

TOWN OF AYER BOARD OF HEALTH

Meeting Minutes of July 13, 2015



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Meeting called to order at 5:30 pm

Members present included: *Chair* Heather Hasz, *Clerk* Mary Spinner, *Member* Pamela Papineau, *NABOH Agent* Bridgette Braley, and *Administrative Assistant* Jane Morriss

VITASOY USA DISCUSSION ON ODOR ISSUE: Approximately 35 Neighbors living in the northeast sector of town near the VitaSoy USA plant on New England Way crowded into the Selectmen's chambers telling of the return of strong odors emanating from the plant, demanding the BOH do everything in its power to put an end to a situation that has plagued them since the plant opened in 2006.

Selectman Chris Hillman, who lives on Wagon Road, was among the neighbors who told the Board their quality of life has long been compromised by odors that were described as smelling like sulfur and fouled sewerage.

VitaSoy-USA interests were represented by seven officials including VitaSoy Production Manager (and main spokesperson) Niel Middleton, Maintenance Manager Adam Hebert, Engineer and Manager Jonathan Verhyen, Projects Manager Elvin Moquete, and HR Director Annemarie Abdo; Biowater Technologies President Laura R. Marcolini; and Bruce Trumbal from Small Waste Water System Services (SWSS).

VitaSoy USA last came before the BOH at a Public Hearing held on September 8, 2014 seeking a special permit (under the Ayer BOH Aquifer Protection District Health Regulation) for an upgrade to its waste water treatment system. This upgrade promised to elevate the odor issue. VitaSoy USA brought its upgrade on-line in March, which seemed to elevate the odor problem for a time.

Neighbors began noticing a return of the odors in early June and investigations by B Braley and Chair H. Hasz confirmed reports by residents: the odors had not only returned, but were worse than they were before.

Chair H. Hasz expressed widely-felt frustration with the return of an odor problem, saying the neighbors fear being trapped by the odors.

VitaSoy USA spokesmen Niel Middleton said the wastewater plan submitted last fall was supposed to fix the problem, but that when 2500 gallons of soy milk got dumped down the drain, it increased the carbon oxygen demand (COD) on the system which resulted in the stench and revealed weaknesses in their system.

In the aftermath of this most recent incident N. Middleton said Vitasoy has introduced many procedural changes—which he admitted should have done before—with daily guidance from Biowater Technologies and SWSS (Small Water System Services). Changes include eliminating sulfur from all of its processes (except from the soybeans themselves where it is a naturally-occurring substance). This change was completed by June 29th and 30th. Previously, sulfur was used in their cleaning and sanitation cycles.

Currently, VitaSoy has two bio-reactors on-site. Previously they were sending the flow to one tower at a time. Now the flow is split between the towers to better maintain the equilibrium of the system.

To measure the odors coming from the bioreactors, they have replaced and recalibrated their H₂S (hydrogen sulfide) sensors, and have connected them to an alarm system. Bioreactors were described as large silo-like tanks that are filled with media that clean up the organic waste products in the waste water before it gets discharged. If the organisms get swamped with more food than they can handle, then there are [odor] problems. The system works best when there is a consistent flow.

Following the latest incident, VitaSoy replaced its large chemical pumps (and now have “redundant” back-up pumps at the ready should one again fail). In addition, more stringent production policies, process control and systems to mitigate damage in the event of a breach have been introduced. Dumping soy milk down the drain is now prohibited as a standard operating procedure. “We will haul [the milk] off-site if need be,” said N. Middleton. He also said everything now comes through him, and he is the man in charge of the operations and with J. Verhyen the process “every hour.”

B. Braley said she has been taking complaints about odors since 2006, and that she had logged 158 complaints before this most recent incident. However, she said there have been no complaints since last Tuesday (July 7th). However, she said in the future, when there is a problem, she would appreciate hearing from VitaSoy first, before she begins hearing from the neighbors.

Chair H. Hasz said when the BOH approved the upgrade to the system no one on the Board thought six months later they wouldn't be sitting here with a roomful of neighbors. She challenged VitaSoy to be a better neighbor, and suggested it institute better outreach. "We are getting the calls. I am going out there at 9 at night confirming odors. Half of the problem is not knowing what is going on over there and why it's not being fixed." She called on VitaSoy to be more proactive beginning with putting together some kind of an action plan to facilitate communication with the neighbors—and with the BOH and the Town.

Chair H. Hasz said the Board wants to want to know when there is an issue: but even more, it wants to know the issue is fixed!

Board Member P. Papineau suggested the BOH might make a portion of its website available so people would have one place where they could see what was going on, to which H. Hasz added that she would like to see a leveraging of the power of the Social Media.

VitaSoy's neighbors were not mollified by the explanations put forth by its spokesmen. Don Osmer, who lives at 1 Mulberry Circle, echoed the sentiment of many of his neighbors when he asked, "When is this going to stop? And the next time this happens, what excuse do I get then? I keep hearing that you're working on it. It's obvious. You don't have an answer."

N. Middleton said several times throughout the meeting that he is the person in charge of the processes and everything now goes through him, inviting people in the room to call him on his cell phone if need be. He also assured the meeting that all levels of management were aware of the issues it was having in Ayer. (VitaSoy's corporate headquarters are in Hong Kong, China).

Charging VitaSoy with not keeping its promises, Clerk M. Spinner read from the minutes from the September 8, 2014, public hearing recalling assurances the company gave at that hearing that it would respond in a timely manner to complaints about odor, noise, leakage, as well as any other issues that might arise; and an emphatic reassurance there would be two people present, per shift, to respond to calls and complaints. "It seems that every time there is a problem, someone else is in charge," she said.

Allan Peterson, of 4 Mulberry Circle, wanted to know what the community could do about the issue and inquired about remedies in the form of civil penalties and fines.

B. Braley said the Massachusetts Department of Environmental Protection (Mass DEP) has been levying fines based on verification of the odors. The BOH, through the Board of Selectmen, could also initiate legal action involving town counsel and the courts. The neighbors were urged to contact State Representatives Sheila Herrington and Jennifer Benson and State Senator Jamie Eldridge as well as the town selectmen and the BOH with their complaints.

Selectman Hillman observed that there have been summers when the smell has been unbearable and the neighbors couldn't go outside. "I get that you understand that—but does corporate get that? You need Ayer more than Ayer needs you. We are taking this seriously. You can't continue to say you're doing this and doing that when you haven't done anything for years. If this were a random thing that happened people would understand. But this has been going on for 9-10 years with no response whatsoever." He called VitaSoy's failure to be proactive "insulting." He said he would like to see someone from Corporate attend a Selectmen's meeting because the situation was "unacceptable." He also asked VitaSoy to provide the town with documentation of its new operating procedures.

Clerk M. Spinner recalled VitaSoy made a promise at Town Meeting years ago to help the town with the cost of upgrading the Stoney Brook Pumping Station "to the tune of \$138,000." To date the town has not received any funding. At the last Town Meeting the town voted to spend \$650,000 on the project. "This is a huge cost [for Ayer] and yours is a huge company," she said.

Speaking to this subject, Chris Hillman said the DPW Director has been trying to get in contact with the company to discuss this contribution.

N. Middleton said VitaSoy met with DPW Superintendent Mark Wetzel last week, and they will be taking it up with Corporate this week when VitaSoy's Senior Group Operations Director Frank Si from VitaSoy headquarters in Hong Kong arrives tomorrow (Tuesday, July 14).

Upon hearing Mr. Si would be in town the next day, Selectman Hillman invited VitaSoy officials to bring F. Si to the BOS meeting (July 14).

Board member P. Papineau inquired about any quality control certificates held by VitaSoy; she was told the company is SQF Certified.

Bringing this segment of the meeting to a close, Chairman H. Hasz urged VitaSoy to call BOS Administrative Assistant Carly Antonellis to confirm that VitaSoy would be coming to the meeting, and to call M. Wetzel as well. She reminded VitaSoy that while the FDA holds the processing permit and the DEP has environmental oversight, they look to the local board when there are problems. She promised that the Ayer BOH would do whatever it needed to do to mitigate the problem. "We want it to stop," she said. VitaSoy committed to returning to the BOH on July 23 to provide an update; and to attend the July 14 BOS meeting with Mr. Si to acknowledge and assess the seriousness of the issue.

NABOH MATERIAL (B. Braley):

Routine inspections included: Lazy Mary's (2 violations); Nashoba Valley Medical Center (no violations); and Wok N Roll with the July 7 inspection documenting nine critical violations relative to food borne illness. H. Hasz has drafted a letter requesting Wok n Roll attend the next BOH meeting. In the meantime, B. Braley is inspecting them weekly and they are being charged for these inspections. They have also been asked to send at least one person to attend a food safety training course. She signed an application submitted to the Planning Board by Huseyin Sevincgil, PE, on behalf of Global Montello Group, for a project at 15 Littleton Road—her comment: "applicant will need to submit plans for food service part of the establishment." M. Spinner asked about the project on 31 Willow Road. It has been approved by the Planning Board with the condition they must get a Special Permit from the Board of Health.

SOLID WASTE ADMINISTRATIVE ITEMS: (Application, Checklist, Letter): There was broad agreement that the items were complete as submitted with the exception of formatting problems with the application, which J. Morriss agreed to change. The Board agreed to send out the letter notifying solid waste haulers by September 1 setting a response deadline of October 1.

REVIEW OF MINUTES FROM JUNE 22ND MEETING: Clerk M. Spinner motioned to accept the minutes with 2nd by Member P. Papineau. **A 3/0**

REPORT ON NABOH MEETING (M. Spinner) Announced she had been elected to serve on the executive board at NABOH and reported that Stow has been accepted on a 6-month MOU. Reorganizing continues to meet today's standards; she will be continuing this report at the next meeting.

ADMINISTRATIVE MATTERS: J. Morriss told the Board she plans to serve on the Planning Board and has completed the required Disclosure of Election or Appointment to an Uncompensated Position as Required by 930 CMR 6.02(3) which she is putting on file in the office as per instruction by Town Counsel. The Board congratulated her and reminded her that she is employed by the Board which prohibits her from doing any work or having conversations related to Planning Board business during the 15 hours she is working for it (BOH), or using any BOH materials/resources for Planning Board business. **Bills:** Applied against FY 2015 budget: Staples—printer--\$287.39; Digital Recorder--\$154.35. **Action items for next meeting:** includes: follow-up meeting with VitaSoy and discussion with Wok N Roll.

ADJOURN: H. Hasz made a motion to adjourn the meeting at 7:25 p.m. with a 2nd from M. Spinner. **A 3/0**


Heather Hasz, Chair


Mary Spinner, Clerk


Pamela Papineau, Member

8/24/15