

Town of Concord
Board of Health

Minutes of the Meeting
Tuesday, March 15, 2011

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

Stanley J. Sosnicki, Acting Public Health Director
Gabrielle P. White, Public Health Inspector
Karen M. Byrne, Administrative Assistant

OTHERS: Marcia Rasmussen, Director, Planning & Land Management;
Judith Quanrud, FinCom, 36 Rollingwood Lane; Matthew
Crosier, Middlesex School; Philip Juarie, Flick Food
Management; Erin Duggan, Youth Services Coordinator,
Town of Concord

Dr. Woodward opened the meeting at approximately 7:00 p.m.

1. Update from the Director

Public Health Director Position

Marcia Rasmussen, Director of Planning & Land Management met with the Board to provide a brief update on the status of the recruitment/hiring process of the new Public Health Director. Ms. Rasmussen informed the Board Human Resources had received 13 resumes and applications for the position; she felt six were viable candidates and the first round of interviews would be conducted March 23rd and 24th respectively. She noted that the initial interview panel would include, herself, Building Inspector Laurie Livoli and Paul Cote, Assistant Director of Water and Sewer. Second round interviews would likely be conducted mid April and the Town Manager would be included during those interviews.

The Board asked Ms. Rasmussen to attend the April 19th meeting if possible.

Town Meeting Process & Clarification

Ms. Rasmussen reviewed Town Meeting process with the Board of Health. She inquired whether any of the current members had attended TM in the capacity as a Board member; they had not. Since support had been solicited by petitioners for at

least (2) warrant articles from the Board of Health, Ms. Rasmussen briefly explained the process of being recognized by the Town Moderator if it wanted to speak directly to an issue. Ms. Rasmussen listed possible scenarios for the Board to consider during its discussion later in the meeting and suggested that a member from the Board attend each night of Town Meeting.

She also noted that following Town Meeting is often a good opportunity for Board's and Committees to strategize with its respective staff support and discuss realistic goals for the upcoming year. The Board may designate a slot on an upcoming agenda to consider the best way to accomplish moving community health forward in Concord with the resources available (staff, time, and funds).

2. Discussion – Program Introduction

Youth Services Coordinator Advisory Board

Erin Duggan, Youth Services Coordinator for the Town of Concord met with the Board to provide it with an overview regarding some of the programs that are being developed to address youth services and issues within the Town.

Jack Bergman asked what triggered the Town to develop this committee and asked who was sitting on the Board. Ms. Duggan said last year, following a suicide of a CCHS student, the Town and the School made a decision to take a proactive approach to developing programs and providing venues for youth; whether it be speaking to a peer group, counselors, or providing alternative activities for teens to participate in. Currently, she said that the Board consisted of (2) psychiatric nurses, an internist, a representative from Hanscom AFB, the Police Chief, and a student representative.

The Board reviewed the charge for the committee and made note that a member of the Board of Health should have been designated as a liaison as well. Ellen Hutt and Jack Bergman both expressed interest in sitting on this board. Ms. Hutt shared some personal experiences as it related to this issue. She noted that developing alternative activities for students who for example did not participate in other “mainstream” after school activities such as sports, drama, etc., could have a huge impact in the community. Following a brief discussion, JoAnn DiNardo nominated Ellen Hutt as the liaison from the Board of Health. Dr. Woodward seconded it. All VOTED in favor to approve. This is an open meeting, so all Board members were encouraged to attend and provide input if they were so inclined.

3. Public Hearing – Food Service Establishment – Violation of Order from Board of Health

Middlesex School, 1400 Lowell Road

In February, it came to the attention of the Health Department that Middlesex School had terminated its contract with Berger Food Safety Consulting (BFSC) which

violated a direct order from the Concord Board of Health (10/19/10). Since that time, a newly signed contract had been executed and Ms. Berger had conducted some preliminary staff training (during school vacation week). Once school is back in session, she plans to conduct the required monthly inspections and submit those reports to the Board for review and additional training for staff. Matthew Crozier, Chief Operating Officer and Philip Juari, Flick Food Vending were in attendance at the hearing and apologized for the oversight and assured the Board that it would not happen again. No further action was taken at this time.

4. Town Meeting Discussion

The Board briefly went over whether it would modify positions it previously had discussed on Town Meeting Articles:

- Article 38 – Sale of Drinking Water in Single-Serving PET Bottles (12/21/10 – Letter to Selectmen)
- Article 40 – Farming Bylaw (discussed at 2/15/11 meeting)

Article 38

In November 2010, Ms. Jean Hill met with the Board to discuss her proposed warrant article as it related to the ban of the sale of drinking water in single PET bottles 12 ounces or less (Note: this was changed to 1 liter bottles or less prior to the Coordination Meeting in December); if approved, this bylaw would direct the Health Department to act as the enforcing agent.

On December 21, 2010, the Board sent a letter to the Selectmen stating it could not endorse Article 38 because it lacked the core elements it felt necessary of a local public health initiative. Dr. Woodward asked members if they wanted to reiterate its position in the letter, modify it, or vote to oppose the article as written.

Ellen Hutt moved that the Board vote to OPPOSE Article 38 as written. Kerry Diskin seconded it. All VOTED in favor. Karen Byrne noted that the Board could have the letter it wrote to the Selectmen on hand for back up documentation if members were asked to explain why it opposed the article.

Following the vote, Judy Quanrud, FinCom, strongly suggested that the Board of Health be prepared to answer questions from the floor of Town Meeting and have some type of handout explaining its position. She noted that the letter to the Selectmen provided some excellent points and the Board should use them in explaining its position.

Jack Berman felt that the vote for Town Meeting on this article should be revised to better reflect that the Board applauded Ms. Hill's efforts to reduce plastics from the waste stream and encouraged her to focus on educational and/or recycling initiatives to

achieve her goals. After a brief discussion, Ellen Hutt moved to RESCIND the previous vote. JoAnn DiNardo seconded it. All VOTED in favor.

Ellen Hutt made a motion to reaffirm the Board's original position as stated in its letter to the Selectmen on 12/21/10 to not ENDORSE Article 38 as written because it lacked the core elements of a local public health initiative. JoAnn DiNardo seconded it. All VOTED in favor.

Article 40

The Board of Health reiterated its position on a vote taken at the February 15, 2011 meeting on the Farming Bylaw.

The Board of Health supports the Farming Bylaw as written.

Staff will prepare a handout or power point slide for the Board of Health to use at Town Meeting (if necessary) and will review it in April. Copies of the Board's original letter to the Selectmen will be provided to the Board prior to Town Meeting.

5. Staff Reports

Acting Public Health Director

Regional Nursing Services

A copy of the Public Health District Incentive Grant Program final submittal was provided to the Board for its review. Mr. Sosnicki said that it appeared that funding would be available to all communities to implement the planning portion of the grant to form districts and assess community needs.

Septic Betterment Loans

A brief article was included in last week's Concord Journal to get the word out to homeowners that financial assistance to replace failed onsite sewage disposal systems was available to homeowners. This is the second round of the Septic Betterment Loan Program and qualifying homeowner's can apply for up to \$30,000 to help defer the costs of replacing a failed system. Karen Byrne has received several inquiries and expects to process at least (2) applications within the week.

Walden Grille

On March 7, 2011, the Health Department received a complaint from an adjoining business to this facility stating that staff from the restaurant was illegally dumping food waste, grease and water into the catch basin that discharges directly into the Mill Brook. The Public Health Inspector confirmed the violations.

Acting Public Health Director Sosnicki and Public Health Inspector, Gabrielle White advised the Board that similar complaints had been verified on several occasions dating as far back as October 2000 and more recently in October 2010. Upon a file review, Health Department staff reviewed a consent agreement that was signed by a previous Public Health Administrator and Walden Grille in December 2001 *stating "The permit holder hereby agrees that effective immediately, the catch basin in the parking lot shall not be used to dispose of liquid waste, including but not limited to mop water, cleaning or rinsing water, grease, or food waste."*

In a letter to Walden Grille dated 3/9/11, Mr. Sosnicki issued a \$200 dollar fine and ordered the owners to take immediate corrective measures:

- Cease all activities that discharge wastes into the catch basin. Employees are not allowed to wash any equipment or dump wastes outside of this facility.
- The spigot used to wash equipment must be taken out of service and the hose removed.¹

Mr. Sosnicki, APHD informed the Board that last summer, during a routine cleaning of the catch basin behind this restaurant, Concord Public Works noted a large amount of soap and food debris. Further investigation concluded that the source for this material could be traced back to patio washing at Walden Grille.

Mr. Sosnicki also noted that the Town had been cited in the past for deficiencies in its' Storm Water Management Program and had fines pending from DEP. Ms. Rasmussen confirmed that NPDES violations had been identified and that the Selectmen, Concord Public Works, Natural Resources, and Water & Sewer were all exploring additional enforcement actions under their appropriate jurisdictions if the illegal dumping could be traced back to any particular establishment.

Board members were outraged that the Town of Concord had fines pending against it particularly if it was due to blatant disregard for previous enforcement actions by Walden Grille. If this proved to be true, then in the Board's opinion, the facility should be "made to pay the fine". It was also very disturbed that these violations continued even though a consent agreement was signed by Walden Grille and a former Public Health Administrator in 2001.

Staff provided an explanation to the Board that previous enforcement actions taken by any department, Board or inspector were open to interpretation later on down the line. If a facility made a "good faith effort" to remedy a situation, in the past, that often sufficed and the matter was closed.

The Board of Health was not completely satisfied with that explanation and directed staff to order the owners of Walden Grille to appear at the April 19th meeting and be prepared to answer for, what in its opinion was a "history of chronic, maladapted

¹ Ms. White verified that the outside spigot had been turned off, but could not verify that it had been capped

behavior” exhibited for the past 11 years. Board members clearly stated that Walden Grille should be fully aware that it was seriously considering suspension of their permit to operate a food establishment.

Mr. Sosnicki said that he would copy all interested parties and departments on the enforcement letter and would also invite them to attend the hearing.

Mosquito Control

Karen Byrne and Stan Sosnicki reviewed the report submitted by David Henley, Superintendent for the Eastern Middlesex Mosquito Control Project (EMMCP) as it related to the services provided to the Town of Concord for mosquito control.

Ms. Byrne noted that Mr. Henley provided copies of the legal notices that the EMMCP is required to publish in the newspaper as it relates to aerial Bti applications to control mosquito larvae in the communities that participate in the project. She explained that Concord has never used aerial spraying to control mosquito larvae in the past, but the Town and previous Boards have always left open the possibility that if there was an imminent EEE risk following a summer flooding event, Bti applications could be used as a control measure during the EEE risk period.

The Acting Public Health Director stated that this notice fulfils one of the legal requirements for notifying residents; but, if an actual aerial Bti application was scheduled, the EMMCP would submit a press release to the Concord Journal with the specifics relating to the plans for Concord.

Public Health Inspector

Nashoba Brook Bakery

Ms. White was happy to inform the Board that Nashoba Brook Bakery staff continues to move in a positive direction since hiring food consultant, Lisa Berger. They had no critical violations during her last inspection.

Back Yard Farming

The Public Health Inspector provided the Board with some information on a workshop hosted by the Massachusetts Agricultural Commission at the Topsfield Fairgrounds as it relates to “Backyard Farming” which is becoming a very popular venture in Concord and other surrounding communities.

6. Chairman & Board Member Reports

Chairman Report

Dr. Woodward said he was glad the septic betterment article went into the Concord Journal, but asked that additional articles be submitted on a more regular basis. He also noted that Concord Carlisle Redesign Committee had contacted him for some additional comments as it related to storage capacity issues for emergency response. Dr. Woodward asked staff to follow up on this with Jerry Wedge.

7. Minutes & Board Calendar

The Board reviewed and discussed the minutes from the February 15, 2011 meeting. Jack Bergman moved to approve the minutes as submitted. JoAnn DiNardo seconded it. All VOTED in favor.

The next regularly scheduled meeting of the Board is Tuesday, April 19, 2011.

8. Septic Betterment Program

Preliminary Approval for Betterment Liens

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

- 117 Channing Road – (\$30,000) - Benzer

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

Final Betterment Lien Assessments

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

- 39 Partridge Lane – (\$17,500) - Marano

Jack Bergman moved that the Board issue the Order to Assess the Betterment for the above listed property in the amount of \$17,500. Such order shall be forwarded to the Town Collector. Dr. Woodward seconded it. All VOTED to approve.

Board of Health
Signature Page
Tuesday, March 15, 2011

Respectfully submitted,

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

Dr. Alan Woodward, Chairman

Kerry Diskin

Ellen J. Hutt

JoAnn DiNardo

Jack Bergman