

**ANDOVER BOARD OF HEALTH**  
**Minutes**  
**November 19 2012, 6:00 P.M.**  
**CD&P First Floor Conference Room**  
**36 Bartlet Street**

The Board of Health Meeting was called to order at 6:05 p.m. by Dr. Miller. Present were Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Ms. Martin, Chairman, arrived at the meeting at 6:08 pm.

**I. Approval of Minutes**

- **September 17, 2012**

*Motion by Ms. Martin, seconded by Dr. Miller to approve the Minutes of the September 17, 2012 Board of Health Meeting with the following correction:*

- *On page 2, last paragraph before the 6:15 Appointment with Benjamin Osgood, Jr. last sentence, change “...that incidences of Lynne Disease...” to “...that incidences of Lyme Disease...”*

*Ms. Kellman abstained. The September Minutes were deferred last month because Ms. Kellman was not present. Unanimous approval.*

- **October 22, 2012**

*Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Minutes of the October 22, 2012 Board of Health Meeting. Dr. Miller abstained. Unanimous Approval.*

**II. Appointments & Hearings**

**6:00 p.m. – Sandy Kiu for Peking Garden – Status Update for Show Cause Hearing (Continued)** – Ms. Sandy Kiu from Peking Garden was present. Mr. Carbone handed out an Inspection Report, dated 11/15/2012 from the Private Inspector listing some issues under observations and training on cross contamination of foods.<sup>1</sup> Mr. Carbone stated that at the May meeting the Board of Health (BOH) required Peking Garden to have private inspections every other month with the hope of continued satisfactory reviews. The inspection issues in the review from Michelle Grant, Private Inspector, were problems with uncooked food placement and incorrect calibration of the food thermometer. Ms. Kiu explained that she had just opened the shop for the day and nothing was ready at the time of the inspection, and the uncooked food was in the freezer. Ms. Kiu explained that she spoke with the night staff afterwards. There were several other questions concerning logs for temperatures and how they were filled out by Staff. Ms. Martin noted that the restaurant has been very clean and thought that showed continued diligence. Mr. Carbone stated that Ms.

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<sup>1</sup> A copy of the Inspection Report has been inserted into the packet after page 14.

Kiu has been working very hard and has been in monthly contact with her Private Inspector on what issues they should be concentrating on. Mr. Carbone stated that the BOH could release the Private Inspector requirement or have Ms. Kiu have three more months of inspections. Ms. Martin stated that she felt that all the work done by Ms. Kiu resulted in a success and would like to close the Hearing.

*Motion by Ms. Martin, seconded by Dr. Miller to close the Hearing. Discussion followed.*

Ms. Kellman stated that since the Inspections still showed some issues that needed to be addressed she was concerned. She would like to see more diligence by Ms. Kiu in monitoring those issues. After discussion, Ms. Kellman agreed to the Motion to close the Hearing.

*Vote taken. All in favor: Ms. Martin, Aye, Dr. Miller, Aye, Ms. Kellman, Aye. Unanimous approval.*

- **6:10 p.m. – Staff Member Visit – Administrative Assistant, Denise Paul, License/Permit Renewals** ó Ms. Paul explained the License/Permit renewal process to the Board. The process is not as simple as just issuing a Permit. There is a procedure Ms. Paul follows which involves changing colors on the Permit Renewal Labels so that we can tell who has renewed. After the renewals come in, the appropriate label is changed, the permit is issued and then mailed back to the Permit/License holder. Some of the Licenses have to be entered into the new permitting software program under Contractors with the updated License numbers and expiration dates. The renewal process on the new permitting system, ViewPermit, works well if all the information has come over properly, but sometimes adjustments need to be made before the permit can be renewed. If the information is correct, all she needs to do is hit the Renew button, and all the information is there; then she just has to do some updating and put in the payment information. After this year's Licenses/Permits are completed, next year the information should be readily available and the process should go more smoothly and more quickly. In addition to working on the renewals, Ms. Paul also answers phones, waits on customers at the front counter, issues daily permits, and completes various tasks as well. Septic and Sewer plans are a big part of Ms. Paul's work. Plans for new construction can require up to four permits to be completed, and when plans come in, they have to be sent to various Departments for approval. If they are not approved, the Engineer has to be contacted, new plans need to be resubmitted, and the approval process begins again. The process can be very time consuming. When asked if the BOH could help with anything, Ms. Paul replied that she had a Webinar about Minute taking, and it suggested asking the Board Members what they would like to have in the Minutes and what they may like to have excluded. However, Mr. Carbone and then the BOH review the Minutes before approval, so that does take care of any changes or exclusions that they would like to make. The Board replied that Ms. Paul's Minutes are more than adequate.

### **III. Discussion**

- **Set 2013 Meeting Calendar** – The Board decided on Monday, January 14, 2013, Monday, February 11, 2013, Monday, March 11, 2013, and Monday, April 8, 2013 for their next BOH Meetings. The Board noted that January 14, 2013 is Dr. Miller's last BOH Meeting.

Tom noted that Dustin Luca, Reporter for the Eagle Tribune, was present. Mr. Carbone informed him that the Town Manager wants to have an article in the paper about increasing the talent bank. There are no leads on a replacement for Dr. Miller yet. Ms. Martin stated that we would like someone with a medical background, and saw two resumes where only one person had a medical background. Dr. Miller stated that he could try to get a list of Doctors who are residents of Andover and send out an e-mail to them.

- **Susan Odle Properties – 116 Osgood Street-** Mr. Carbone explained that the Attorney General's Office is working on the Osgood Street property under its Receivership Program. Ms. Odle has filed for bankruptcy protection again. The Assistant Attorney General is waiting to hear what the bank will do, and if it will petition the bankruptcy Court to take action. At the moment things are on hold. Ms. Martin said the BOH should hold off for another month to see what happens with the bankruptcy proceedings. The process can take a year unless actions are taken earlier to resolve the case.

**38 Michael Way** - Mr. Carbone received correspondence from the Abbots Pond Condominium Association advising us that people have been seeing her take more things into the unit and are asking the BOH to take some action against her. Mr. Carbone talked with Town Counsel and he informed Mr. Carbone that the court had made the injunction permanent so the Association can re-petition if it felt it needed to. They are in the best position to take action. The Draft response was in the Agenda Packet so the BOH could have a discussion. The intent of sending the letter is to make sure they get a response from the Board and to offer them some advice. As referenced in the second paragraph of the Draft letter, people are observing Ms. Odle bringing items into her house and are assuming that it is all trash, but there is no proof of that. Ms. Martin wondered if there should be more detail about providing more documentation from the Condo Association, but Mr. Carbone explained that he already sent the letter for review to Town Counsel and the Draft that was included in the packet was his revised copy that he sent back to Mr. Carbone. Ms. Martin also noted that in the last paragraph, where it stated that "the trustees, as plaintiffs in that case, are the appropriate party to petition the Court" she would change that to "the trustees, as plaintiffs in that case, would have the ability to take immediate action" since they have a Court Order that gives them the ability to do that. Then the letter could end with "We hope this provides appropriate guidance." Mr. Carbone stated that he will re-draft the letter per the BOH request for Town Counsel to review again.

#### **IV. Old Business**

- **Tai Sweet Basil Update (not on Agenda)** – Mr. Carbone informed the Board that this is now under new management, and recent inspections have revealed some problems again.

The restaurant needs a good cleaning and some construction work needs to be done. They will be updating to the Big Dipper mechanical grease trap. The new owner was supposed to have a plan in place today for the upgrades.

## **V. Definitive Subdivision Plans**

- **Katsikis Estates, 11 Ballardvale Road** - Mr. Carbone stated that the subdivision is for only one house. For public safety reasons it makes more sense to have a Ballardvale Road address even though the frontage is on Katsikis Way, which is a private way. There are wetlands in the area and the house would require a long driveway. Ms. Martin asked if the wetlands as delineated by Norse Engineering was done recently and Mr. Carbone replied that it was done within the last few months. Mr. Robert Douglas, Director of the Conservation Commission, has been looking closely at this property. There is municipal water coming up and there is a well close to the wetlands, which will be abandoned. The BOH can make the decision to require them to fill in the well and make it one of its conditions.

*Motion by Ms. Martin, seconded by Ms. Kellman to approve the single family subdivision, Katsikis Estates, with the following conditions:*

1. *Any modification, amendment, or change to the above-cited Definitive Plan shall be submitted as a new or modified Definitive Plan in accordance with the provisions of MGL Chapter 41, Section 81U*
2. *Subject to Conservation Commission approval of the above dated plan by Order of Conditions or Negative Determination.*
3. *The existing dug well on the property shall be properly abandoned by filling it in.*

*Unanimous approval.*

- **40B Project at Shattuck Road and Rolling Green project** ó The Zoning Board denied the 40B at Shattuck Road and there is no decision rendered on the Rolling Green project yet.

## **VI. Plan Review**

- **DWRP Variance/Local Upgrade Approval**
  - N/A

## **VII. Staff Reports**

### **A. Director's Reports:**

- **Important Dates:**

- Board of Health Meeting ó December 10, 2012 at 6 p.m.
- **Nurses' Report for October, 2012** - The Nursesø Report for October, 2012, was for informational purposes only. Ms. Martin asked how the Flu Clinics went and Mr. Carbone replied that the numbers are down due to the availability of the shots at many pharmacies and stores. Mr. Carbone and Assistant Health Director, Joanne Martel, talked about a need to change how they are doing business with the Flu Clinics. We utilize some of the insurance reimbursement money to pay part of the Health Nurseø salary and the revolving fund is used for the purchase of shots. We bill through the State and for the first time we are able to bill Mass Health. We have the advantage of offering the flu shots free, while pharmacies and stores charge a fee. We would like to have the Flu Clinics a little earlier. The drawback of our clinic is the time wait; when people come when the clinic opens, they have to wait in line, but when they go to CVS there is no wait.
- **Fire at Andover Gardens (Not on Agenda)** - There was also a fire at Andover Gardens and there was smoke damage throughout the building. The natural gas had to be cut off so the affected unit could be isolated. They are waiting to hear from the Electrician and Plumber and need to bring in a cleaning crew for that building.
- **Fungal Meningitis** ó The news had recently reported that there was a case of Fungal Meningitis associated with the NECC outbreak in an Andover resident. Mr. Carbone stated that he spoke with Kerry Barton, an epidemiologist with the Department of Public Health (DPH) in October. She said at that time they were waiting to hear from the Center for Disease Control (CDC) about whether it was an actual case. It now looks like DNA was not matching up with what they were expecting to see from the NECC issues, and this case is most likely not related. Mr. Carbone thought that that DPH was trying to keep a level tone, was not ruling anything out, and was still looking into this.
- **New State Regulations for Organics, Composting, and Recycling (Not on Agenda)** - Mr. Carbone informed the Board that in the DEP Fall newsletter, he saw that they had made some changes to the regulations concerning wetlands and Emergency Orders of Conditions to make it easier for people to get those through Conservation. When he went to the website to check things out, he found that MDEP had promulgated new regulations for organics, composting, and recycling. A year ago we were looking at Draft Regulations on things like anaerobic digesters, and Mr. Carbone had submitted a letter about this. In August the Department of Environmental Protection (DEP) had generated a response to comments in an 80 page document, made some adjustments to the regulations based on some of those comments, and only posted it on the website last Wednesday. Mr. Carbone was really surprised and was not happy about the decision. Mr. Carbone brought it up with MHOA members and they requested an audience with the Commissioner. The Commissioner had one of his Deputy

Commissioners speak at MHOA at the end of October, and he didn't mention this at all. Ms. Martin asked what the restrictions would be. Mr. Carbone stated that the way it is written, locally we would have no say about it, and he doesn't agree with their claim that it does not fall under M.G.L.c. 111, §150A, which basically requires Site Assignments for any solid waste facility. Site Assignments start here with the Board of Health. They have worked around that to encourage non-disposal by saying recycling is no longer solid waste, but is a product that can be used elsewhere and reclaimed, so you don't need a Site Assignment. Mr. Carbone's fear is that by declaring that food waste is now something that is recyclable, they are basically bypassing the idea of having a Site Assignment. They also stated in the document that Boards of Health can't regulate anaerobic digesters via the Noisome Trade Law. Supposedly, they amended the regulations to allow Boards of Health to at least make recommendations to the State. Mr. Carbone had a meeting today with the Coalition for Local Public Health, which consists of five statewide associations. They have been invited to a meeting next week to discuss the issues with the DEP staff. The Coalition has asked for a 30 day delay in implementing these regulations in order to allow further review and comment. Ms. Kellman asked what the benefit would be to making these changes. Mr. Carbone replied that we are behind the times in waste disposal. Whatever can be diverted from landfills and incinerators is a good thing. The goal is to decrease the tonnage that is being disposed of. Anaerobic digesters create methane gas which is a renewable energy. Mr. Carbone thinks the science is there, but we need to be convinced that it will work properly. DEP is addressing the issues at the State level, not the local level. We may find a potential site is inappropriate, but the State could disagree. Local government will end up getting the concerned calls, not the State, and the State is disinvesting in what they are covering because of budget cuts. Ms. Martin asked how this progressed so quickly and Mr. Carbone responded that there were several workgroups working on this last year, so these Draft Regulations came out in November or December of 2011. When he was President of the MHOA, he tried to recruit people to attend some of the workgroups, but did not have much luck. He will wait and see what happens and will probably be preparing a response to the DEP from the Town of Andover.

- **Compliance Monitoring Software** - Mr. Carbone stated that by using Compliance Monitoring Software, the database could possibly monitor certain reporting requirements automatically and send out e-mails as reminders. He has been working on it as a Community Incentive Grant Program for the Town and the region and was working with Merrimack Valley Planning Commission on this.. The MVPC has agreed to use some Grant money they have to get this product and define how it might be implemented. Starting next month, they will be trying to put together a workgroup of Health Officers and other municipal professionals to develop the functionality that we want. We could use custom software if that is the route we decide to take. Gerard Whitten, who is MVPC's IT professional, will be working on the project with Mr. Carbone. They hope to have a plan by next Summer and will seek out the CIC Grant money for the project if appropriate.

**B. Inspectors' Reports for October, 2012** ó The Inspectors' Reports for October, 2012 were for informational purposes only.

**VIII. Board Member Reports**

- N/A

**IX. Adjournment**

*Motion by Ms. Martin, seconded by Ms. Kellman, to adjourn at 7:25 p.m. Unanimous approval.*