

Town of Brewster Water Quality Review Committee

2198 Main St., Brewster, MA 02631
(508) 896-3701

WATER QUALITY REVIEW COMMITTEE MEETING AGENDA

2198 Main Street
December 22, 2023 at 9AM

WATER QUALITY REVIEW COMMITTEE

Robert Michaels
Chair

Amy von Hone
Vice Chair

Susan Brown

Ned Chatelain

Kimberley
Crocker Pearson

John Keith

Staff Participant
Chris Miller

This meeting will be conducted in person at the time and location identified above. This means that at least a quorum of the members of the public body will attend the meeting in person and members of the public are welcome to attend in person as well. **As a courtesy only, access to the meeting is also being provided via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast or affect remote attendance or participation, unless otherwise required by law.** Members of the public with particular interest in any specific item on this agenda, which includes an applicant and its representatives, should make plans for in-person vs. virtual attendance accordingly.

Meetings may be joined by:

1. **Phone:** Call (929) 436-2866 or (301) 715-8592. Webinar ID: 869 1743 3374 Passcode: 443208

To request to speak: Press *9 and wait to be recognized.

2. **Zoom Webinar:** <https://us02web.zoom.us/j/86917433374?pwd=WFNNWktuKzROempqU1FjWDRlZzhXUT09>
Passcode: 443208

To request to speak: Tap Zoom “Raise Hand”, then wait to be recognized.

When required by law or allowed by the Chair, persons wishing to provide public comment or otherwise participate in the meeting, may do so by accessing the meeting remotely, as noted above. Additionally, the meeting will be broadcast live, in real time, via **Live broadcast** (Brewster Government TV Channel 18), **Livestream** (livestream.brewster-ma.gov), or **Video recording** (tv.brewster-ma.gov).

Please note that the WQRC may take official action, including votes, on any item on this agenda.

1. Call to Order
2. Declaration of a Quorum
3. Meeting Participation Statement
4. Recording Statement
5. Update on Solar Array Project, Freemans Way – BOH approval letter for termination of the Site Assignment as part of the Landfill Closure and Post-Closure Use under DEP regulations.
6. Discussion to prioritize upcoming topics for WQRC to review and make recommendations:
 - a. Review and revise application and renewal process for WQRC certificates
 - b. Continue discussion of current and future role of WQRC
 - c. Continue discussion of Zoning Bylaw pertaining to the Water Quality Protection District, its current function, and future needs to be addressed
7. Approval of Minutes from 5/26/23 & 8/25/23
8. For Your Information
9. Matters Not Reasonably Anticipated by the Chair
10. Next Meeting: January 26, 2024
11. Adjournment

Date Posted:

Date Revised:

Received by Town Clerk:



Town of Brewster

2198 MAIN STREET
BREWSTER, MASSACHUSETTS 02631-1898

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Health Department

Amy L. von Hone, R.S., C.H.O.
Director

Sherrie McCullough, R.S.
Assistant Director

Tammi Mason
Senior Department Assistant

December 8, 2023

Daniel Serber
Director of Land Development
NextGrid Patriots, LLC
177 Huntington Ave., Suite 1703
Unit 73069
Boston, MA 02115

RE: Site Assignment Termination as Part of Landfill Closure Activities
Former Daniels/Antinarelli Stump Dump (Facility ID #337767, Regulated Object #: 337768
Freemans Way, Brewster, MA

Dear Mr. Serber:

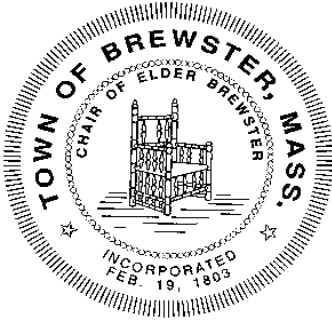
On December 6, 2023, the Brewster Board of Health voted unanimously to approve terminating Site Assignment for the property located at) Mid Cape Highway, Brewster, MA (Assessors Map 119, Parcel 6). The Site Assignment designation at the property was terminated as part of the Landfill Closure and Post-Closure Use permitting process under the Solid Waste Management Regulations, to redevelop the site as a Solar Photovoltaic Array.

Please do not hesitate to contact the office with any questions.

Sincerely,

Amy von Hone, R.S., C.H.O.
Health Director

CC: Paul Daniels
Michael Antinarelli
Stephen Daniels
MassDEP – SERO
Attn: Mark Dakers, Chief – Solid Waste Management Section
John Tadema-Wielandt – Bennett Environmental Associates



**TOWN OF BREWSTER
WATER QUALITY REVIEW COMMITTEE**

2198 Main Street
Brewster, Massachusetts 02631-1898
(508) 896-3701
FAX (508) 896-8089

<p>APPLICATION FEE</p> <p>New: \$100.00 Renewal: \$50.00</p>

**APPLICATION
CERTIFICATE OF WATER QUALITY COMPLIANCE
Brewster WQPD Zoning Bylaw 179.53**

.....
(Please Print)

PROPERTY LOCATION _____ MAP _____ PARCEL _____

PROPERTY OWNER _____ PHONE _____

MAILING ADDRESS (if different) _____

BUSINESS NAME _____ APPLICANT/MANAGER _____

<input type="checkbox"/> Property Owner <input type="checkbox"/> Tenant
--

PHONE _____ E-MAIL ADDRESS _____

BUSINESS APPLICANT:
EXPIRATION DATE OF LAST CERTIFICATE _____

A **COMPLETED APPLICATION** must be submitted with supporting documentation for any changes made since the last approved certificate. Please check **YES**, **NO**, or **N/A** (not applicable) for each category below:

CATEGORY	Yes	No	N/A
1. Engineered Site Plan			
a. Property line changes?			
b. Structural changes: regrading, paved parking, landscaping?			
c. Surface Drainage treatment system changes?			
2. Septic System			
a. Upgrades/repairs or system pumped?			
b. Potable well tested?			
3. Change of Use? Specify: _____			
4. Agricultural Use			
a. Increase in # or type of animals?			
b. Active Fertilizer and Pest Management Plan?			
c. Active Waste Management Plan?			
5. Equipment Storage Plan changes?			
6. Fuel/Chemicals/Hazardous Materials			
a. Change in existing spill containment or remediation processes?			
b. Change in existing disposal methods?			
c. Any hazardous material spills onsite since last certificate?			
d. Any new type of wastewater generated due to change of use?			
7. Floor Drains Pre-Existing # _____ New # _____			

APPLICANT SELF-CERTIFICATION CHECK LIST

Please read and check each statement to indicate acknowledgement of the requirements of your Certificate of Water Quality Compliance Permit, and to certify that your existing operation is compliant with the Brewster WQPD Zoning Bylaw 179-53:

- _____ I certify that use of the property remains consistent with the conditions of the Certificate of Water Quality Compliance Permit, and any changes have been submitted for review and approval by the Town of Brewster Building Department/Planning Board/Water Quality Review Committee.
- _____ I certify that the existing septic system(s) servicing the property has been maintained and is in proper operating condition. Any repairs, expansions, pumpings, inspections, or sewage failures have been reported to the Town of Brewster Health Department/Board of Health.
- _____ I certify that any onsite hazardous materials release, since the last certificate renewal, was properly reported to the Town of Brewster Fire Department and was remediated or is currently under a remediation action plan. Any additional reporting required by state or local regulations has been completed.
- _____ I certify that there are no outstanding violation orders or unpermitted activities occurring on the property in violation of the Brewster WQPD Zoning Bylaw 179-53. I understand that any future change of use, septic violation, or occurrence of toxic or hazardous materials spill must be reported immediately to the Town of Brewster Building Department/Planning Board/Water Quality Review Committee, Health, and Fire Departments.

APPLICANT SIGNATURE: _____ DATE: _____

PRINT NAME/POSITION: _____

<u>COMPANY</u>	<u>DATE OF LAST CERT</u>	<u>DUE</u>	<u>CERT #</u>	<u>ADDRESS</u>
SBA Infrastructure (Optastic)	6/24/2022	2025	22-05	M46 L41-10 Freemans Way
Camp Mitton	5/26/2023	2026	23-10	M38 L36 46 Featherbed Road
AEH Custom Builders	6/24/2022	2025	22-02	M41 L23 1 Bog Hill Road
Northside Methodist Church	1/27/2023	2026	23-03	M37 L52 701 Airline Road
AMA Excavating/Mike Antinarelli	1/27/2023	2026	23-04	M119 L6 Freemans Way/M131 L1-6 Commerce Park Rd
American Towers	4/22/2022	2025	22-01	M46 L41 26 26 Freemans Way
Pleasant Bay Community Boating, Inc.	3/26/2021	2024	21-01	M149 L1 2070 Route 28
Pleasant Bay Rehab	3/24/2023	2026	23-08	M45 L66 South Orleans Road
Cape Cod Covenant Church	6/24/2022	2025	22-03	M37 L3&4 11 Satucket Road
Cape Sand & Recycling/Jay Merchant	6/24/2022	2025	22-04	M45 L33-1, 34, 35-1, 71, 72, 80-2 Cape Sand Way/Freemans Way
Brewster Recreation	12/18/2020	2023	20-06	M46 L14-2 Freemans Way
Colson's Landscaping	1/27/2023	2026	23-02	M46 L41-4 Commerce Park
Captains Golf Course	2/14/2020	2023	20-02	M131 L1-18 Commerce Park, M119 L1 1000-1001 Freemans Way
Church of Latter Day Saints	5/29/2020	2023	20-04	M84 L58 94 Freemans Way
Brewster Post 9917 VFW	1/27/2023	2026	23-01	M46 L41-2 989 Freemans Way
Specialty Builders Supply	2/16/2023	2026	23-05	M46 L41 59 Commerce Park Road
Secure Storage	3/24/2023	2026	23-09	M46 L41-1 28 Commerce Park
Eldredge Farm	12/18/2020	2023	20-05	M51 L29 24 Eldredge Cartway
Crocker Nurseries	2/14/2020	2023	20-01	Old M42 L42-1-1 1132 Long Pond Rd
Realty Executives	3/26/2021	2024	21-02	M42 L2 12 Cape Lane
Town of Brewster Water Dept/Greensand	3/26/2021	2024	21-03	M46,39,107,120,32,30 L41,15-1,1,2,18,20 165 Commerce Park, 699 Run Hill Rd, 544/546/548/811/813 Freemans Way, 379 Westgate Road
Brewster Solar Garden	3/26/2021	2024	21-04	M131 L1-18 Commerce Park
Mayflower Glass	1/27/2023	2026	23-06	M46 L7 111 Freemans Way
Steve Allard Custom Building	1/27/2023	2026	23-07	M42 L14 Millstone Road
Harris Custom Building	3/26/2021	2024	21-05	M46 L41 5 89A Commerce Park
Dream Day on Cape Cod	10/19/2018	2021	18-07	M132 L9 165 Nan-Ke-Rafe Path
Cape Cod Grow Lab				M131 L7-8 M143 L7 1399 Freemans Way

Updated 12/11/23*

unknown
past due
due now
current
pending

ARTICLE XI
Water Quality Protection District
[Added 5-9-1994 ATM, Art. 51¹]

§ 179-53. Purpose. [Amended 11-17-2008 FYTM, Art. 17²]

The purposes of this Water Quality Protection Bylaw are:

- A. To promote the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Brewster;
- B. To preserve and protect all existing and potential sources of drinking water supplies within Brewster's borders;
- C. To identify uses that should be prohibited or allowed only by special permit and to establish performance standards that must be met for all uses within a Zone I, Zone II and/or the District of Critical Planning Concern ("DCPC"). **[Amended 11-15-2021 FYTM by Art. 10]**
- D. To protect groundwater and surface water resources from viral, pathogenic, phosphorus and nitrogen contamination and pollution from stormwater runoff;
- E. To complement the commonwealth's Department of Environmental Protection regulations governing groundwater protection and the commonwealth's efforts to protect surface and coastal waters;
- F. To protect other sensitive water resource areas, including those land areas that contribute recharge to private drinking water supply wells;
- G. To conserve the natural resources of the Town; and
- H. To prevent temporary and permanent contamination of the water resources of the Town.

§ 179-54. Scope of authority; overlay district. [Amended 11-17-2008 FYTM, Art. 17; 10-19-2009 FYTM, Art. 18]

This bylaw establishes regulations governing land uses and structures and their potential impact upon the Town's water resources. The provisions of Article XI are superimposed over all zoning districts and all land within the Town of Brewster and shall function as an overlay district. Where this article establishes rules, regulations, requirements, standards or provisions that are stricter than the underlying zoning districts, including those uses and structures found in Table 1 of the Zoning Bylaw, the provisions of this article shall control. In addition, this article establishes specific requirements for land uses and activities within those portions of the Town of Brewster mapped and identified on the Zoning Map as the District of Critical Planning Concern ("DCPC"), entitled "Brewster Water Protection District," as adopted by the Barnstable County Assembly of Delegates pursuant to the Cape Cod Commission Act, which includes "Zone I" and "Zone II" and the "Groundwater Protection District" and the "Pleasant Bay Watershed."

§ 179-55. Definitions. [Amended 11-17-2008 FYTM, Art. 17]

As used in this article, the following terms shall have the following meanings indicated:

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- 1. Editor's Note: This article also repealed former Art. XI, Water Resource District, added 5-11-1982 ATM, Art. 88, as amended.
 - 2. Editor's Note: This article also changed the title of Art. XI from Groundwater Protection District to Water Quality Protection District.

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AQUIFER — Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

BEST MANAGEMENT PRACTICES — Any structural or nonstructural mechanism designed to minimize the impact of non-point source pollution on receiving waters or resources, including, but not limited to: detention ponds, construction or installation of vegetative swales and buffers, street cleaning, reduced road salting, and public education programs. **[Amended 11-15-2021 FYTM by Art. 10]**

BUILDER'S ACRE — A unit of land measure equal to 40,000 square feet, which is considered a building acre in accordance with standard real estate practices.

COMMERCIAL FERTILIZERS — Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed by its manufacturer to have value, in promoting plant growth. Commercial fertilizers do not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum.

EARTH REMOVAL — The removal or relocation of geologic materials, such as topsoil, sand, gravel, metallic ores or bedrock. Mining activities are considered earth removal, whether the disturbed natural materials are removed from the site or reworked on the site.

DEP — The Massachusetts Department of Environmental Protection.

DEVELOPMENT — The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mine, excavation, landfill, or land disturbance; and/or any change in use, or alteration or extension of the use, of land.

DISCHARGE — The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of Brewster. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

HAZARDOUS OR TOXIC MATERIALS — Any substance or mixture of physical, chemical or any infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Brewster. Hazardous or toxic materials include, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, solvents and thinners and products such as pesticides, herbicides in quantities greater than normal household use; and all substances defined as hazardous or toxic under MGL c. 21C and MGL c. 21E, using the Massachusetts Oil and Hazardous Substance List (310 CMR 40.0000), and 310 CMR 30.000.

HAZARDOUS MATERIAL OR WASTE, HOUSEHOLD QUANTITY OF — Any or all of the following:

- A. Two hundred seventy-five gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator; and
- B. Twenty-five gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator; and
- C. A quantity of hazardous waste at the very small quantity generator level as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR 30.353.

HISTORICAL HIGH GROUNDWATER TABLE ELEVATION — A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

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IMPERVIOUS SURFACE — Material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

LANDFILL — A facility established in accordance with a valid site assignment for the purposes of disposing of solid waste into or on the land, pursuant to 310 CMR 19.006.

LOT — As per § 179-2, Definitions.

MINING — The removal or relocation of geologic materials, such as topsoil, sand, gravel, metallic ores or bedrock whether the disturbed natural materials are removed from the site or reworked on the site. **[Amended 11-15-2021 FYTM by Art. 10]**

NITROGEN MANAGEMENT — The process of ensuring that nitrogen generated by land uses does not exceed established capacities of the resources receiving nitrogen inputs.

NONSANITARY WASTEWATER — Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

OPEN DUMP — A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act [42 U.S.c. § 4004(a)(b)], or the regulations and criteria for solid waste disposal.

PETROLEUM PRODUCT — Petroleum or petroleum byproduct, including, but not limited to: fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas, including, but not limited to, liquefied natural gas, propane or butane.

POTENTIAL DRINKING WATER SOURCES — Areas that could provide significant potable water in the future.

PROCESS WASTEWATER — All wastewater disposed of on site other than sanitary wastewater.

RECHARGE AREAS — Areas that collect precipitation or surface water and carry it or have it pumped to aquifers. Recharge areas may include areas designated as Zone I, Zone II or Zone III.

SEPTAGE — The liquid, solid, and semisolid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is a hazardous waste, pursuant to 310 CMR 30.000.

SLUDGE — The solid, semisolid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the headworks of a facility.

STORMWATER MANAGEMENT — The process of ensuring that the magnitude and frequency of stormwater runoff does not increase the hazards associated with flooding and that water quality is not compromised by untreated stormwater flow.

SUBDIVISION — The division or redivision of a lot, tract, or parcel of land into two or more lots, tracts, or parcels in accordance with MGL c. 41 § 81L.

TIGHT TANK — Any and all containers or devices with regard to or used for wastewater disposal as defined and regulated by the State Sanitary Code, 310 CMR 15.260.

TREATMENT WORKS — Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

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VERY SMALL QUANTITY GENERATOR — Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136. § 179-56

WASTE OIL RETENTION FACILITY — A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c. 21, § 52A.

WATER QUALITY REVIEW COMMITTEE (WQRC) — Committee to be appointed by the Select Board to include seven members; one member each from the Select Board, Board of Health, Planning Board, Conservation Commission, and Water Commissions, the Brewster Building Commissioner and the Brewster Health Agent. At the initial appointment, to occur no later than three weeks after the effective date of this bylaw, members other than the Building Commissioner and the Health Agent shall be appointed for one-, two- and three-year terms and thereafter all members shall be appointed for three-year terms. The Building Commissioner and Health Agent shall serve as members of the WQRC while they are employed in their respective positions. **[Amended 11-18-2013 FYTM, Art. 10; 11-13-2017 FYTM, Art. 13; 11-15-2021 FYTM by Art. 10]**

ZONE I — The immediate land area around a well. It is defined as a four-hundred-foot protective radius for wells greater than 100,000 gpd and a radius of 100 to 400 feet for wells less than 100,000 gpd, depending upon the pumping rate. The Zone I must be owned by the water supplier or controlled through a conservation restriction. Only water supplier activities are allowed in the Zone I.

ZONE II — The DEP-approved area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated as defined in 310 CMR 22.00. The Zone II includes the Zone I.

ZONE III — The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. Zone III boundaries are determined by identifying the topographic surface water drainage divides. The surface water drainage area commonly coincides with the groundwater drainage; however, in areas where they are not coincident, the Zone III encompasses both the surface and groundwater drainage area.

§ 179-56. Use regulations. [Amended 11-17-2008 FYTM, Art. 17]

- A. Provided that all necessary permits, orders, or approvals as required by local, county, state, or federal law are also obtained, the following uses and activities shall not independently trigger the need for a special permit and shall be allowed as long as the uses and activities comply with applicable performance standards established in § 179-57. **[Amended 11-15-2021 FYTM by Art. 10]**
- (1) (Reserved)
 - (2) (Reserved)
 - (3) Retail/wholesale sales/office/commercial uses with a lot size below 40,000 square feet and building area less than 5,000 square feet that store or handle hazardous materials or wastes in amounts that do not exceed household quantities;
 - (4) Construction activities: The activities of constructing, repairing, or maintaining any building or structure, provided that all contractors, subcontractors, laborers, and their employees follow all local, county, state and federal laws when using, handling, storing, or producing any hazardous materials or wastes;
 - (5) Household use: the use of hazardous materials or wastes in amounts that do not exceed

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household quantities;

- (6) Municipal use: the municipal use of hazardous materials and any materials stored and used for the sole purpose of water supply treatment or as required by law; and
- (7) Storage of oil(s): the storage of oil(s) used for heating fuel, provided that the container used for such storage shall be located within an enclosed structure that is sufficient to preclude leakage of oil to the external environment and to afford routine access for visual inspection and shall be sheltered to prevent the intrusion of precipitation;
- (8) Conservation of soil, water, plants, and wildlife;
- (9) Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- (10) Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- (11) Use and development of single-family residential dwelling units;
- (12) Use of land pursuant to an approved definitive subdivision plan, special permit, or variance;
- (13) Farming, gardening, nursery, conservation, forestry, harvesting, and grazing;
- (14) Construction, maintenance, repair, and enlargement of drinking-water-supply-related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels;
- (15) Underground storage tanks related to permitted activities.

B. Prohibited uses within the Town of Brewster. The following uses are prohibited throughout and within the Town of Brewster:

- (1) (Reserved)
- (2) Landfills receiving only wastewater and/or septage (wastewater residuals "monofils") as defined in 310 CMR 32.05, approved by the DEP pursuant to MGL c. 21, §§ 26 through 53; MGL c. 111, § 17; MGL c. 83, §§ 6 and 7, and regulations promulgated thereunder.
- (3) Storage of sludge and septage, as defined in 310 CMR 32.05, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.
- (4) Storage of deicing chemicals, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads, unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (5) Storage of animal manure, unless such storage is covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (6) Earth removal not consistent with § 179-39 of the Brewster Zoning Bylaw.
- (7) Facilities that generate, treat, store or dispose of hazardous waste subject to MGL c. 21C and 310 CMR 30.000, except for the following:
 - (a) Very small quantity generators of Class A regulated recyclable material as defined under 310 CMR 30.000.

- § 179-56 (b) Household hazardous waste centers and collection events under 310 CMR 30.390. § 179-56
- (c) Waste oil retention facilities required by MGL c. 21, § 52A.
- (d) Water remediation treatment works approved by the Department of Environmental Protection (DEP) designed in accordance with 314 CMR 5.00 for the treatment of contaminated groundwater or surface waters and operated in compliance with MGL c. 21E and 310 CMR 40.0000.
- (8) Automobile graveyards and junkyards, as defined in MGL c. 140B, § 1.
- (9) Storage of dry hazardous materials, as defined in MGL c. 21E, unless in a freestanding container within a building or above ground with adequate secondary containment adequate to contain a spill the size of the container's total storage capacity.
- (10) Storage of fertilizers unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- (11) (Reserved)³
- (12) Any commercial floor drainage system which discharges to the ground without a DEP permit or authorization. **[Amended 11-15-2021 FYTM by Art. 10]**
- C. Prohibited uses within Zones I and Zones II of the Groundwater Protection District. The following uses, which may be allowed in other areas of the Town of Brewster, are prohibited in Zones I and II of the Groundwater Protection District. Notwithstanding language to the contrary found within § 179-52 of the Zoning Bylaw, no variance for a use or activity not otherwise permitted shall be granted by the Board of Appeals within Zones I or Zones II of the Groundwater Protection District.
- (1) Storage of liquid petroleum and/or liquid hazardous products (as defined in MGL c. 21E), except the following: normal household use, outdoor maintenance and heating of a structure; fuel storage facilities as licensed by the Town; waste oil retention facilities required by statute, rule or regulation; emergency generators required by statute, rule or regulation.
- (2) Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.
- (3) Treatment works that are subject to 314 CMR 5.00 (not Title 5 septic systems), including privately owned sewage treatment facilities, except for the following:
- (a) The replacement or repair of an existing treatment works that will not result in a system capacity greater than the system capacity of the existing treatment works;
- (b) The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a system capacity greater than the system capacity of the existing system(s);
- (c) Treatment works approved by DEP designed for the treatment of contaminated groundwater; and
- (d) Sewage treatment facilities in those areas with existing water quality problems when it has

3. Editor's Note: Former Subsection B(11), regarding land uses that create more than 15% or 2,500 square feet of impervious surface, was repealed 11-15-2021 FYTM by Art. 10.

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been demonstrated to DEP and the Planning Board's satisfaction that these problems are attributable to current septic problems and that there will be a net improvement in water quality.

- (4) Stockpiling and disposal of snow or ice removed from highways and streets located outside of a Zone II that contains sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
- (5) Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material within 10 vertical feet of historical high groundwater table elevation, as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.
- (6) Industrial and commercial uses which discharge process wastewater on site.
- (7) Facilities or works for the treatment or disposal of nonsanitary wastewater that are subject to 314 CMR 5.00, or that discharge to the ground nonsanitary wastewater, including industrial and commercial process waste water, except the following:
 - (a) The replacement or repair of an existing system/treatment works that will not result in a design capacity greater than the design capacity of the existing system/treatment works;
 - (b) Treatment works approved by the Department of Environmental Protection designed for the treatment of contaminated groundwater and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
 - (c) Publicly owned treatment works.
- (8) Storage of commercial fertilizers, as defined herein and in MGL c. 128, § 64.
- (9) Gasoline stations, automotive service stations or car washes or motor vehicle or commercial boat storage or repair. For the purposes of this chapter, "commercial" is defined as any activity involving the sale of goods or services carried out with the intent of earning a profit.
- (10) Dry-cleaning establishments.

D. Uses/structures allowed by special permit.

- (1) Unless otherwise exempted or prohibited elsewhere by this article and as otherwise permitted in the underlying zoning district, the following uses and activities shall require a special permit from the Planning Board. Where the use or activity requires a special permit from another special permit granting authority, the provisions of this article shall nevertheless apply, although the Planning Board and the other special permit granting authority may hold a combined public hearing pursuant to MGL c. 40A, § 9 in lieu of separate public hearings:
 - (a) (Reserved)
 - (b) The application for the construction of 10 or more dwelling units, whether on one or more contiguous lots, tracts, or parcels, or whether contained within one or more structures;
 - (c) The application for a nonresidential use of 40,000 square feet or greater in lot size or 5,000 square feet or greater of gross floor area; **[Amended 11-15-2021 FYTM by Art. 10]**
- (2) Provided that the following uses and/or structures are permitted by the underlying zoning district and other relevant regulations, a special permit may be issued by the Planning Board for

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§ 179-56

the following uses and/or structures, provided that the Planning Board may impose conditions upon the use or structure, consistent with the authority provided in MGL c. 40 § 9, such that the use or structure will not, in the Planning Board's sole judgment, be inconsistent with the purpose and intent of this bylaw. Notwithstanding the powers hereby conveyed by this article and MGL c. 40A, § 9 to the Planning Board and in recognition of the expertise found within the members of the Water Quality Review Committee, the Planning Board shall, in accordance with the procedures of MGL c. 40A, § 11, cause all applications for a special permit pursuant to this article to be submitted to the Water Quality Review Committee for the Committee's comments and recommendations as provided by MGL c. 40A, § 11. The Planning Board shall include in its decision an explanation regarding any substantive deviation from the Committee's recommendation regarding the approval, denial or conditional approval of the special permit application.

- (a) The application of fertilizers for nondomestic or nonagricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition and sedimentation and shall conform to Chapter 119 of the Brewster Town Code, Fertilizer Nutrient Control. **[Amended 11-18-2019 FYTM, Art. 6]**
- (b) The construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing or other recreational uses, or drainage improvements.
- (c) (Reserved)⁴
- (d) Any use which involves on-site wastewater disposal facilities having over 10,000 gallons per day capacity or disposal of process waste from operations other than personal hygiene and food for residents, patrons and employees.
- (e) Commercial boat and motor vehicle storage, service or repair. For the purposes of this Chapter, "commercial" is defined as any activity involving the sale of goods or services carried out with the intent of earning a profit.
- (f) Storage of home heating fuels in approved containers in amounts greater than 275 gallons or in the aggregate, greater than 275 gallons.
- (g) Treatment works that are subject to 314 CMR 5.00, including privately owned sewage treatment facilities, and:
 - [1] The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works.
 - [2] The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s).
 - [3] Treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater.
 - [4] Sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to the Department of Environmental Protection's and the

4. Editor's Note: Former Subsection D(2), regarding uses that create more than 15% or 2,500 square feet of impervious surface, was repealed 11-15-2021 FYTM by Art. 10.

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special permit granting authority's satisfaction both that these problems are attributable to current septic problems and that there will be a net improvement in water quality.

§ 179-57

§ 179-57. Performance standards. [Amended 11-17-2008 FYTM, Art. 17; 10-19-2009 FYTM, Art. 18]

To preserve the natural land surface providing high-quality recharge to the groundwater, to limit sewage flow and fertilizer application to amounts which will be adequately diluted by natural recharge and to prevent the discharge or leakage of toxic or hazardous substances into the surface and groundwater resources, all new, altered or expanded uses within Zone I, Zone II and/or the DCPC area shall meet the following performance standards, in addition to those requirements imposed by this article or the Planning Board:

- A. No new, altered or expanded uses within Zone I, Zone II and/or the DCPC area shall exceed a five-parts-per-million (ppm) nitrogen loading standard based on the methodology contained in the Brewster Board of Health Nitrogen Loading Regulation. The overall concentration of nitrate nitrogen resulting from domestic wastewater disposal, road runoff, fertilizer application, and other nitrogen sources, when diluted by rainwater recharge on the lot, shall not exceed five parts per million (5 ppm). The policies and procedures in the Brewster Board of Health Nitrogen Loading Regulation will be used to confirm compliance with the 5 mg/L standard. The regulation requires the use of a nitrogen loading spreadsheet developed by the Board of Health to calculate the nitrogen concentration for a subject property based on the proposed land uses. The Board of Health or the Health Agent, or their designee, will review the proposed project and the nitrogen loading spreadsheet calculations for compliance with the health regulation and the performance standards in this bylaw. **[Amended 11-18-2019 FYTM, Art. 6; 11-15-2021 FYTM by Art. 10]**
- B. All toxic or hazardous materials shall be stored in product-tight containers, protected from corrosion, accidental damage or vandalism and shall be used and handled in such a way as to prevent spillage with provisions for spill containment and cleanup procedures. In addition, commercial enterprises shall be required to maintain a product inventory and reconcile said inventory with purchase, use, sales and disposal records at sufficient intervals to detect product loss. Subsurface fuel and chemical storage facilities in compliance with local regulations and Massachusetts fire prevention regulations shall be deemed to be in compliance with this standard.
- C. No toxic or hazardous materials shall be present in waste disposed on the site. Waste composed in part or entirely of toxic or hazardous materials shall be retained in product-tight containers for removal and disposal by a licensed scavenger service or as directed by the Board of Health.
- D. Contaminant levels in groundwater resulting from disposal of any substance from operations, other than personal hygiene and food for residents, patrons and employees or from wastewater treatment and disposal systems greater than 10,000 gallons per day capacity, shall not exceed those levels specified in the Drinking Water Regulations of Massachusetts, 310 CMR 22.00, after allowing for dilution by natural recharge on the premises. If higher, background levels of individual constituents in the groundwater shall not be exceeded.
- E. All new, altered or expanded uses shall comply with the requirements of the Stormwater Management Bylaw (Chapter 272) to collect, treat and manage stormwater. **[Amended 11-15-2021 FYTM by Art. 10]**
- F. (Reserved)⁵

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G. Sand and gravel removal operations shall be limited to a plane that is at least 10 feet above the historical high groundwater level for that location. Land area exposed at any one time shall be limited to no more than five contiguous acres in surface area and land disturbed by sand and gravel removal operations shall be returned to a natural vegetative state within one year of completion of operations. § 179-61

H. Monitoring of regulated substances in groundwater monitoring wells. If required by the Planning Board, groundwater monitoring well(s) shall be provided at the expense of the applicant in a manner, number, and location approved by the Planning Board. Except for existing wells found by the Planning Board to be adequate for this provision, the required well(s) shall be installed by a water well contractor. Samples shall be analyzed and analytical reports that describe the quantity of any hazardous material or waste present in each monitoring well shall be prepared by a Massachusetts certified laboratory.

§ 179-58. Prohibited uses within Pleasant Bay Watershed. [Amended 11-17-2008 FYTM, Art. 17]

(Reserved)

§ 179-58.1. Uses/structures allowed by special permit within the Pleasant Bay Watershed. [Added 11-17-2008 FYTM, Art. 17]

(Reserved)

§ 179-58.2. Performance standards within Pleasant Bay Watershed. [Added 11-17-2008 FYTM, Art. 17]

(Reserved)

§ 179-59. Prohibited uses within the watersheds of surface water bodies other than Pleasant Bay. [Amended 11-17-2008 FYTM, Art. 17]

(Reserved)

§ 179-59.1. Uses/structures allowed by special permit within watersheds of surface water bodies other than Pleasant Bay. [Added 11-17-2008 FYTM, Art. 17]

(Reserved)

§ 179-59.2. Performance standards within watersheds of surface water bodies other than Pleasant Bay. [Added 11-17-2008 FYTM, Art. 17]

(Reserved)

§ 179-60. (Reserved) [Amended 11-17-2008 FYTM, Art. 17]

§ 179-61. Water quality review.

A. Water Quality Review Committee. There is hereby established a Water Quality Review Committee (WQRC), comprising one representative each appointed from time to time by and from the Select

5. Editor's Note: Former Subsection F, regarding performance standards for stormwater management, was repealed 11-15-2021 FYTM by Art. 10.

§ 179-61 Board, Board of Health, Planning Board, Conservation Commission, Water Commission, § 179-61
Comprehensive Water Planning Committee, Health Director and Building Commissioner.
[Amended 11-18-2013 FYTM, Art. 10; 11-13-2017 FYTM, Art. 13]

B. Certificate of water quality compliance.

- (1) A certificate of water quality compliance shall be obtained by the owner of the premises from the WQRC or, for special permit uses, from the SPGA:
 - (a) For erection of any new principal structure other than a single-family dwelling or for change in occupancy requiring a certificate of use and occupancy under the State Building Code.
 - (b) For occupancy of any premises not requiring a Certificate of use and occupancy but involving the storage, handling or transportation of toxic or hazardous wastes.
- (2) No building permit or certificate of use and occupancy shall be issued by the Building Commissioner unless a certificate of water quality compliance, if required, has been applied for or obtained.

C. Requirements. A certificate of water quality compliance shall be granted only as follows: [Amended 11-18-2019 FYTM, Art. 6]

- (1) For new construction or additions or new activities not involving structures, only if in full compliance with all requirements of § 179-57, Performance standards.
- (2) For change in occupancy or operation on previously developed premises, only if the requirements of § 179-57B, C and D are met, and the requirements of all other subsections of § 179-57 are either met or, if previously exceeded, there will be no further increase in noncompliance.

D. Submittals. In applying for a certificate of water quality compliance or a special permit, two paper sets and one electronic copy of application materials shall be submitted to the Building Commissioner, who shall forward them to each member of the WQRC. In the case of uses requiring a special permit under § 179-56D, one set shall also be submitted to the SPGA along with any other application materials. All information necessary to demonstrate compliance must be submitted, including but not limited to the following: [Amended 11-18-2019 FYTM, Art. 6; 11-15-2021 FYTM by Art. 10]

- (1) A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures to protect from vandalism, corrosion and leakage and to provide for control of spills.
- (2) A description of potentially toxic or hazardous materials to be generated, indicating storage and disposal method.
- (3) Evidence of approval by the Massachusetts Department of Environmental Protection of any industrial waste treatment or disposal system or any wastewater treatment system over 15,000 gallons per day capacity, accompanied by analysis by a professional engineer in sanitary or civil engineering registered in the Commonwealth of Massachusetts certifying compliance with § 179-57D.

E. Action. For uses not requiring a special permit under § 179-56D, the WQRC shall act within 21 days

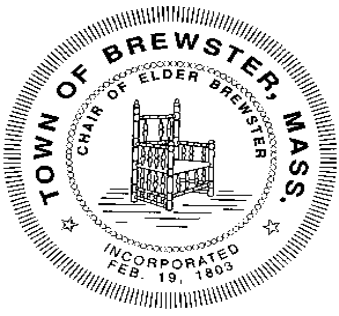
§ 179-61 of application, approving it by issuing a certificate of compliance if a majority determine that the applicant has adequately demonstrated compliance with the requirements of the Water Quality Protection District, and rejecting the application otherwise. For uses requiring a special permit under § 179-56D, the WQRC shall make recommendations to the SPGA within 35 days of receipt of the application, as provided in MGL c. 40A, § 11. [Amended 11-18-2019 FYTM, Art. 6] § 179-62

F. Certificate review.

- (1) Each three years the WQRC shall review compliance with this article and the certificate of water quality compliance. Upon request, certificate holders shall submit the following:
 - (a) Description of any changes from the originally submitted materials.
 - (b) Description of any maintenance, repair, replacement, or expansion of the existing sewage disposal system, sewage pumping, or certified inspections completed from the date of the issuance of the last certificate renewal. The certificate holder shall self-certify that the sewage disposal system has been properly maintained and is in proper operating condition. [Amended 11-15-2021 FYTM by Art. 10]
 - (c) Results from analysis of leachate or wastewaters as may be required by the Board of Health.
 - (d) Documentation on the operation and maintenance of stormwater facilities permitted under the Stormwater Management Bylaw (Chapter 272). [Added 11-15-2021 FYTM by Art. 10]
- (2) Evidence of noncompliance shall be reported to the Building Commissioner for enforcement action who shall have the authority to enforce the provisions of this bylaw. [Amended 11-15-2021 FYTM by Art. 10]

§ 179-62. Enforcement.

- A. Inspection. These provisions shall be enforced by the Building Commissioner. The Building Commissioner or agent of the Board of Health may enter upon the premises at any reasonable time to inspect for compliance with the provisions of this article. Evidence of compliance with approved waste disposal plans may be required by the enforcing officers. All records pertaining to waste disposal and removal shall be retained.
- B. Violations. Written notice of any violations shall be provided to the holder of the certificate of water quality compliance, specifying a time for compliance, including cleanup of any spilled materials which is reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than 30 days be allowed for either compliance or finalization of a plan for longer term compliance, approved by the WQRC.



TOWN OF BREWSTER
Water Quality Review Committee
2198 Main Street
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(508) 896-3701 x1121
FAX (508) 896-8089

Date Approved:
Vote:

TOWN OF BREWSTER
MINUTES of WATER QUALITY REVIEW COMMITTEE
Friday, May 26, 2023, at 9:00 AM
WQRC MEETING AGENDA

Attending Committee Members:

Chair Cynthia Baran convened the Water Quality Review Committee meeting at 9:06AM with members Amy von Hone, Robert Michaels, Kimberley Crocker Pearson, Chris Miller and Ned Chatelain and deemed there to be a quorum.

Members Absent: Davis Walters

Open meeting law statement read.

Guests: Two Guests from Brewster Conservation; Amy Henderson and Tino Kamarck

Item 1: Viewing of Former Cape Cod Sea Camps Long Pond Property Video

Video was played.

Cyndi: We will now have a Presentation by Brewster Conservation Trust regarding the Hydrogeologic assessment. The presentation will be done by Amy Henderson and Tino Kamarck.

Tino Kamarck: In your packet you have a copy of a hydrogeologic report that BCT commissioned. It was actually commissioned more than 18 months ago in connection with trying to understand this property which the Town was about to purchase. We pledged 1.75 million dollars to the acquisition of this property subject to there being a conservation restriction acceptable to the Conservation Trust. Initially, the report was done for the BCT's own information. We knew very little about the Long Pond property, but we did know that more than half of the property is in the Zone 2 Well Built Recharge area. It has a significant shore front on Long Pond. It seemed obvious that there might be some ecological sensitivity in terms of water quality. We wanted to establish what the facts were. Once the planning process was kicked off, a little more than a year ago, and was put in place with a discovery process first and the hiring of the Reed Hilderbrand Consultants and sub-consultants. At that point it seemed obvious to share the report with the town, which we did as you can see from the transition letter. The report was left with the town administration and how best to use the information. It was our understanding that the report was given to the consultants to be included and/or considered as part of the discovery materials. The full report is available to everyone, and it is included among the materials on the Town's Sea Camp website. It is now official and is endorsed by the Town and

presumably by the consultants. We were concerned that we did not believe that some of the important facts in the report were integrated in the final discovery analysis prepared by the consultants which is in PowerPoint form on the Sea Camps website. We are trying to make sure that the public and interested parties are aware of the content of the Hydrogeologic report. Human nature being what it is, people are going to be more apt to look at the PowerPoint than read through the scientific analysis. One reason why we are here is to underscore the contents of the Hydrogeologic report. The report was prepared by a consultant, Thomas Cambararrie that was hired by the BCT. He has academic credentials and certifications and more than 40 years of experience. He is a Hydrogeologist on Cape. We feel that his qualifications speak for themselves. We think that there is one most important statement that was in the report; "All of the parcel on the Long Pond Property is important for water quality protection." The reason this is laid out in the report and is clear, there are three factors:

- Topography
- Geology
- And together they make up the Hydrology, which is how the ground water flows.

The first two are addressed in the Reed Hildabrand materials. With respect to the topography RH Consultants calls the topography for this site "dramatic". It is rare and interesting that this large piece of property of 66 acres has a very uniform topography. If compared to the Bay Property which has a lot of hills and hollows. On this property there is a 75-foot vertical drop from the 137 frontage at the NE end of the property to the Long Pond shore at the SW end. This drop is uniform, it is consistent across the property. The slope varies, the frontage on 137 is the flattest it has about 2% slope on average. There are other parts of the property that are steeper. But uniformly from right to left there is a slope down into Long Pond. The geology is also referred to in the RH Consultant's report. It is also very familiar to anyone that has stuck a shovel in the ground on Cape Cod. It is the carver series of soils which are sand and some gravel. With the exception of some small areas around the edges of the wetland areas on this property where RH Consultants describes them as excessively drained, and the saturated conductivity is very high. As the BCT report notes, "this type of soil transmits nitrogen and phosphorus as well as viruses rapidly into the water table without filtration. This is not something that is noted in the RH Consultant report but is characteristic of the carver soils, they do not do a good job of filtering out contaminates in the water.

As the report goes on to say, "surfaces or sub-surfaces contaminates quickly drain through the soil resulting in impacts to the soil and the down gradients water resources. We know what the down gradient water resources are from the topography of Long Pond. So, the final element connecting these dots is the hydrology. I was concerned at the meeting of the Pond the Planning meeting committee where RH Consultants initially presented their discovery findings this was not mentioned. I asked the question; "you talk about the topography and the geology, but you do not connect the dots in terms of the hydrology." "What are the consequences for water flows on the property and the answer was... that's a good question." Here we are because the question is answered in our BCT report. And it is obvious that the ground water flows without filtration from 137 to Long Pond and in some conditions into the Town well fields from the Zone 2 area. With respect to Long Pond all of the properties in the Long Pond recharge area as identified by the USGS and the USEPA has characterized Long Pond as already impaired. We have not had an algae bloom in that pond yet, but it is somewhat on the edge it has low oxygen and excessive nitrogen and phosphorus and other contaminates. This is mostly due to the fact that most of the shoreline has been developed for quite some time and the primary factor affecting the water quality is the release of contaminates from those land uses.

Obviously, additional development in the recharge area can only make this situation worse. As I mentioned, more than half of the property SW of 137 are in Zone 2 which means the pumps for

the Town's number 1 and 2 wells in this case will draw from the Zone 2 aquifer in certain circumstances. Those circumstances are in drought conditions where the precipitation in the direct recharge of the well fields area is not sufficient. Generally, the rule of thumb is a 6-month drought. The other condition is high usage where the pumps are running for a long period of time. As the BCT reports notes, with respect to this particular well field, that simply includes summer conditions when the population of our Town more than triples where there is not only more domestic use, but drastically increased irrigation use of water. In those circumstances this entire Zone 2 contributes water to the 1 and 2 wells that supply about half of the Town's drinking water. In consequence, of course, it is not only identified as Zone 2 under the Commonwealth's criteria but also with respect to actions taken by the Town it is a district of critical planning concern otherwise known as the Brewster Water Protection District which was created in 2008 as an overlay of zoning because of the concern about potential development.

Further in 2009 Town Meeting adopted a by-law creating yet another zoning overlay the Natural Resources Protection Area with the expressed purpose to protect water resources and preserve the open spaces of Brewster. Finally, in 1999 the Cape Cod Commission identified this area as suitable for future water supply development, one of the few areas left on the Cape undeveloped where additional Town water wells could be put into place. The Monomoy lands which supplies our drinking water is particularly thick under this property and as the Cape Cod Commission noted; "as a finite resource the protection of land suitable for future well development is just as critical as the protection of lands within the recharge area for existing wells. In the Hydrogeology report you will see that the consultant did the exercise of drawing the 400-foot circles which shows no development around the immediate proximity of the wells. There are a number of sites on this property that would be suitable for new wells if we need them. This brings me to my final point which is not in the report. This is BCT editorializing on the report that is Brewster will have more development, Brewster needs more development and most particularly in community and workforce housing which is denser residential development. If done correctly would mean a substantial increase in residences and residential use of our water.

Those new residents as well as our existing residents deserve clean water to swim in and pure water to drink. Our point is that protecting the Town's water quality is not inconsistent with development and certainly not with housing, but it is essential to support additional prudent development. Whatever uses are ultimately approved by the Town on this property our very strong feeling at BCT is they should consider the particular sensitivity of this particular property to maintaining our water quality.

Cyndi: Thank you. That was an amazingly done outline of a complicated subject. Thank you for keeping it brief.

Ned: You remarked that the Town has endorsed the BCT's report, and I would characterize that a little differently. I would say that the Town is still very much in the fact-finding stage of the engagement phase. There have been no policy decisions made, less than a week ago on Saturday we had our first public information session and that is the process by which any decisions are going to be made about what happens on the parcels on the property. We are grateful for the report that the BCT has provided, and we are grateful for the report that the Audubon has provided which is also included in today's packet. As well as any input from other stakeholder organizations that may be listening in and the public. To say endorsed is maybe a little stronger than I would have put it, and it is more of a case to add to the material that we are using to help guide the Town with regards to its decisions on this property.

Tino Kamarck: The more accurate statement would be that the factual findings of the BCT report have not been challenged by anyone. It is also worth noting as a clarification that ultimately the Town has committed, and the voters approved on the acquisition of this property that a majority

of the property would be subject to a conservation restriction. The terms of the conservation restriction are not going to be determined in the planning process. The planning process would be inputs to the Select Board which has the authority to determine the ultimate terms of the conservation restrictions.

Ned: In exchange for the very generous pledge that you folks have made to the project. Thank you again.

Kimberley: In reading through the hydrology report and the eco system services report. I was wondering if there is any part of this property that has been considered not only for conservation but for preservation. In other words, when we say we have a conservation restriction on something, it still means it's touched by human hands. Where if we were to have any part of it preserved it seems like it's very important when you look at the NAGSP results and the drinking water risk. Has the question been asked, should we be taking a look at some part of the property being kept separate and preserved for nature and just untouched.

Ned: Yes, every question about the possible future of these parcels is being asked as we speak. As I said the public information process started on Saturday and it will continue for close to a year and it will be iterative. The survey went out yesterday. If you were not able to attend the session in person on Saturday, you will be able to provide input through the survey. The survey is on the Town's website. And yes, preservation as well as any other use is being reviewed.

Amy: The Ecological assessment was completed by MA Audubon.

Cyndi: I think I need to echo the BCT's concerns that the hydrology was not fully vetted in the RH Consultant report. I think it is important to consider in the future and I know it is hard for RH Consultants to come up with every option, but only provided the two options for one or the other and not the whole thing. That is something that should be clarified going forward. For example, keeping some of it as preserved was not an option that was provided.

Kimberley: A nice additive would be to do some drought scenario modeling using the hydrology report. We are going to have more droughts, that is just the way it is, and they may be more significant than 6 months. We want to see where the hydrology goes if we have another drought like the one we just experienced.

Ned: Has the Water Department and the Water Commissioner taken a look at this and taken it within consideration of the modeling we do have in town already?

Cyndi: We just received it at our last meeting of the Ponds Committee. I did put it on our agenda just as an FYI and I was going to invite BCT to our next Water Commission meeting. The Water Commission has the report however it has not been discussed.

Ned: I would like to hear what Paul would say.

Cyndi: Agreed. I think there is a master plan that we need to look at and I think this raises a lot of questions that we need to follow-up on more carefully.

Chris: I know the Water Commissioner has done studies over time on Town areas for future water supply. We just purchased a parcel in Southwest Brewster that we have dedicated for a future well site. The area near the pond has been developed as cranberry bogs for over a hundred years.

Cyndi: Would that area require an archeologic study?

Chris: It would depend on what is being proposed.

Kimberley: USGS might be the group that would be most interested in looking at this as a potential study or model.

Ned: Both, looking at other resources that could do a deep dive analysis and this might not cost the Town. Maybe a college or university that is looking for this type of project.

Cyndi: It is important to have the information on all levels. The Cape Cod Commission did accept the DCPC that's called the Brewster Water Protection District. It not only included Zone

1 and Zone 2, a ground water protection district but also the Pleasant Bay Water Shed. This may have some barring on nutrient load.

Chris: This property is about halfway between this water protection district and Long Pond. There is a small Nauset ground water flow running to it.

Ned: What is the process for adjusting the DCPC? As mentioned, it covers half the parcel.

Chris: It was done by hydrology on the extensive studies to replace these wells- they do a lot of hydrology to determine that maximum extent of the pumping of the water wells.

Ned: Are the studies readjusted based on hydrology and the flows?

Chris: Typically, they have not. However, if there are changes in drought conditions where we have different precipitation then they might change for DCPC. That would be a big step for them to take.

Amy: If a new well were to be installed at the Long Pond site, which is ideal for a new well, would that change the Zone 2 line. This would then trigger the change.

Chris: It would not be a district planning concern unless the Town determines that would be required.

Cyndi: It sounds like we have some work to do. Is there anything else?

Tino Kamarck: No

Item 2: Continued for Approval Certificate Renewal- Dream Day Cape Cod – M132 L9 165 Nan-Ke-Rafe Path

Amy: We haven't approved the three-certificate renewal because of how they answer the question on fertilizer that was being used on their one grassy baseball field. However, it was determined that they do not have any more of the fertilizer in stock and they will not be doing anything inappropriate in the future with regards to the fertilization of that field. They have a copy of the fertilizer regulations for reference.

Cyndi: Confirmation they are no longer using the fertilizer.

Chris: If they do have issues in the future, the recommendation is to do a soil test.

MOTION to approve Dream Day Cape Cod Water Quality Renewal Certificate.

MOVED by Amy Von Horn. Kimberley Pearson second.

Roll Call Vote: Amy von Hone – yes, Kimberley Pearson – yes, Ned Chatelain – yes, Robert Michaels – yes, Chris Miller – yes, Chair Baran- yes

VOTE: 6-yes 0-no

Item 3: WQRC Certificate Renewal – Camp Mitton Crossroads- M38 L36 46 Featherbed Road

Amy: Nothing has changed as far as their use. It is a seasonal camp. They have not opened yet. No issues with septic or well water results. This needs to be done as part of their application process.

Cyndi: Is the camp required to pump their septic.

Amy: If there are any issues with the septic, the Health Department would know about this very quickly. The process has been enhanced over the past year. The Department of Health does get the pumping records and monitors them closely.

Ned: Do people provide the results of the well test and septic pump? Do they have a receipt?

Amy: They are checked yes because they have tested.

Ned: Should we update the form to be more specific? The proposal is to update the form and change the wording.

Cyndi: I think this is a good idea.

Amy: There is definitely room for improvement, and this would be a good project for the group.

Chris: Maybe the Board of Health has a section that states they are in compliance.

Motion to approve the WQRC Certificate Renewal – Camp Mitton Crossroads.

Moved by Robert Michaels. Ned Chatelain second.

Roll Call Vote: Amy von Hone – yes, Kimberley Pearson – yes, Ned Chatelain – yes, Robert Michaels – yes, Chris Miller – yes, Chair Baran- yes

VOTE: 6-yes 0-no

Item 4: Approval of Minutes – 2/24/23 & 3/24/23

MOTION to approve the 2/24/23 and 3/24/23 Meeting Minutes as written.

MOVED by Kimberley Pearson. Ned Chatelain second.

Roll Call Vote: Amy von Hone – yes, Kimberley Pearson – yes, Ned Chatelain – yes, Robert Michaels – yes, Chris Miller – yes, Chair Baran- yes

VOTE: 6-yes 0-no

Item 5: Next Meeting – 6/23/23 9AM

MOTION to adjourn the meeting at 9:49AM.

MOVED by Ned Chatelain. Chris Miller second.

Roll Call Vote: Amy von Hone – yes, Kimberley Pearson – yes, Ned Chatelain – yes, Robert Michaels – yes, Chris Miller – yes, Chair Baran - yes

VOTE: 6-yes 0-no

Respectfully Submitted by: Joanne Boland-Weeden

Packet of additional documents available on the website for public review



TOWN OF BREWSTER
Water Quality Review Committee
2198 Main Street
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(508) 896-3701 x1121
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Date Approved:
Vote:

TOWN OF BREWSTER
MINUTES of WATER QUALITY REVIEW COMMITTEE
Friday, August 25, 2023, at 9:00 AM
WQRC MEETING AGENDA

Attending Committee Members:

Amy Von Hone convened the Water Quality Review Committee meeting at 9:00AM with members Ned Chatelain (Brewster Select Board), Robert Michaels (Brewster Planning Board), Davis Walters (Building Commissioner), Amy Von Hone (Health Director), John Keith (Board of Health), Susan Brown (Water Commissioner), and Chris Miller (Natural Resources Director) and deemed there to be a quorum.

Members Absent: None

Open Meeting Law statement read.

Agenda

- Review the Zoning Bylaw

Guests: Jon Idman, Town Planner

Item 1: Review the Zoning Bylaw

Jon Idman (Brewster Town Planner) - was asked to review the Zoning Bylaws

Amy: At the request of Amy, Jon was asked to come in and provide a high-level overview of the Zoning Bylaws and how they impact the WCRC

- In your packet there is a copy of the Zoning Bylaw
- I have tried to highlight the areas of the Bylaws and how this Committee fits into the process
- Requested that we keep the conversation informal.

Jon Idman's Overview

Jon Idman: The most important point to recognize is that the Committee is solely derived from its jurisdiction and responsibilities which are solely associated with the Zoning Bylaws.

- There are no other planning functions or external functions of the Committee outside the Zoning Bylaws.
- More specifically the Roles and Responsibilities and Jurisdiction of the Committee derive from the Water Quality Overlay District Article of the Zoning Bylaw with a subsection dealing with Water Certificates.

- The Water Quality Overlay District has existed in the Zoning Bylaw since the 1980s
- Zoning Bylaws have been altered in the 1990s and again in 2000. Essentially in the form that you see today.
- The Committee and Certificate have also existed in that district since the early 1980s
- The Committee's Principal Role is the administration of the Water Quality Certificates that are required in the district.
- The function of the district is to look out for ground water and related resources to establish standards and limitations that overlay underlying zoning residential, commercial, and industrial districts within this overlay district to protect ground water resources and other related resources like: estuarian resources in the Pleasant Bay Water Shed.
- The district is made up of the following:
 - o Zone 2 – which are areas that contribute to the Town's public drinking water wells
 - o Pleasant Bay Water Shed which is an estuarian watershed.
- Certificates are the principal role and responsibility of this Committee
- The Bylaws allow and require that this Committee issue Certificates in the first instance unless there is a special permit which is also required for a development. In that case the Certificate is rolled into the special permit and usually it is the Planning Board that is the granting for the Special Permit.
- If there is a Special Permit then the role of the WQRC is advisory only.
- The Planning Board will provide a notice to the WQRC of a certain project and plans. The WQRC will provide comments back to the Planning Board that will take them under advisement. It will integrate those comments into the Special Permit.
- At that time, the Certificate will be integrated into the Special Permit.
- Note Certificates are usually tied to a Special Permit.
- The primary role of this committee is a compliance review of Certificates that have been issued. The Bylaw provides that every three years the Committee look at Certificates that have been issued and determine if there is further action required to determine if the project associated with that Certificate is still compliant.
- Having the Building Commissioner and the Health Director involved are some of the questions you ask upon compliance review every 3 years. Have there been changes to the project like footprint, wastewater system been altered, and/or changes of use under the building code.
- If there have been changes, the Committee will ask the Certificate owner to come to a meeting to review any changes.
- Upon compliance review, your roles ties back into the Certificate that has been issued which needs to be reviewed every 3 years
- If a Special Permit is involved, the Planning Board can require that a review takes place more than every 3 years.
- Certificate types of projects are commercial or industrial addition or new constructions or change of use under the building laws for toxic or hazardous waste.

Amy: Can you give us an example of what type of projects are coming before the board?

Jon Idman – Sand and Gravel mining, has an associated certificate with a 2-year review. There is not a lot of development in that part of town, the commercial district is very small.

Rob – We have reviewed only a few; one was a camp the other a church. What was the rationale for those two buildings triggering a requirement of a Certificate?

Jon Idman – The trigger is very broad, is a Special Project required in the district or is there construction that is not single family residential. That is a good point, and this will lend itself to subsequent discussions. However, the Committee has the same review process regardless of a church or a sand and gravel request. Every 3 years the Certificate needs to be renewed. If the Town sees a need to change the Bylaw and the obligations and responsibilities of the

Committee for a Certificate, so be it, but what we are working on now are the existing conditions of the Zoning Bylaw.

Amy – Bottom line any residential use that is not a single family. Any development that meets that criteria that falls within the DCPC is required to obtain a special permit.

Jon Idman – That is true under the Zoning.

Amy – That determination is made by the Building Commissioner whether that project meets that criteria of requiring a Special Permit which would include a Certificate.

Jon Idman – Note multiple family houses can only be done within the CH high density district which is very small. This is an example of a Certificate being rolled into a Special Permit which would imply that this Committee would play an advisory role.

John Keith – How does this apply to single family developments where you are adding a new infrastructure? How does this apply to campgrounds?

Jon Idman – Dream Day Camp of Cape Cod abuts Nickerson, but it is not within Nickerson. State land used by the State is beyond the Town's zoning jurisdiction. Nickerson does not apply to the Zoning Bylaws. The Dream Day Camp does have an active Certificate.

Subdivisions in the DCPC area can go through a process called Natural Resource Protection Design which is a type of subdivision that can only be done by right in the DCPC. It allows for very high level of flexibility, where in some cases you don't even require roadways just easements.

Amy - a new subdivision for residential is being proposed, it is in the DCPC, the building of the lots will fall under Building and Health jurisdiction. For example, I need to be concerned about nitrogen loading because of Zone II under Title V. The subdivision itself will need to be reviewed by WQRC?

Jon Idman – Not necessarily, is subject to the subdivision control law. It becomes a Zoning Use in two ways:

- Zoning Use called Natural Resource Protection Design which is a type of subdivision or division of land that can be in the DCPC / water overlay district. It allows subdivision to be done as a matter of right.
- Special Permit can be used to support a more typical subdivision
- There are two Special Permit provisions in the overlay district, which are the following:
 - One states that certain projects are going to the WQRC for review and advisory
 - The other does not, this one does not include reference to needing WQRC review
 - There are nitrogen loading standards.
 - There is also storm water review

Amy – The storm water bylaw would take into consideration drainage

Jon Idman – The WQRC takes into consideration Water Quality and Quantity

Ned – I have been on this Committee for 6 or 7 years; it feels like we are having a little bit of an identity crisis with regards to our role and obligations. We are closer to a Staff Review Level entity to provide guidance and review checkboxes on an application. We are Not a Planning Board oversight style of a committee.

Jon Idman – As a practical matter, the Committee issues just a few Certificates. I think the principal role of this committee is the compliance review of the Certificates as required. Water Quality in Brewster is an important issue and because Water Quality is so important, it assumes that this Committee should be doing more than what is defined.

Ned – we are not looking to expand the role of this Committee, but rather to clarify how it is being applied now and how it should be applied in the future. We have not denied an application in my time or applied significant constraints on a Special Permit application with regards to a Certificate. I think we are doing a good job as a “backstop”, but we are not doing much constructive regulation.

Jon Idman – The make up of this Committee is important. The members of this Committee can provide a level of expertise or fine grain review for these Water Quality issues to help the

Planning Board. The focus is really on toxic and hazardous materials and the scrutiny which is going to be raised for certain projects and not others. How do we negotiate our Town Wells and Industrial in our Overlay District.

Chris – I have participated on this Committee the longest, but I am not an official Committee Member. The original role was to oversee these significant Water Quality risks like sand pits going from small to large, we do walk a fine line between Planning and Advisory.

Jon Idman – For certain Special Permit, the Planning Board has to come to the WQRC to play the role as Advisor. This Committee does drive the approval of a Certificate and an advisor of a Certification aligned to a Special Permit.

Susan – One item that is not addressed is PFOS, which could contaminate our wells. We will be testing our water for specific PFOS levels?

Rob – There are two things that I heard. One is there is no such thing as too much Water Quality in the Town of Brewster. The other thing I am hearing is identity crisis, not enough to do. Which are two competing things.

Jon Idman – This is a high level item that the Select Board is charged with because we have a Water Quality Task Force, and we have a Water Quality Review Committee.

Ned – I think this one tool in the toolbox to ensure the Water Quality: drinking water and pond quality. I think we should escalate this conversation with regards to toxic and hazardous issues. We need to find a way to strengthen our toxics mandate and strengthen it with our other counterparts like The Ponds Coalition.

Amy – As a staff member that is an excellent response as far as a path forward. This regulation and our regulations with regard to Title V regulation is conflicting and what we are trying to do with the DCPCs and Zone Twos. We need to ensure that everything is matching up and who should be doing what.

Ned – I will talk to Peter Lombardi about putting this on the Water Quality Task Force next meeting. We can send a proposal to the Select Board for consideration.

John Keith – What about private wells? How do we protect private wells?

Jon Idman – This is lacking within the Commonwealth and unfortunately, we only have limited historical information on these wells. They are important to protect. This goes back to my point, there is a much larger issue than WQRC. It doesn't mean that within that section 17957 overlay district that scrutiny over private wells can't become a standard.

Amy – There are a couple of different Board of Health regulations where you are required to test your well water periodically.

Chris – With regards to Water Quality, even when they are testing, they are only testing for bacteria and not PFOS.

Jon Idman – there is some housekeeping that needs to be done between the bylaw and section 17957

- It is not totally clear with regards to special permit conditions stating two totally different things and it is a little unclear what the trigger is for water quality review committee, one section says it's new construction and the other section references additions.
- It is important that we have a post decision compliance review
- It is more important to focus on the development that could have an impact on Water Quality and not the church that once was required to have a certificate but has no evidence of toxic or hazardous issues.
- Double down on the properties that have monitoring wells

Davis – NRPD requirements?

Jon Idman – NRPD is a type of division or subdivision of land that can only be permitted in the DCPC area. It's by right and it allows you to develop land in a flexible way that is more sensitive to the natural environment. It does not require road layouts or defined frontage but does set aside a large area of open space.

Chris – have we had any applications under the NRPD?

Jon Idman – We have but they are Brewster Conservation Trust. There has not been an NRPD that has been provisioned and then divided. Provided more information with regards to the NRPD. I think you should be doing a Natural Resources analysis when you are looking at a larger subdivision.

Ned – go to the Water Quality Task Force and add an agenda item to review the direction for the WQRC

Item 2: Discussion and Vote on the Reorganization of the Committee

Amy: Cindi Baran has been replaced by Susan Brown, and Cindi Baran was acting as our Chair. We need to fill the Chair position. The Health Director should be the Vice Chair. Review the voting members. I am willing to stay Vice Chair. We will need to replace the Chair. Rob Michaels is interested in being the Chair of the WQRC.

MOTION to approve Rob Michaels as the new Chair of the WQRC

MOVED by Ned Chatelain. Susan Brown second.

Roll Call Vote: Amy von Hone – yes, Ned Chatelain – yes, Chris Miller - yes, Davis Walters - yes, Susan Brown- yes, John Keith - yes

VOTE: 6-yes 0-no

AVH: provided a list of names and email of the WQRC members

Item 3: For your information section

- May and July monitoring reports for Cape Sand and Recycling, will need to do a site visit next year
 - o There is one particular well that is in the area that may be the cause, or it could be the boat area
 - o This site is a considerable distance from our wells
 - o The well at the boat storage area was closed
 - o Boat storage is not permitted in that area and it is currently being cleared
 - o Enforcement letter was sent out

Item 4: Matters not reasonably anticipated by the Chair

- No items to review.

Next Meeting: September 22ⁿ at 9:00 AM

MOTION to adjourn the meeting at 10:01 AM.

MOVED by Susan Brown. Davis Walters second.

Roll Call Vote Amy von Hone – yes, Ned Chatelain – yes, Robert Michaels – yes, Davis Walters - yes, Susan Brown- yes, John Keith – yes, Chris Miller - yes

VOTE: 6-yes 0-no