

Town of Concord
Board of Health

Minutes from the Meeting
Tuesday, August 16, 2011

PRESENT: Dr. Alan Woodward, Chairman
Ellen J. Hutt
JoAnn DiNardo
Jack Bergman
Kerry Diskin

Susan G. Rask, Public Health Director
Stanley J. Sosnicki, Environmental Health Inspector
Gabrielle P. White, Public Health Inspector
Karen M. Byrne, Administrative Assistant

OTHERS: Jack and Pat Grant, owners, Walden Grille, 24 Walden Street;
David Summers, Esq., 77 Franklin Street, Boston, MA; Lisa Berger,
Berger Food Safety Consultants; Jean and Bill Thompson, 1679
Main Street; Michael Lambert, Esq., State Street, Boston, MA;
Family Members representing Hedy Alexander, owner, 1861 Main
Street.

1. Staff Reports – Public Health Director

Planning Grant

Susan Rask, Public Health Director (PHD) updated the Board on the progress of the implementation of the Metro West Public Health and Nursing District Grant. Currently, there were 13 communities that had expressed a commitment to the collaborative effort to regionalize certain services that would enable Towns to target particular areas of public health, such as youth issues (substance abuse); obesity prevention; continued wellness clinics to name a few. However, she also mentioned that the implementation grant scope had morphed several times since the planning grant was issued in May and that MDPH was now requiring that the committed Town's agree not to cut public health funding for 5 years. Ms. Rask said that, amongst other somewhat time-consuming conditions and expected deliverables could actually dissuade communities to make a final commitment to participate in the MDPH District Implementation Grant. Brent Reagor, consultant for the implementation of the grant, was expected to attend the September meeting with an update for the Board.

Mosquito Control

The PHD and Karen Byrne updated the Board on the services provided by the Eastern Middlesex Mosquito Control Project (EMMCP) to date. In recent weeks, some abutting towns had mosquitoes test positive for WNV and had taken precautionary measures. In conjunction with Public Works employees, EMMCP began the parricide application to the catch basins and the Health Department had not been notified of any positive results for either EEE or WNV from any of the mosquitoes tested from the various traps throughout the Town.

Region 4A – Executive Committee

Susan Rask advised the Board that she had agreed to sit on the Executive Committee for Region 4A. Ms. Rask said that it would assist her in better understanding what issues continue to need attention as it relates to Emergency Planning and Preparedness in the Town.

2. Board Calendar & Minutes

The Board reviewed and discussed the minutes from the July 19, 2011 meeting. Jack Bergman moved to accept the minutes as submitted. JoAnn DiNardo seconded it. All VOTED in favor to approve.

The Board discussed and reviewed the minutes from the Executive Session held on July 27, 2011 as it related to potential litigation from Walden Grille against the Town. Ellen Hutt moved to accept the minutes as submitted. Jack Bergman seconded it. All VOTED in favor to approve.

Following an additional discussion, Ellen Hutt moved that the minutes from the Executive Session not be released until resolution of the potential litigation from Walden Grille is resolved. Jack Bergman seconded it. All VOTED in favor.

The Board reviewed and discussed the regular session minutes from the July 27, 2011 meeting. JoAnn DiNardo moved to approve them as submitted. Jack Bergman seconded it. All VOTED in favor to approve.¹

The Board confirmed that the next regular meeting would be held on Tuesday, September 13, 2011 (one week earlier) to accommodate conflicts with Board member's schedules and to ensure a quorum.

3. Public Hearing – Food Service Establishment

Walden Grille – 24 Walden Street (continued enforcement review)

At the July 27, 2011 meeting the Board Health voted by a 3 to 2 vote decided in lieu of an immediate revocation of Walden Grille's license to operate, to allow Walden Grille to continue operations subject to additional conditions²; including, but not limited to weekly inspections by a food safety consultant, as well as appearing at a minimum of the next two regularly scheduled Board of Health meetings.

The Board of Health reviewed the inspection reports submitted by Lisa Berger, Berger Food Safety Consultants and were informed that the reports did not contain any critical violations. Public Health Inspector, Gabrielle White and Ms. Rask also provided the Board with an update of their most recent inspection; although no critical violations were noted during the inspection, it was noted that the non-critical were repetitive in nature. However, both felt cautiously optimistic about what they observed and some of the policies and procedures implemented since the last meeting.

¹ Ellen Hutt abstained from the vote because she had not received the meeting minutes prior

² Attachment of conditions voted by Concord BOH 7/27/11

Susan Rask said that she had reviewed and accepted the food safety protocols and procedures developed by Ms. Berger for Walden. She advised the Board that she was waiting for some final modifications for the specific training manuals for each individual position, but had reviewed what had been written to date and that Ms. Berger had been providing individual training to the employees currently working in the kitchen.

Following a brief discussion, the Board encouraged Mr. Grant to continue moving in this direction and that it would see him at the September 13, 2011 meeting to review the continued monthly inspection reports.

***The Board took the agenda out of order at this point because the next item scheduled was a public hearing and it was too early to begin discussion.**

4. Septic Betterment Loan Program

Preliminary Approval for Betterment Liens

Karen Byrne processed a loan application for the following property this past month. Stanley Sosnicki, Environmental Health Inspector reviewed the Title 5 inspection report and confirmed that the system was in failure:

- 126 Nut Meadow Crossing – Mabbs (\$30,000)

Jack Bergman moved that the Board VOTE to find the onsite sewage disposal system for the above noted property to be a public health nuisance per MGL, CH 111, s., 127 B & 127B ½ and to authorize the initial betterment lien assessment not to exceed \$30,000 to be filed at the Registry of Deeds. Ellen Hutt seconded it. All VOTED in favor.

Final Betterment Lien Assessment

The onsite sewage disposal system for the following property has been completed and all invoices processed by the Administrative Staff.

- 117 Channing Road – Deutsch/Green (\$27,550)

Jack Bergman moved that the Board issue the Order to Assess the Betterment for the above listed property in the amount of \$20,850. Such order shall be forwarded to the Town Collector. Kerry Diskin seconded it. All VOTED in favor.

5. Reports from Other Board Members

Ellen Hutt advised the Board that she had met with Erin Duggan, Youth Services Coordinator relating to the status of the implementation of the recently formed Youth Services Advisory Board. Ms. Hutt noted the committee was loosely organized, but felt that once school began a more focused schedule and objective would be established. The “Committee Charge” set by the Town Manager is geared towards advocating for the needs and welfare of young people living in Concord and to support ways to address those needs.

***The Board returned to the regular order of the agenda to adhere to the times set for the public hearing @ 7:45 p.m.**

6. Public Hearing – Housing (Appeal of BOH Order)

1679 Main Street – Request to appeal findings from PHD & Environmental Health Inspector

Jean and Bill Thompson, tenants, 1679 Main Street, met with the Board to discuss their written request for an opportunity to contest findings outlined in a letter dated July 25, 2011 for issues that were found not to be violations (during a comprehensive sanitary inspection conducted at their apartment).

Prior to discussion, the Public Health Director and the Chairman both noted that the discussion would be limited to the letters written on July 25 and July 28 respectively relating to the inspection conducted on July 21, 2011.³

Background

In April 2011, Stan Sosnicki conducted an inspection upon request of the tenants for possible violations to the housing code. In May 2011, the owner of the property, Hedy Alexander met with the Board of Health to request an extension to repair certain violations due to difficulties she was having with the tenants in obtaining access to the property. At the May meeting, the Board made it clear to all parties involved that the tenants were required to provide “reasonable access” to the owner and her representatives so the violations could be abated. Unfortunately, the situation escalated in early June between the parties which led to the request of the comprehensive sanitary inspection conducted on July 21, 2011.

Discussion & Review

The tenants were given an opportunity to provide documentary evidence as to why the orders should be modified and/or withdrawn. During discussion, Mr. and Mrs. Thompson brought several items to the Board’s attention that they disputed and felt were not properly noted by the inspectors as violations under the housing code. The tenants presented information, including, but not limited to, photographs and verbal testimony of claims that the Health Department had not accurately documented violations. For each item disputed, Board Members referenced the pertinent sections of Chapter 2 of the State Sanitary Code, 105 CMR 410.000, *Minimum Standards of Fitness for Human Habitation*. After a lengthy discussion and debate, the Thompson’s stated they did not feel the Board or the Health Department had taken their request seriously and that it had “pre-decided” the outcome of the hearing. Mrs. Thompson said the house was unsafe.

The Public Health Director defended the Health Division’s actions in responding appropriately to requests made by all parties involved in this matter. She felt staff had carried out its’ obligations and conducted the inspections in accordance within the guidelines set forth in Chapter 2 of the State Sanitary Code. The Board of Health concurred. It felt that many of the items raised were civil matters to be dealt with in court or were appropriately documented.

³ Letters Attached
BOH Minutes

Following a lengthy discussion, Ellen Hutt moved that the Board of Health vote to SUPPORT the findings outlined in a letter dated July 25, 2011 and to SUSTAIN the order letter dated July 28, 2011. Jack Bergman seconded it. All VOTED in favor. The motion carried 5-0.

The meeting adjourned at approximately 9:00 p.m.

Respectfully submitted by,

Karen M. O'Keefe-Byrne, Administrative Assistant
Concord Board of Health

Dr. Alan Woodward, Chairman

JoAnn DiNardo

Ellen J. Hutt

Jack Bergman

Kerry Diskin