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Subject:

Attachments: Ellen Draft July 17 25.docx

Manchester Board of Health

Draft Meeting Minutes

Thursday, July 17 2025

Members present:

Peter Colarusso, Joan Cottler, Dr. Martin Hahn, Leah Peavey, Donna Furse

Members absent:

None

Also present:

Michael Gates, Timothy Gates, Roofer, Attorney Marshall Handly, Board of Health Intern Haven , Select person Ann Harrison, Katarina Gates

2 Desmond Avenue, Manchester, Determination for Fitness for Human Habitation

Mr. Colarusso called the meeting to order at 8:31 a.m.

Ms. Hansbury reviewed the hearing process. Dr. Hahn made a motion to open the public hearing to determine fitness for human habitation and possible order to vacate and secure dwelling. Ms. Cottler seconded the motion. Members, by roll call vote were unanimous to approve the motion. Ms. Hansbury noted that this hearing is done with empathy and kindness, is hard on all involved and not taken lightly. While pointing out that the Board needs to consider the safety of residents and the public. Ms. Hansbury has received information(he calls contracts) from Michael Gates, has contacted Maggie from KP Law. She noted Mr. Gates has ADA issues and requested meeting participants speak clearly and one person at a time.

Marshall Handley introduced himself as the attorney for the Gates Family. He said they are not contesting the factual basis for the housing order or the finding that it is not fit for human habitation. He informed the Board that with the outstanding building permits and contracts the property is insured.

Please do not look to secure the property. He said the owners will not inhabit the property but need accessibility for Timothy Gates and Michael Gates to remove personal items and for the licensed contractors to renovate. Dr. Hahn asked Attorney Handley if the home is currently occupied and what the holdup is on allowing Board of Health inspection. The attorney replied that the house is not occupied, the water is off, the roof needs repair, there is interior damage and work to remove personalty is ongoing. He said the Board of Health could be present at such time as the house is cleaned out and ready for work, suggesting the Board be present at the time of request for habitability. He referred to a review by the Building Inspector for the roof renovation. Ms. Hansbury wanted to clarify the difference between the work of the Building Inspector and the Board of Health (that they do not cross) work under the State Sanitary Code. The attorney understood the clarification but repeated that when the house is in condition or appropriate, they will then allow access.

He was reminded that the inspection process now is in keeping with the judge's original order. KP Law Attorney Maggie felt it was confusing to do work first and then request an inspection as the Board of Health could identify other issues or violations and they should want to do that work at that time. Not having the Board of Health evaluation at that time would be a concern. Attorney Handley referencing comparison to a gut renovation said the scope of work is severe and is driven by the building code. He questioned the use of the Boards time checking on small items under the sanitary code. He felt the

sanitary issues were primary to the sanitary code. Mr. Colarusso asked if the Board of Health could go in for inspection when the plumber goes in. Attorney Handley repeated his comments that the Board of Health inspection at that time was not a good use of time. Ms. Cottler asked why Ms. Hansbury can't do her inspection to determine if there are other issues. And that determining that condemnation is not needed at this time would be the result of Ms. Hansbury's inspection. Dr. Hahn noted the difference between the roofer and plumber contracts and the scope of work to which Attorney Handley referred.

Attorney Handley said there would be additional building permits and contracts and that there may also be an additional proposal by the owners that would best be addressed at this time. Dr. Hahn expressed his support for an inspection now as it would be no harm. The attorney repeated that the scope of the work meant he did not recognize the immediate benefit. Mr. Colarusso asked if the one-story addition to the back of the house (shed dormer) which has had ladders across the top is a mess. The roofer said the back part has nothing on it (Brook Street side) and that he is working on the Desmond Avenue side of the roof. Ms. Hansbury asked about the different agreed-upon estimates, noting that the general permits are for roof and removal of porch, but not for the extensive work being explained. She questioned why only the front portion of roof was being replaced and not the Brook Street side. She had concerns about the piecemeal manner and mild scope of work brought to the Town when there may be larger issues including heating, plumbing and hot water. There was a question about structural damage inside the roof. Board of Health inspection after the building inspector. Ms. Hansbury was concerned about allowing access to the site. Mr. Handley said that access is necessary for contractors to

Mr. Colarusso said a condemned building could not be accessed. Attorney Handly said proceeding as a rehab

Mr. Colarusso asked how to be sure it is not lived in. Attorney Handly said he would have to rely on Gates and their son to be sure of the same. And if anything, other than rehab were to happen it would be appropriate for the

Board to condemn. Ms. Cottler asked if the attorney had been in the house, he replied while invited he had declined to go into the house. He recognized the Boards authority over it. The contractor had been in the house and said the inside while having some water inside is not completely wrecked and not as bad or as much damage as it would seem after looking at the roof. He said the back of the roof was where the Gates wanted to do an addition.

Mr. Colarusso asked **Attny KPLaw** if they could give a two-week time frame to allow work. Ms. Hansbury asked if a potential order to vacate and secure is separate from condemnation. She said the two typically go hand in hand and did not think the board could order house secured if not condemned. Ms. Cottler asked Ms. Hansbury about honoring the owner's request. Ms. Hanbury said she received information about their other property that was concerning. She asked the Water Department if they had

Mrs. Gates had paid the new meter fee for all of the properties. It was reported by the department that there is very little, or no water use at 31 School Street since February of this year which was concerning as the Gates had reported that they would be living at 31 School Street – so three pe

She has a lot of experience in housing, does not like condemnation and prefers property in the owner's hands. While there was no movement prior to July 1st, there is now contractors and legal representation showing

As a licensed Registered Sanitarian, she is concerned about the lack of water use at 31 School Street. Mr. Colarusso said that it is a separate issue and asked that the focus stay on 2 Desmond Ave. Dr. Hahn noted the connection between 2 Desmond and the School Street property where they are supposed to be living. Attorney Handly repeated his request not to condemn the property. Attorney Handley noted that condemned properties do get rehabbed, that 31 School Street (while considering water usage as the Gates are supposed to be living there) must be a separate issue.

Ms. Cottler suggesting not condemning the property asked how then the Board deals with the lack of water use at 31 School Street. Related to no water use at 31 School Street, Ms. Hansbury explained how that would be reviewed as a separate matter. Attny Handly reminded that there is no law that a specific volume of water be used over a period of time. While a lack of water could have a benign explanation which does not violate law. There was discussion about showering at the club and purchasing drinking water. All agreed it was an adjacent but separate issue. There was concern as the Board was told today and prior they were living at 31 School Street. While no minimum amount is required to be used, there was actually no water use justifying asking. Ms. Cottler asked how the Board moves forward. The roofing contractor said he was hoping to be done with the front half tomorrow. The Brook Street and School Street side the roofer said was secure.

Dr. Hahn made a motion that the Board of Health find the dwelling at 2 Demond Ave is not fit for human habitation

The motion is also that the dwelling at 2 Desmond Avenue is vacated as it is not fit for human habitation. Michael Gates will control access to 2 Desmond Avenue with

Board of Health be allowed access to inspect the building within one month.

Mr. Colarusso amended the motion to read inspect

Owners need to secure the property to prevent inadvertent access (aside from removing property or contractor access). No habitation allowed.

Comments:

Mr. Michael Gates has a comment on the full scope of work. Having been unable to get hold of the building inspector, he asks how to treat the back room (shed area behind kitchen) as they are proposing tearing it down in future to rebuild as it would be a grandfathered use.

All agreed that the update is set at every two weeks.

Ms. Hansbury clarified that she will go in within a month. Members said updates every two weeks and inspection within a month or as soon as possible.

Regarding electrical covers Ms. Hansbury said

There was concession on what is needed for rehabilitation of the building. When asked timeframe for same, Attorney Handley said it depended on the Building Inspectors response to Mr. Michael Gates question but may take more than two months and include finding contractors and developing a set of construction plans. He explained that is why he suggested to the Gates that they look at the existing roof in its entirety and not wait for the completion of the rest of it as it was not in everyone's interest. Ms. Hanbury asked Maggie KPLaw if it was alright for Board to wait until rehabilitation is underway and permits issued, specifically what implications does that have on the Boards order and Court Order. She replied that the court order is between judge and Gates, with no liability for Town on that end. Also that is within Board discretion to seek to enforce the court order (through receivership or other court proceedings) but not required. And within the Board prevue to seek compliance with sanitary code but not obligated to seek any action. Wait and see approach is but the Board maintains the ability to seek out enforcement at a later date.

Mr. Colarusso asks Mr. Gates to update Ms. Hansbury on July 31st. Mr. Michael Gates agreed to provide a biweekly update of activity. Ms. Hanbury said visible progress is needed.

Members by roll call vote were unanimous to approve the amended motion.

Mr. Colarusso, in favor

Ms. Cottler, in favor

Dr. Hahn, in favor

Ms. Furse, in favor

Attorney Handly requested a copy of the meeting recording from the staff.

Michael Gates reviewed what was requested on his two-week updates as he is being told to record activity.

Katarina Gates asked to speak regarding photos she took of the house today. Her attorney asked that instead she provide him with the photos.

Team Leader Discussion

Ms. Hansbury requested the Board if not removed from the Team Leader position that the Board describe what their issues are with the job description and Board of Health authority. Ms. Cottler said if everyone agreed that the Board was removed from the cluster there is no need to discuss further.

Mr. Colarusso wanted to speak to the Boards experience with past Town Administrator. Mr. Tony Barletta agreed he was here to discuss removing the Board of Health from the cluster. He noted the position was created prior to him and as part of the organizational audit and went through Select Board, Finance committee and Town Meeting for funding. As he is new, he is hesitant to just say yes and wants to hear what the issues and concerns are. He is not eager to say yes after two weeks of work but wants to hear the pain points. Speaking only for himself, Mr. Colarusso said there was very little need to interact with the Town Administrator except to ask for Town Attorney, there has

been no interaction with the Parks and Rec and won't be in future. Also, there is very little interaction with the Council on Aging. Flu Clinic work and set up are all set. Mr. Colarusso wanted the Board of Health to have Mr. Barletta available firsthand rather than have someone else go to Mr. Barletta on the Boards behalf, adding a layer of bureaucracy and requiring education of all. He noted it was presented as it was required by the Board of Selectmen with no changes under the prior TA control. Mr. Colarusso pointed out that it was presented to Mr. Federspiel that the arrangement did not comply with the MOU or Chapter 111. He asked Mr. Federspiel several times for information with no response. He felt the lack of communication regarding posting and action was hypocritical. He pointed out there are few people in Town Hall who need to report to the TA. Mr. Colarusso said there was a suggestion by Select Board to increase the Board of Health professional services budget, which is almost nothing and if so as an example there would be funding for outside experience and funds for boarding up a condemned property. Mr. Colarusso suggested moving hazardous waste into the professional services budget. Ms. Hansbury said HHW is already a separate line item given its annual contract. She said professional services budget deserves to be reviewed and increased to provide additional resources. Ms. Cottler said the long process of coming to this point, including having passed at the Select Board, she did not believe the Select Board has the respect and appreciation of Wendy. She pointed out that during the Gates review no Select person asked Ms. Hansbury for her opinion. She felt the Board of Health had spent hours addressing the housing issue and that the Select Board did not have the appropriate regard for Wendy or the Board of Health. She felt Mr. Barletta would benefit from Ms. Hansbury's knowledge. She did not think it favorable to have someone between Ms. Hansbury and Mr. Barletta. She did not feel Ms. Hansbury should be reporting to someone without the ability or capacity to understand the amazing amount of Board of Health material. Dr. Hahn seconded Ms. Cottler's comments, adding that he has been taken aback by Select persons comments towards the Board of Health. Also, adding an extra layer of authority to improve communication does not benefit and direct

communication is better. The extra person will not be able to communicate those things efficiently and quickly to the Town Administrator. Dr. Hahn pointed out that the Town Administrator and Select Board did not inform the Board of Health in a timely manner of the initiatives as required by point 6 of the MOU. And the job description contains things that conflict with the Board of Health autonomy and independence under State statutes. If the new position is staffed and supervising the Board of Health or involved in the operations of the Board. He added that it feels like there is movement to control the Board more than the board should be controlled. As reflected by Select board statements about Board of Health overreach in the past he sees this position as a way to reign the Board of Health in and have more control over them. He objected to and is outraged at that strategizing and level of behavior. While noting he could not substantiate it he felt it coincides with select board statements and he is outraged at that level of behavior.

Ms. Furse, noting she is new said she went straight to the job description and notes the persons role is to provide: 1. "Overall communication and strategic direction to BOH" where she feels there should be none and 2.) "Guiding efforts related to grant applications and policy development" which she feels is contradictory to the Board of Health role and what the State requires of Board of Health.

In reading the record Ms. Furse noted the Board of Health had nothing to do with the two-page job description or roles and responsibilities of the position.

She is concerned that the Board was not involved in the job description and process – that no one discussed it with the Board. She feels that communication can improve between departments but that is different than combining three departments or having someone overseeing three departments. As a professional board which is supposed to act independently, she is concerned that the Board of Health was not brought in to discuss. Also, that the job was posted, someone was hired, and the Board of Health was not notified and that is a communication problem. She was

irritated to hear from the Select Board members they were not informed of all issues as she believed that everything does not need to go before the Board.

She does not believe the Select Board anger should be brought on the Board of Health. She did not like the conversation at the last meeting and the pitting of Boards against each other. Putting the Board on this person or this role is unnecessary is not needed and better communication could be achieved with Ann Harrison and Mr. Barletta.

Mr. Colarusso said he does not see why the Board of Health is involved. He reported that the Board of Health had gone to the TA several times back to October of 2024 for approval for legal services. Ms. Cottler said there are meeting notes available, that the Select Board liaison was only at a few Board of Health meetings and Select board members were not involved. She felt the liaison should have been reporting what was going on to the rest of the Select Board. Ms. Furse said she appreciated Kathy Bilotta and suggested improved communication with Ann Harrison and new Town Administrator Tony Barletta. She said communication is quite different from the two-page job description. Mr. Colarusso said the Board of Health activity is overseen by or directed by the State and as such is not random. He said he had sent the job description, the MOU and all to the compliance attorney at DEP, to the compliance attorney at DEP and the Attorney General's Office and they all agreed that it stands as illegal and in violation of several issues. He said he told Mr. Federspiel that months ago and Mr. Federspiel just ignored him.

Ms. Cottler asked Mr. Bartlett if there was anything stopping him from putting a hold on the acting on the position for six months. Mr. Barletta said he had spoken to Cheryl Marshall regarding a pause in the start of the new situation because of this discussion today and the retirement of COA Director Nancy Hammond. He said he was more on a 2–4-month area, not putting it on the shelf until fall but working towards something. Mr Barletta said he did not disagree with Board of Health opinions and was not able to form opinion. The communications issues are between the Board of Health and Select Board. He does not think the position was created because of those issues. Addressing Dr. Hahn, he acknowledged timing but said in conversations with Mr. Federspiel he did not get the impression that was the intent –

He can see how the job description language would trigger that impression. He talked to legal and to the HR Director. He said legal does not agree as it was not

intended to interfere with your process. Mr. Colarusso said intention is irrelevant. Mr. Barletta said there is opportunity to amend the job description

Not to interfere with the Board but rather to encourage communication and collaboration with those below the Board – Wendy with Council on Aging and Parks and Recreation. That the Town wanted to develop that between the three departments with communication and collaboration.

Ms. Hanbury said as Department Head the prior Town Administrator never expressed that to her as a department head. In once monthly meetings there was no effort to create collaborations between the three departments. She never had a request to communicate with those two departments.

Mr. Barletta said while she may be right, that shows the point that the organizational audit showed Mr. Federspiel did not have time to do that. Mr. Barletta complained that he was twice told he was ridiculous. Ms. Hansbury apologized saying she called that ridiculous not him ridiculous. She apologized for her frustration with the lack of communication from the Town Administrator's office from the beginning of her hiring. And that all department heads should have the opportunity to communicate without another layer of bureaucracy. The three departments could have been made to meet to come up with something but were not given a chance. Ms. Furse said Ms. Barletta had said she did vote to

Ms. Harrison said budgets are set by the Town Meeting, someone cannot be added mid-year, so a new position had to be approved by the Town Meeting. Ms. Cottler clarified that the three departments would be together is ridiculous to her. Mr. Colarusso asked Mr. Barletta what Parks and Rec would ask the Board of Health to help them. He referred to sound testing at the pickleball courts as a rare example. He asked what the Board of Health could do for Parks and Recreation. Dr. Hahn said not everything in the audit is necessary and that not all suggestions in the audit will be helpful. Mr. Barletta agreed that everything in audit does not have to be done but they could see what this could do. Also, the tension between Select Board and Board of Health is not the reason for the new position.

He is reluctant not to try this, as a lot is rooted in other things. He and Wendy have to communicate better to each other and the Boards. Ms. Harrison left the meeting at this point. Mr. Barletta gets the impression that the Board of Health is not just acting on State items but on other things they can do for benefit of public health including initiatives that are not enforcement, including tobacco which has

a policy benefit. Mr. Colarusso said the State did a spot inspection and found that the Board of Health regulations did not allow for proper enforcement. As such they suggested correction of regulations and sent the Board a recommendation on the regulations. As long as there was a regulation update, they would add the generational ban at the same time. Dr. Hahn said that it was after multiple discussions and representation from both sides that several communities had passed and upheld the generational ban. He noted the Select Board made comment in the Boston Herald that the Board had gone above.

Mr. Barletta said the Rec department has seasonal employees with programs for youth. He sees that the new job team leader could discuss a roll out of a new policy and discuss how the Recreation Department could help roll it out and communicate with the youth. Dr. Hahn, while noting there are interfaces that are possible, adding a layer of bureaucracy is not required but rather improved communication. Mr. Colarusso agreed with Mr. Barletta while noting that it is one and done. And that melding of the two is not justified. Ms. Cottler said when the Board got a Health Agent there was notice that the Board had old regulations that needed updating, including 30-year-old well regulations. She said the select board was negative on the well regulations being brought up to date. IF the Human Resources person has not changed that is a problem because that person told the previous chair that interviewing for the Health Director had to be in executive session and the other three Board members could not know about or participate in those meetings. She cautioned on checking the job description and pointed out that the Town has no standard orientation. Mr. Barletta said he will address onboarding and orientation.

Ms. Furse asked if there were any towns that had something like this, the three departments combined. Ms. Hansbury said her research showed Hamilton had Board of Health and COA as one department with COA over the Board of Health. In a few Towns and cities there are large departments like Inspections or Land Use with Board of Health Director or Land Use Director in charge. She has not found a Board of Health in with Parks and Recreation with Council on Aging. Most of the Boards of Health are in charge including with inspections Most common is the Health Director as

Ms. Furse said Board of Health and DPW made more sense to her as there is cross-over with water, PFAS, etc. She is trying to understand how it was put together and does not see it. Mr. Colarusso discussed the updating of the Animal Regulation and its updating, involving the State and information from the University of New Hampshire to allow additional animals on a local farm.

Mr. Barletta said only Wendy will be impacted by the combining, not the Board itself.

Ms. Furse said the position was created without Board of Health involvement even with the Board of Health employee being affected. Ms. Cottler said that others thinking they know how to do your job better than you do. She is concerned about that happening to the Health Director as the team leader may think they know better. She repeated that while some may not like Ms. Hansbury's delivery, she is not shown the respect of someone dealing with the health of the Town.

Ms. Hansbury said the MOU was not adhered to in the creation of the new position. She pointed out that she has a job description that says she reports to the Board and both the nurse and administrative assistant both report to the Board. There was discussion about whether job descriptions needed to change due to the new roles. Mr. Colarusso liked the ideas of a stay in the action. Ms. Hansbury asked for transparency in the matter going forward.

Mr. Barletta identified an action item to point out language that causes concern regarding impact on the Board. He asked who could identify those items and was informed Dr. Hahn had already done that review. Mr. Barletta asked to have a copy of Dr. Hahn's comments. He asked members to try and see what everyone could come up with. He said he was not afraid of multiple offices reporting but wanted to see if everyone could come up with something – including future Nancy or Eva, Cheryl, and Wendy. That would start with removing the language the Board is concerned about.

Mr. Colarusso reviewed process with regional grants. He said the office is overworked and needs more help. He did not see the benefit of the new position to the Board.

Minutes

Hold on Select Board draft minutes, vote only on Board of Health minutes

June 26, 2025

Mr. Colarusso asked if there were any changes, there were none.

Ms. Cottler made a motion to approve the minutes of June 26, 2025.

Ms. Furse seconded the motion. Members, by roll call vote were unanimous to approve the motion:

Mr. Colarusso, in favor

Ms. Cottler, in favor

Dr. Hahn, in favor

Ms. Furse, in favor

Ms. Cottler made a motion to adjourn the meeting at 10:28 a.m.

Ms. Hansbury introduced DPH intern Haven O'Sullivan to the e Board. Haven is working on communications and the well database.

Ms. Furse seconded the motion to adjourn the meeting. Members, by roll call vote were unanimous to approve the motion:

Mr. Colarusso, in favor

Ms. Cottler, in favor

Dr. Hahn, in favor

Ms. Furse, in favor

As submitted,

Ellen Lufkin

Administrative Assistant

