

Town of Concord
Board of Health

Minutes from the Meeting
Tuesday, December 15, 2009

PRESENT: David Burgess, Chairman
Deborah Farnsworth
Dr. Susanna Bedell

Brent L. Reagor, Public Health Director
Karen M. Byrne, Administrative Assistant

OTHERS: Judith Quanrud, 36 Rollingwood Lane (FinCom); Ann Bauer,
65 Cressbrook Road; Marty Nestor, Estabrook Road; DJ
Wilson, Esq., Massachusetts Municipal Association

1. Board of Health Discussion – Revisions to Local Tobacco Bylaws

DJ Wilson, Esq., from the Massachusetts Municipal Association met with the Board of Health to review proposed changes to two local Board of Health bylaws:

- Sale of Tobacco to Minors Bylaw (adopted in 1991, amended in 1995)
- Smoking in Food Establishment Bylaw (adopted in 2003)

Background

Both bylaws were adopted during a time when additional mechanisms were being sought in the public health community to further restrict the sale of tobacco products to minors and provide a smoke free environment in restaurants (or food service establishments). During that time period, bylaws and/or regulations were adopted by individual towns (on a local level) primarily as part of their tobacco control programs (which were established with funds awarded as a result of a multi-state class action suit against the tobacco industry). Unfortunately, since that time in the early to mid 1990's, most of those programs have been slashed or eliminated for budgetary reasons.

Discussion

Mr. Wilson provided the board with the following a revised version of each bylaw and provided some additional information for it to consider:

The Smoking in Food Establishment Bylaw was adopted at a time prior to the Commonwealth of Massachusetts' prohibition to smoking in restaurants. Since that time, Massachusetts General Law, Chapter 270, Section 22; commonly known as the

Massachusetts Smoke-Free Workplace Law was enacted' the changes proposed to this bylaw would include a name change, increase fines for non-compliance, prohibit the sale of tobacco products in vending machines or by mobile vendors, and prohibit smoking in Tobacconist Shops ("Smoke Shops"), Hookah Bars, and Nursing Homes.

The Sale of Tobacco to Minors Bylaw was adopted in 1995 as a way for the Concord Board of Health to further restrict the sale, vending, and distribution of tobacco products to minors as it related to the protection of the public health. Since that time, statewide regulations governing this area have changed, along with industry practices, and public health research about the dangers of tobacco use in adolescents. He noted that most of the changes in this particular bylaw would relate to broadening the definitions, adding restrictions as it related to the transfer of licenses between parties and larger fines for non-compliance to the bylaw.

Following a brief discussion, the Board commended and thanked Mr. Wilson on his work in this area and for his proposed changes to the bylaw. Dr. Bedell moved that the Board of Health accept the proposed changes presented to each bylaw and that it move forward to presenting each one at Town Meeting. The Smoking in Food Service Establishment Bylaw will be presented and renamed as the Smoke Free Workplace Local Bylaw; The Sale of Tobacco to Minors Bylaw name will remain the same. Deborah Farnsworth seconded it. All VOTED in favor to approve.

Mr. Wilson will provide a final version with all of the changes incorporated to the Public Health Director prior to the January 2010 meeting.

2. Board of Health Review of Title 5 Inspection Reports

Background

In August 2009, AJP contractors were hired to conduct a Title 5 Inspection for the property for the sale of the house. An inspection was conducted and a failed report was submitted to the Health Department. According to the report, the static liquid level in the distribution box was above the outlet invert due to an overloaded or clogged soil absorption system.

Subsequently, soil testing for a new system was scheduled to be conducted.

The Homeowner contacted the Health Department and cancelled soil testing because the house was taken off the market. A Letter of Non-Compliance was issued by the Health Department on September 3, 2009 ordering the situation to be removed and/or abated within (2) years, unless otherwise ordered by the Concord Board of Health.

In early October, Ms. Bauer contacted ABC Cesspool to conduct a 2nd inspection. During the inspection, Charles Hartwell, ABC Cesspool contacted Environmental Health

Inspector, Stanley Sosnicki and reported findings that the leaching pits were not in failure. Mr. Hartwell asked Mr. Sosnicki to conduct a site visit. During the site visit, Mr. Sosnicki confirmed the results reported by Mr. Hartwell.

The Public Health Director advised the Board that Title 5 stated that if the Local Approving Authority (BOH) agreed with an inspection that was conducted for the purposes of refuting and/or corroborating findings of a previously submitted report, then the re-inspection shall supersede.

Mr. Reagor said that based upon the review of both inspection reports and the field inspection conducted by Stan Sosnicki, Environmental Health Inspector, he recommended that the Board of Health accept the November 13, 2009 Title 5 Inspection Report submitted by Charles Hartwell of ABC Cesspool as the official inspection report by 65 Cressbrook Road and that the Board void the Notice of Non-Compliance issued by the Health Division on September 3, 2009.

Ann Bauer, owner of the property, told the Board that she had some concerns regarding the "lack" of involvement of the Health Department staff during Title 5 inspections. Ms. Bauer said that a similar thing happened to her back in the early 1990's. She asked about the possibility of Mr. Sosnicki going out to witness each Title 5 inspection in town to prevent a similar situation from occurring.

The Public Health Director stated that nearly 65-75% of all health staff resources would be depleted if it was required to witness Title 5 inspections for the transfer of title/sale of a home on a daily basis. He noted that Title 5 Inspectors are independent contractors licensed by the State Department of Environmental Protection and registered with the Health Department as such. Reports are reviewed by Mr. Sosnicki and if a problem is occurring, more often than not, soil tests are scheduled, at which time he visits the site. Mr. Reagor said that this situation was truly an anomaly regardless of the fact it occurred twice to the same resident.

Following a brief discussion, Deborah Farnsworth moved that the Board ACCEPT the 2nd inspection report as submitted by ABC Cesspool as the official Title 5 report for the property located at 65 Cressbrook Road and that the Letter of Non-Compliance be voided. David Burgess seconded it. All VOTED in favor.

3. REVIEW OF MINUTES & CALENDAR

The minutes from the October 20, 2009 were reviewed and discussed. Dr. Bedell moved to APPROVE the minutes as submitted. Deborah Farnsworth seconded it. All VOTED in favor.

The Board reviewed the calendar for the upcoming meetings.

4. REPORTS

Chairman's Report

Dave Burgess updated the Board of Health on the coordination meeting where he discussed the Board's intention of bringing (2) Tobacco Control Bylaws before Town Meeting 2010. He said he did not receive any adverse reaction to the proposal.

REPORT FROM PUBLIC HEALTH DIRECTOR¹

The Public Health Director (PHD) presented the Board with his monthly update outlining the Health Department's activities since the October 2009 meeting.

Wild Life Control

Stan Sosnicki, Environmental Health Inspector issued an emergency permit to remove beavers from Crosby's Pond to the Concord Public Works Department. Beavers had damned the overflow from the pond which would eventually flood the roadway on Cambridge Turnpike.

Seasonal & H1N1 Influenza

For the past several months, Board of Health staff have been fielding questions from residents regarding the availability of both seasonal and H1N1 influenza vaccines. Concord thankfully was able to hold its annual public clinic (seasonal influenza) for seniors in October and slowly but surely, the H1N1 vaccine is being shipped to local providers and Health Departments so that public clinics can be organized. At this point however, the Concord Health Department has not received enough vaccine to schedule any type of clinic that could adequately serve the public. The Public Health Director is working closely with Emerson Home Care, Concord Public and Private Schools, and Emerson Hospital in coordination efforts.

5. SEPTIC BETTERMENT LOAN PROGRAM

Final Betterment Lien Assessments

There were none during this month.

¹ Board of Health Director's Report - attached

Preliminary Approval for Betterment Liens

Karen Byrne processed a loan application for the following property in November 2009. Stanley Sosnicki, Environmental Health Inspector reviewed the Title V inspection report and confirmed that the system was in failure:

- 80 Peter Spring Road (\$19,505.11) – Rose

David Burgess moved that the Board VOTE to find the onsite sewage disposal system on the above listed 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 \$11, 000 to be filed at the Registry of Deeds. Deborah Farnsworth seconded it. All VOTED in favor.

Board of Health
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December 15, 2009

Respectfully submitted by,

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

David J. Burgess, Chairman

Deborah R. Farnsworth

Dr. Susanna Bedell