements and it was moved along with the well did he move them. Pontes then stated the markers are not there. Miller then stated Pontes it is his testimony that the boundary and markers are not there and have not been maintained throughout the life of the permit? Pontes yes. Atty. Vaz the conditions stated a stop sign needed to be posted and danger drop off signs and none of them are on the property. Miller asked Pontes are there stop signs on all exits of the site? Pontes replied yes. Miller is there a no trespass sign? Pontes, yes. Miler is there a steep drop off sign? Pontes there are no signs and no steep drop offs. Atty. Vaz provided more photos to the Board. Pontes stated that there is no drop off just a slope up. Pontes stated it is not a drop off. Atty. Miller asked if the gate was locked. Pontes no it is just chained. Sterling then read aloud the condition that states the site needs to be locked to prevent unauthorized people. Miller asked Pontes if he had anything to add. Pontes replied no it was up to the Board on what they wanted to do. Miller noted that the following conditions were not being met: Boundary lines marked, 2 permanent benchmarks, locked gates, trees & shrubs to prohibit entrance to the property. Miller noted that per the conditions the Town could hire an engineer to go out and determine what has been removed or if more than necessary has been removed and then charge him for that. Sterling asked Pontes "If you can't state how much he has removed or how much you will be removing then how do you know that you have not removed too much?" Pontes replied he goes by elevation and what she is asking is unreasonable. Miller stated he would entertain a motion to suspend the permit since he stated under oath that he was not satisfying the conditions. Miller would like Pontes to read the conditions again to be sure he is compliance. Especially conditions #7 and #14.

Motion to suspend permit #2018-1 for the property located 180R Bayview Ave. and a letter sent form the Board made by Cochrane, Sterling sec. – Voted

Motion to continue hearing regarding Permit #2018-1 to February 20, 2019 at 6:00pm made by Cochrane, Sterling sec. – Voted

Minutes

- Minutes for January 23, 2019 – Regular Session

Motion to approve made by Cochrane, Sterling sec. – Voted

Personnel Board

Board interviewed candidates for the COA Director position.

A) Susan Correira – Miller explained that they tend to refer to the Dept. when hiring. Miller asked about her Senior Fellowship position and why it came to an end. She replied that the location was no longer safe where they were. Miller asked about her grant writing experience. She stated she started



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<p>Personnel Board Cont.</p>	<p>about 20 years ago. Miller asked if she had any questions. Correira stated the only thing she would like to know is what their dreams and hopes were.</p> <p>B) Twaun Doyle – Miller introduced himself and reviewed Doyle's resume. Miller asked what lead him to the position in Berkley. Doyle replied it was on Indeed and he had past experience. Miller asked if he planned to be in the position for the long haul. Doyle replied yes. Miller asked if he had written grants. Doyle stated yes he has. Miller asked about the commute as Doyle comes from Providence. Doyle stated it was not far at all. Blake stated she had spoken to his previous employer and they stated he never missed a day. Miller this is just to meet potential candidates they usually defer to the Dept. when making a choice.</p>	<p>Motion to hire Twaun Doyle as the COA Director made by Cochrane, Sterling sec. – Voted</p>
<p>Meeting Mail</p>	<ul style="list-style-type: none"> <li>- Email from Planning Board regarding Ferry Lane road construction.</li> <li>- Email from the US Census Bureau regarding conducting the Boundary and Annexation Survey</li> <li>- Email from Trish Silvia notifying the Board that Rep. Orrall will be in attendance at the School Committee meeting on February 11, 2019 to discuss Public Education Funding Formula</li> </ul>	<p>Motion to file made by Cochrane, Sterling sec. – Voted</p> <p>Motion to file made by Cochrane, Sterling sec. – Voted</p> <p>Motion to file made by Cochrane, Sterling sec. – Voted</p>
<p>New Business</p>	<ul style="list-style-type: none"> <li>- Disclosure by Conservation Commission Non-Elected Municipal Employee of Financial Interest and Determination by Appointing Authority. Miller asked for a summary. Mr. Coutinho stated that one of the members of the Board has been involved in the project so he could not sit. Another member is not working on the project but has worked with the contractor in the past and disclosed such. It is up to the Board to accept this. Council has reviewed it. Donna Leary from the Planning Board stated that they are constructing a road without a plan and they would like a plan but they are resisting giving them a plan. Megan Connolly an abutter stated that they have removed substantial amounts of earth and have it piled in the road. She stated that they are removing what looks like more than just a foundation and taking gravel as well. Leary is hoping to come to a resolution at the meeting scheduled for the following night since they have already completed a lot of work already. Mr. Coutinho asked about a storm water plan.</li> <li>- Board reviewed a new business certificate for Burke Insurance Agency.</li> </ul>	<p>Motion to approve the disclosure made by Cochrane, Sterling sec. – Voted</p> <p>Motion to file made by Cochrane, Sterling sec. – Voted</p>



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- Board approved a 1 day liquor license to Bay State Beagle Club
- Dedication Ceremony naming the Town Hall Hearing Room to the Moitoza – Pettey Hearing Room. Miller read the accomplishments by both George Moitoza & Mark Pettey. Miller presented plaques.

Motion to approve  
made by Cochrane,  
Sterling sec. –  
Voted

Motion to adjourn  
made by Cochrane,  
Sterling sec. –  
Voted

Meeting Adjourn

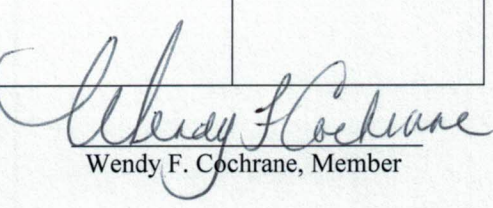
Next Regular Meeting February 20, 2019



George F. Miller, Chairman



Heather Martin-Sterling, Clerk



Wendy F. Cochrane, Member

Alan G. Coutinho, Town Administrator