



Town of Barnstable

Board of Health

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BOARD OF HEALTH MEETING MINUTES

Tuesday, May 10, 2016 at 3:00 PM

Town Hall, Hearing Room

367 Main Street, 2nd Floor, Hyannis, MA

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, May 10, 2016. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Paul J. Canniff, D.M.D. and Junichi Sawayanagi. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

Chairman Miller stated proceedings are being recorded and inquired whether anyone else in the audience was recording. (No response.)

I. Variance – Food:

- A. Fredy Chavez, owner of Ocean Street Café & Deli – 10 Ocean Street, Hyannis, requesting a grease trap variance, currently has a Big Dipper grease recovery device (GRD) from the prior owner.

Fredy Chavez, owner, stated he will not be using a fryolator and has had the Big Dipper professionally serviced and cleaned.

Mr. McKean said he has no issues other than making sure that the GRD is working properly and acknowledged that it looks like it is in perfect condition. Mr. McKean had received written confirmation from Roger Parsons, Town Engineer, that he did not have an issue with using the GRD with the proposed menu. Roger requested a quarterly report on grease removed be submitted to WPC.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to approve the grease trap with the following conditions: 1) monthly reporting on the amount of grease removed shall be submitted to the Water Pollution Control Department. (Unanimously, voted in favor.)

II. Hearing – Tobacco:

Tobacco violations as reported by Bob Collett of Barnstable County Tobacco Control.

Discussion:

Bob Collett said the State Senate has approved changing the smoking age to 21 years old. If the House also passes it, the Town would automatically be regulated by the new smoking age. It is unknown when, or if, it will be passed by the House and whether it would be in the near future. Currently, the FDA has declared e-cigarettes the same as cigarettes so they have the same restrictions. The State has also included that in their definition.

Mr. McKean asked how the towns who have currently increased their smoking age to 21 years are handling their programs. Mr. Collett explained that if a town chooses to enforce the age of 21, they will have to privately hire a person 19 or 20 years old. That would not be covered through the State program. The State program will continue to cover the cost of 15-16 year olds who are employed to see whether the establishment will sell to them.

- A. Cotuit Liquors, 3858 Falmouth Road, Marstons Mills – First Offense, tobacco products sold to a minor.

At Cotuit Liquors, a clerk named Steve sold cigarettes to the minor on April 2, 2016. The owner Dan O'Brien was present at the hearing. He stated he was embarrassed and that in 20 years they have never had a violation. Everyone employed by him has been re-certified. The person had been there for 2 ½ years working part-time and it was due to lack of attention.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to issue a warning. (Unanimously, voted in favor.)

- B. Midway Garage, 981 Main Street, Osterville – First Offense, tobacco products sold to a minor.

A 16 year old purchased cigarettes from an attendant at the Midway Garage on April 2, 2016. Mark Homem, General Manager, was the hearing and explained he strives very diligently to keep the regulation enforced. Every morning, they go through the regulations. They have also installed software which requires entering the customer's date of birth at the time of purchase.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to issue a warning. (Unanimously, voted in favor.)

III. Food - Temporary:

- A. Christopher Kelsey representing the annual Figawi Charity Ball at the Resort and Conference Center of Cape Cod, 35 Scudder Avenue, Hyannis, on May 21, 2016 at 5:30 pm. Two vendors for VIP Affair serve at 6:00pm and ten vendors for the main event will serve at 7:00pm.

Christopher Kelsey presented the paperwork and explained that there are 10 vendors serving at 7:00 pm and one vendor serving at 6pm. This is the 30th Annual Figawi Ball. They did provide a sketch showing each station with a hand-wash station. There is one

restaurant (Oliver's) serving shellfish. The Board said that vendor must display the standard sign notifying people of potential allergies to shellfish.

Each vendor will bring their own warming stations. All vendors will be set up for inspection by 5:30 pm.

Upon a motion duly made by Mr. Sawayanagi, seconded by Dr. Canniff, the Board voted to grant the annual temporary food event. (Unanimously, voted in favor).

- B. Casey Dannhauser representing "Lowell Park Celebration & Donor Thank You" at Ropes Field/ Lowell Park, 58 Putnam Avenue, Cotuit, to be held on Saturday, June 11, 2016 from 11am-2pm and would like to serve hot dogs, hamburgers and veggie burgers. Ken Foster will have his mobile equipment and will be the only vendor.

No one was present. Mr. McKean explained Mr. Foster will be setting up his usual mobile facility and he has no issues with it.

Upon a motion duly made by Dr. Canniff, seconded by Mr. Sawayanagi, the Board voted to grant the annual temporary food event. (Unanimously, voted in favor.)

IV. Hearing – Show Cause (Cont.)

Attorney Robert Bianchi representing Courtney Campeau, owner – 145 Oak Neck Road, Hyannis, no heat, no hot water; owner occupied, update on status.

Attorney Bianchi was present and stated an inspection was done today. They were able to secure an electric hot water heater. They have removed the boiler and have a new one; however, Courtney is trying to obtain the \$1,600 to install it. She does have the hot water running and the weather is warming up, so heat will not be needed soon. The target date to connect the new boiler is the first or second week in June.

Attorney Bianchi said as far as they know, there have not been any violations since the last Board of Health meeting. Courtney has had a few visitors but no one staying overnight. The electric heaters have been removed from the house and are in the garage. The house is on the market for sale. He does not see any safety issues at this time. They would like to have a continuance until she has enough funds to install the boiler. She did apply for housing and fuel assistance and was denied because her ex-husband's name is still on the mortgage and is working to have it removed.

Attorney Bianchi noted that if Courtney is required to get out of the house, she will be out on the street.

Mr. McKean said he has not received any complaints or calls.

The Board discussed that the outside temperature will soon be warm enough to not require heat until September. Attorney Bianchi requested that Courtney be allowed to have the restriction on guests be lifted, as the primary concern from the Board was the electric heaters and as they are no longer in the home.

The Board said the temperatures are still fluctuating as some nights have frost and, therefore, would like to keep the number of visitors down for safety, etc.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to continue this item until September 13, 2016 Board meeting. The restriction of no guests after 11pm will remain. Whenever possible, Courtney is to try to keep non-family visitors down to a minimum. (Unanimously, voted in favor.)

ADDITIONAL ITEM – FOOD:

Mr. McKean mentioned that the YMCA was present due to some confusion. They have an event called the YMCA Gala. The event will be catered which does not require a temporary food event permit.

As the YMCA was in attendance, they did discuss their plans. The menu items were reviewed and the caterer's license from Falmouth was supplied. The Board was satisfied with the event's preparations.

V. Hearing – Septic Repair

Peter Gross and Melissa Gross McCray, Trustees – 2 Lake Drive, Centerville, Map/Parcel 230-075, failed septic system.

No one was present.

There is correspondence in the file requesting the septic repair. Inspector Donald Desmarais stopped by the home and no one was there. Mr. McKean proposed a continuance until the June meeting. In April, Jonas McGraw wrote a request to move the item to May 2016 and said their engineer David Tulane has been monitoring the water levels and they will be setting up a meeting to meet with the Health Division. The Board stated that the current level is lower and will not benefit them. The Board noted they have a standard measurement of 34.8 which should be used regardless of the current water level.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board voted to send a notice that they are requested to come before the Board on June 14. (Further along in the meeting, the Board changed the hearing date to July 12, 2016.) The trustees' attendance is mandatory and they are expected to appear with a plan in hand for a replacement septic system. (Unanimously, voted in favor.)

VI. Hearing – Show Cause – Sewer Connection:

A. Jeffrey Coombs & Gail Clear, owner – 23 Keating Road, Hyannis.

No one was present.

The Health Division has sent notices to their Stamford, CT address and their local address hoping their Hyannis tenants will direct it to the owners, as well. Also mentioned in the letters, is a request to register their rental. They have missed three meetings.

Upon a motion duly made and seconded, the Board determined a letter will be served by a deputy sheriff or constable in Stamford, CT requesting their presence at the July 12, 2016 meeting. The next step after that will result in a court case. (Unanimously, voted in favor.)

B. Anthony Elio, Trustee- FRUS Realty Trust – 72-76 Nautical Way, Hyannis.

No one was present.

Mr. McKean stated that he received word from Mr. Elio today stating he is going to get a contractor at this time to complete the sewer connection.

Upon a motion duly made by Dr. Miller, seconded by Dr. Canniff, the Board requests an update from Mr. Elio at the July 12, 2016 meeting. (Unanimously, voted in favor.)

VII. Hearing – Underground Storage Tanks:

A. Dawn Dennen, owner – 473 Pine Street, Centerville.

No one was present.

Mr. McKean stated this hearing was continued from November 2015 when the Board requested Ms. Dennen to either remove the storage tank or give us proof that the tank was removed years earlier. Mr. McKean received a letter today from Ms. Dennen. She stated the cost of removal is \$500 with her finances. She contacted Mr. Gobeil who has been told there is no more money available in the Lombard funds.

Ms. Dennen went to National Grid to research proof of the conversion date from oil to gas. They do not keep records beyond 10 years.

Mr. Lenard Gobeil from the Town Manager's office was present and said they may now have some funds available. He will contact Ms. Dennen and discuss the matter. This would allow it to be confirmed whether the tank is in the ground as believed.

Upon a motion duly made and seconded, the Board granted a continuance to the June 14th meeting. (Unanimously, voted in favor.)

B. Kristen Rufo, Attorney representing Estate of William Longstreth – 390 Elliot Road, Centerville.

Attorney Sarah Colston was present and said the tank was removed on April 27, 2016 by Bennett Environmental Services, Brewster, MA and it was determined there was no

environmental liability, no leakage. It was a significant cost (approximately \$10K) and she provided copies of the documentation of this.

The Board was pleased with this news and the item is resolved.

- C. Charles Whitcomb representing Linda, Marie, Cara and Donna Whitcomb, owners – 88 Greenwood Avenue, Hyannis.

No one was present.

Mr. McKean said the owners were working with Health Inspector Tim Lavelle in September and April. They did come in during February looking for as-built records. Mr. McKean said that we have not received any other response since February 2016.

Upon a motion duly made and seconded, the Board determined to have a sheriff serve notice requesting attendance at the July 12, 2016 meeting and an account of the situation. (Unanimously, voted in favor.)

VIII. Craigville Motel:

Attorney James Connor representing Ms. Patel requesting a new motel license.

Attorney Connor said they would like to continue to the June 14, 2016 meeting as they will not be ready to pass the inspection until that time. He also reported that they are making much progress.

Mr. McKean said the motel had called their health inspector for their inspection. She coordinated the various personnel for the inspection and four hours were spent there. They found the motel was not near readiness. The State has a restriction on the fee the Health Division is allowed to charge for the motel permit with its inspection and it is set at \$50.00 which does not cover the time they have spent there.

The Board asked that Attorney Connor verify that they are ready for the complete inspection the week prior to June 14th meeting; otherwise, this item will be continued to the July agenda.

Town Attorney Ruth Weil said they are working through the litigation with the motel owners and Attorney Connor and they are spelling out everything that will be expected so there is no confusion. Attorney Weil will research to see if it is possible to charge an additional fee in extenuation circumstances as this.

Upon a motion duly made and seconded, the Board granted a continuation to the June 14, 2016 meeting. (Unanimously, voted in favor.)

IX. Innovative/Alternative (I/A) Septic Monitoring Plan:

Winston Steadman representing Oyster Harbors Club – 170 Grand Island Drive, Osterville, test results of the Innovation Alternative (I/A) Septic System's monitoring .

Winston Steadman discussed the difficulty he is having achieving the desired test results for the system. He said the Fast System is not designed to de-nitrify. Mr. Steadman said that it may be possible to add a component to the system to improve the results. The possibility of adding a Sledgehammer component to the system to improve the aeration was discussed as a viable choice.

Mr. Steadman did not have the results for the testing from the year 2015 with him. He will bring them to the June 14 meeting and will perform another test on the system for the beginning of the season testing. The early tests performed on the system appeared to be good. He will need to investigate whether there are any major changes in the way the owners handle their waste water.

The Board determined this item to be further discussed at the June 14, 2016 meeting and requested Winston Steadman to bring the year 2015 test results and to obtain the water usage numbers for the property. Mr. Steadman will also perform another test prior to the meeting for the usual start-of-the-season test.

X. Old / New Business:

A. Minutes.

Will be continued.

B. Proposed revision of Town of Barnstable Code 378-2 'Swimming Pools - Testing for pseudomonas bacteria' to change to monthly testing.

Upon a motion duly made and seconded, the Board voted to change the testing frequency from bi-monthly to each month. (Unanimously, voted in favor.)

Adjourned 4:30 p.m.