

ANDOVER BOARD OF HEALTH
Minutes
March 11, 2019, 6:00 P.M.
CD&P First Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:02 p.m. Present were Ms. Pamela Linzer Chair, Gopala K. Dwarakanath, M.D., Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Ms. Carolyn Dymond, Vice-Chair was not in attendance due to a scheduling conflict.

Appointments & Hearings

- **#1 - 6:00 p.m. – Felicity Day for UK Elite Soccer - Request to Operate a Recreational Camp for Children at 11 Cross Street** – Ms. Day participated via speakerphone. Mr. Carbone informed the Board that this is a new camp, but its predecessor was the John Smith Soccer Camp which was run in Andover for many years. Ms. Day has vast knowledge of the requirements and regulations because she worked at the John Smith Soccer Camp which was run by her father. Ms. Linzer asked if there would be any difference in the way the program will be run. She will be using the same full-time staff that has been in Andover for the past three years. The Camp Director and Health Care Supervisor will not change; the camp curriculum will be the same; the ages of the campers will be the same; and the offerings through Andover DCS will be the same. Dr. Dwarakanath stated that there are still some documents that are needed for the final approval before the camp can open. Ms. Day replied that she was aware of that and would supply them to the Health Staff.

Motion by Dr. Dwarakanath, seconded by Ms. Linzer, to approve the Permit to Operate a Recreational Camp for Children, UK Elite Soccer, subject to final staff approval of all required documents. Unanimous approval.

- **#2 - 6:10 p.m. – Allie Loscutoff for Camp Evergreen – Variance Request for 105 CMR 430.251(E) – Waive Required Staff Person on Transportation Van** – Ms. Allison Loscutoff and Mr. James Loscutoff were present. Ms. Loscutoff presented a packet to the Board of Health with some additional information. ¹ Mr. Carbone explained that the Camp Regulations were amended by the State and one of the changes involves transportation safety. Now one member of the Camp Staff has to be on the bus both during pick-up and drop-off of campers. In order to grant a Variance, the applicant would need to show that failure to grant the Variance would create a manifest injustice to the applicant; the applicant must show that the same degree of protection is met; and that their Insurance Carrier must provide a written statement confirming that full coverage will be in effect if the Variance is granted.

¹ Additional documentation included Variance Application, 105 CMR 430.251(E) concerning Transportation Safety, Camp Evergreen Transportation Policy, and “What do I need to Drive a School Pupil 7D vehicle” submitted at the end of Item 2.

Ms. Loscutoff stated that she did extensive research on the background of the bus company, North Reading Transportation (NRT Bus, Inc.). The campers are picked up in either a seven-passenger van or regular sized bus that goes door to door, and the parents are there to put them on the bus. Once the bus arrives at camp, a Staff member greets each child and when camp is over, the same person escorts each camper to the bus. The number of students who need transportation varies. The buses have cameras, the vehicles are checked regularly, they run background checks on the drivers, they are fingerprinted, and the company has a clean driving record.

Ms. Linzer explained that the way she interprets the new regulation is that it requires the Staff person as a chaperone so a camper is never alone with an adult on the camp bus. Ms. Loscutoff stated that the camper is really not alone since the bus has cameras with audio and everything is recorded, so they have an extra layer of security. Drivers also have reminders for the bus drivers to check the vehicles to make sure there are no campers left on the bus. Ms. Linzer asked if someone is monitoring the camera. Mr. Loscutoff stated that the footage is saved on a regular basis so it can be looked back on if necessary.

Dr. Dwarakanath asked Ms. Loscutoff if she can show the Board that the camp's Liability Insurance would still be valid if something does go wrong, if the Board grants the Variance. There is a new requirement in the regulations that states the Insurance Company must acknowledge that the Board of Health is granting a variance. From the Board's perspective, it needs something that assures that same level of Insurance. Mr. Loscutoff stated that, if the Board grants the Variance based on the letter of insurance, that would be understandable. Ms. Loscutoff assured the Board that she has already contacted their Insurance Company and is working on getting their guarantee that full coverage will be in effect if the Variance is granted.

Ms. Linzer stated that on the first point of manifest injustice, she did not feel it would be unfair to deny the request and is not considering the cost to the camp to be an issue of injustice. The second point to consider is if the same degree of protection would be met if the regulation was being met fully. Ms. Linzer stated that having the camera on the bus would meet that protection. Lastly, the Insurance carrier must provide a written statement confirming that full coverage would be in effect even if the Variance is approved. The Board will need to be provided with that letter before it can further consider the Variance request.

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to continue the Hearing for the Variance Request for 105 CMR 430.251(E) -Waive Required Staff Person on Transportation Van, to the April 8, 2019 Board of Health Meeting, in order to give Ms. Loscutoff time to get a letter from the insurance company confirming that full coverage would be in effect even if the Variance is approved. Unanimous approval.

- **# 3 – JP Licks – Request to Vary the Sewer Regulations to allow a Standard Grease Interceptor** – Mr. Carbone explained to the Board that there is no room at the property

to install an outside grease trap. Mr. Carbone recommended approval to the Board for the Variance with conditions noted in his Memo of March 5, 2019.

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to approve the Variance to allow a Standard Grease Interceptor at JP Licks, subject to the following conditions:

1. *The interior grease interceptors shall be cleaned out at least monthly.*
2. *The cleaning of the interceptors shall be documented in writing in a log book, kept on site for use and inspection. The log book must indicate the date of cleaning, the approximate volume (in gallons) removed, the name of the person doing the work, and the signature of the manager on duty that documented that the work had been done.*
3. *All waste removed from the interceptor shall be disposed of in a proper manner, but in no case shall it be disposed of through the building waste lines or into the municipal sewer. Proper disposal includes being removed by a licensed septic waste hauler, or with grease waste from cooking operations and stored in an exterior container.*

Unanimous approval.

Approval of Minutes

- **#4 – January 14, 2019** – Mr. Carbone explained to the Board that there is nothing that states the Board cannot vote to approve Minutes if certain Board Members were not in attendance. The Minutes may be approved and can always be amended if something is questioned at a later date.

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to approve the Minutes of January 14, 2019. Unanimous approval.

- **#5 - February 11, 2019**

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to approve the Minutes of February 11, 2019. Unanimous approval.

Discussion Items

- **#6 – Community Health Survey** – Mr. Carbone informed the Board that there have been 180 responses to the Community Health Survey so far. We have been hoping to get at least 200 responses and have one more week to go. We will start the review work on Monday. The survey was put out on social media. Ms. Linzer asked if there were any surveys on paper for seniors who do not have a computer or use social media. Mr. Carbone stated that he will look into that and may put some at the Senior Center. He would like to try to tie things up by the beginning of next week.
- **#7 - Implementation of New Food Code** – Mr. Carbone informed the Board that Inspectional Staff has had a full-day training session where they learned a lot about the new food code. The plan was for us to be doing trainings with the food establishments by March or April, but we may need more time to get prepared. Legally the new code

is what we are supposed to be following. This past year we did all our renewals under the old code because we were not prepared to use the new code. There are several changes such as time as a public health control no longer needing a Variance, just a Hazards and Critical Control Point (HACCP) plan on site that they will have to be able to show they understand. We plan to either rebid for a Contractor or get a full-time Inspector hired so we can manage this in-house. We may still use a Contractor for special reviews. Inspections that usually take a half-hour to an hour to complete, now take 45 minutes to 1 ½ hours. Staff will have their hands full with the new food code as well as the new Plastics and Polystyrene Bylaws. Also, our permitting will change from number of seats to a risk-based program. Some establishments will need inspections once a year and others may need anywhere from two to four inspections per year if the risk is high.

- **#8 – Appointment of IBC Representatives to Pfizer and Sarepta** – Mr. Carbone informed the Board that he would like the Board to table this item to a future date.
- **#9 – Resignation of Carolyn Dymond** – Mr. Carbone informed the Board that Ms. Dymond is resigning her Board of Health seat in April because she is relocating to Atlanta, Georgia, for schooling. Mr. Carbone brought this to the attention of the Town Manager, and was informed that a new appointment may not be made until July 1, 2019. Mr. Carbone will still pursue filling the position earlier because the Board does need a third member. Mr. Carbone is hoping the Town Manager will allow the Board to begin to screen some applicants. Ms. Linzer expressed concern that a two-member Board of Health will be a hardship due to work schedules and unforeseen issues that may come up personally and professionally. Ms. Linzer directed Mr. Carbone to speak with the Town Manager about their concerns.
- **#10 – Thin Film Plastic Bag / Polystyrene Ban Waiver Requests** - Mr. Carbone informed the Board that he has received one request for Waivers from Bueno Malo. They are seeking a waiver for thin film bags for an implementation date of April 1, 2019 and a waiver for straws, utensils, cup lids, salad clam shell units for an implementation date of June 1, 2019. This is when it is estimated that their current stock will be used up.

Mr. Carbone stated that educational material had been mailed out and Health staff will be doing a show-and-tell session on Tuesday, March 12, 2019. Mr. Carbone developed the two-page Variance Request Form and Bueno Malo is the first food establishment to apply for the Variance. Mr. Carbone recommended the Board approve the request since it is within the six month allowance set by the Bylaw.

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to approve the waiver from Bueno Malo to the Thin Film Plastic Bag/Polystyrene Ban, with the recommended use-up date of 4/1/2019 for the Thin Film Check out bags and 6/1/2019 for the straws, utensils, cup lids, salad and clam shell units. Unanimous approval.

- **#11 – Review Annual Town Meeting Warrant Articles** – Mr. Carbone provided the Board of Health with the Annual Town Meeting Warrant Articles and suggested certain Articles the Board may be interested in.

➤ **Article P-4 – Budget**

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to recommend approval of Article P-4. Unanimous approval.

➤ **Article P-16 – Revolving Funds**

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to recommend approval of Article P-16 – Revolving Funds. Unanimous approval.

- **Article P-36 - Senior Center Renovation** – Ms. Linzer stated that she was not sure how this affects the Board of Health, and was concerned about the expense as well. Mr. Carbone explained that the Health Clinic Space is very small and the renovation would provide a better place for our Staff and visiting doctors and nurses to service the public. The kitchen is also old and a new kitchen would be in line with the new Federal Food Code. Dr. Dwarakanath had the opinion that the money would be well spent and should not be a concern for the Board. Mr. Carbone explained that the money would come from the tax levy, so it would not be paid for with new taxes or the use of a tax override.

Motion by Ms. Linzer for the Board to take no action on Article P-36 - Senior Center Renovation. Dr. Dwarakanath did not second the Motion. Motion failed.

- **Article P-53 – Sewer Inflow & Infiltration Reduction Project** – Mr. Carbone explained to the Board that this will correct ground water and rainwater from entering the sewer system. Ms. Linzer questioned why the Board should support an Article from the DPW and questioned its connection to the Board of Health. Mr. Carbone replied that the Town has to do this now and the public health impact in not doing this can result in the sewer system overflowing during severe storms. There are sump pumps connected to the system and water will be put into the system and treated when it didn't need to be.

Motion by Dr. Dwarakanath, seconded by Ms. Linzer, to recommend approval for Article P-53 – Sewer Inflow & Infiltration Reduction Project. Unanimous approval.

- **Article P-56 – Greenwood Road Sidewalk** – Ms. Linzer questioned the connection to the Board of Health concerning sidewalks in this location as well at Dascomb Road. She did not feel the Board had enough information to support the Article.

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to take no action on Article P-56 – Greenwood Road Sidewalk. Unanimous approval.

- **Article P-61 – Dascomb Road Sidewalk** – The Board took the same stance on this Article because it felt it did not have enough information to support it.

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to take no action on Article P-61 – Dascomb Road Sidewalk. Unanimous approval.

- **Article P-62- Polystyrene Bylaw Amendments** – Mr. David Bunting, one of the sponsors of the existing Polystyrene Bylaw, was present at the Meeting. The Board discussed the basic points of what the changes to the Bylaw would be with this Article. Ms. Linzer stated that, by taking out some of the definitions, it removes the connection of the Bylaw to the recycling program, and increases the exemption from six months to twelve months. Mr. Carbone stated that the exemption would be extended to twelve months instead of six to give the establishments more time to use up their stock. Next, any establishment that has stock that does not comply with the Bylaw should be exempt from the Bylaw and can continue to use that product until it is used up. Lastly, the effective date of the Bylaw would change from January 1, 2019 to May 1, 2020.

Mr. Bunting stated that the wording concerning the use of product in their inventory being exempt is very concerning. Theoretically, any establishment could buy large amounts of stock before the Bylaw goes into effect on May 1, 2020. Also, if this Article is enacted it allows plastic straws and cutlery to be used and these items are not recyclable in Andover's recycling program, so there would be an impact on that program. Mr. Carbone explained that, by disconnecting this from the recycling, if we get to a point where our recycling program no longer recycles #1 plastics, then the way the Bylaw is written right now, all of that product will not be able to be used and that is one of his concerns. As the recycling program changes, that has to be a concern that we have to be aware of and understand there will be an impact from it.

Ms. Linzer asked Mr. Bunting to give his perspective on how this Article would affect the Polystyrene Bylaw. Mr. Bunting stated that the primary impact is that it allows businesses in Andover to reintroduce plastic cutlery and plastic straws. It introduces this non-defined inventory concept that has no definition to it. A third-party site could be storing a large amount of inventory for an establishment in Andover because this amended By-law doesn't say the inventory has to be in the establishment. The danger is that some establishments may never comply. The amendment also introduces a delay resulting in another year to use the polystyrene.

Dr. Dwarakanath asked if the Board could require a time limit on the use of the inventory in stock. Mr. Carbone stated that the process is the same as when the original Bylaw was introduced. Anyone who would like to make changes to the article will be allowed to make a motion at the Town Meeting. Ms. Linzer asked Mr. Carbone for his thoughts on why this amendment was brought forward. Mr. Carbone answered that Mr. Saxon who introduced the Bylaw amendment, felt

that the original Bylaw exceeded what the voters thought was involved. Mr. Bunting stated that this was made clear at Town Meeting with examples of the cutlery and the straws and details of what items would be affected. There was also a proposed amendment requested at the last Town Meeting that this was an attempt to take away the connection to the recycling and the voters did not approve the amendment. Mr. Carbone stated that if the Board decides to take a stand on this and recommend approval or disapproval, it should make sure its concerns are part of its motion. There is the possibility that the article will not pass and then the Bylaw will remain unchanged.

Discussion followed concerning the Board's decision last year, and the Board was satisfied that the original Bylaw was what it determined was the best fit for Andover. Mr. Carbone stated that nothing prevents the Board of Health from looking at the existing Bylaw in a year and recommending changes then. Someone could even come back to the 2020 Town Meeting with a different Article that fine tunes the existing one.

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to recommend disapproval of Article P-62-Polystyrene Bylaw Amendments in its entirety.

- **#12 – Appoint Cherie Monahan as Public Health Nurse** – Mr. Carbone provided Ms. Monahan's resume to the Board in the Agenda Packet. Ms. Monahan started her employment with the Town on March 4, 2019.

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, in accordance with the provisions of M.G.L.c. 111, §30, the Board of Health appoints Cherie Monahan to serve as its agent and officer for the period of March 1, 2019, through June 30, 2019, and beyond as necessary to serve at the pleasure of the Board. Said appointment is for regulatory authority only and does not guarantee any salary or fee. Unanimous approval.

Old Business

- **#13 – Polystyrene & Plastic Bag Bylaws Update** - Mr. Carbone informed the Board that he is still working on implementation of the Bylaw. He has scheduled an Open House with a show-and-tell on Tuesday, March 12, 2019 to show what items can and cannot be used. Mr. Carbone believes that businesses really want to do the right thing. There are some items that we want to be sure we identify correctly, because product makeup might not comply because it is not recyclable under our program. The Health Staff will go visit the establishments that do not come to the show-and-tell and Mr. Carbone may use a Contractor to help out as well.

Subdivision Definitive Plans

- N/A

Septic System Variances/Local Upgrade Approval

- **# 14 - 203 Haggetts Pond Road – LUA to allow a Sieve Analysis in Lieu of a Percolation Test** – Mr. Carbone informed the Board that, due to the high ground water table, a percolation test cannot be performed. He recommended the Board approve the LUA.

Motion by Dr. Dwarakanath, seconded by Ms. Linzer, to approve the LUA to allow a Sieve Analysis in Lieu of a Percolation test at 203 Haggetts Pond Road. Unanimous approval.

- **# 15 - 478 River Road – LUA to allow a Sieve Analysis in Lieu of a Percolation Test** – Mr. Carbone informed the Board that, due to the high ground water table, a percolation test cannot be performed. He recommended the Board approve the LUA.

Motion by Dr. Dwarakanath, seconded by Ms. Linzer, to approve the LUA to allow a Sieve Analysis in lieu of a Percolation test at 478 River Road. Unanimous approval.

Staff Reports

A. #16 - Director's Reports:

- **2018 Annual Report** - Mr. Carbone informed the Board that when preparing the numbers for the Annual Report, he noticed a marked reduction in revenues and permits issued. Upon further research, he found errors in the reporting program on our permitting system and had to readdress the numbers for the last three years. Most of the decreases were with Dumpster Permits and Burial Permits. The Temporary Dumpster Permit numbers went down after the Building Division changed their permitting to be on-line only. Mr. Carbone hopes to address the Dumpster Permit issue when new permitting software is implemented later this year.

There was an increase in the amount of inspections due to the gas event. Our Contractor performed more inspections this past year as well. We are now using a new tablet with WinWam software to do our inspections. The inspections also are taking longer now due the learning curve associated with the software and the new food code.

- **Important Dates:**
 - March 27 – April 3, 2019, Director's Vacation
 - April 6, 2019 – MRC Training Day
 - April 8, 2019 at 6 p.m. – Board of Health Meeting
 - April 29 & 30, 2019, Annual Town Meeting
 - May 20, 2019 at 6 p.m. – Board of Health Meeting

- B. **#17 – Community Health Reports** - The Community Health Reports for December, 2018, January, 2019 and February, 2019 have been deferred to the April 8, 2019 Board of Health Meeting.
- C. **#18 – Environmental Health Reports for February, 2019** - The Inspectors' Reports were for informational purposes only.

Board Member Reports

- N/A

Adjournment

Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to adjourn at 7:34 p.m. Unanimous approval.

Per the New Open Meeting Law, the following is a list of the documents that were either distributed to the Andover Board of Health before the meeting in a packet, or at the meeting.

1. Agenda for the 3/11/2019 Board of Health (BOH) Meeting.
2. Memo from Mr. Carbone to the Board of Health, dated 3/4/2019 concerning the UK Elite Soccer Request to Operate a Recreational Camp for Children along with their Legal Ad and Application.
3. Memo to the BOH from Mr. Carbone, dated 3/4/2019 concerning Camp Evergreen Variance Request to 430.251: Transportation Safety.
4. Letter from Ms. Allie Loscutt, dated February 26, 2019, requesting the Variance for Camp Evergreen with supporting documentation of NRT Bus Inc.'s policies and procedures pertaining to bus monitoring, student safety, and conduct.
5. Memo from Mr. Carbone to the BOH, dated 3/5/2019 concerning the J.P. Licks Grease Interceptor Variance Request, along with Grease Trap Variance Request and Cut Sheet for the Great Basin High Efficiency Grease Interceptor that they would like to use in addition to what is now in place.
6. BOH Minutes from the January 14, 2019 Board of Health Meeting.
7. BOH Minutes from the February 11, 2019 Board of Health Meeting.
8. Memo from Mr. Carbone to the BOH, dated March 5, 2019, concerning Discussion Items: Community Health Survey; Implementation of the New Food Code; Appointment of IBC Representatives; Resignation of Carolyn Dymond; and Thin Film Plastic Bag/ Polystyrene Ban Waivers.
9. Bylaw Exemption Request submitted by Bueno Malo Restaurant.
10. Memo from Mr. Carbone to the BOH, dated March 5, 2019 concerning the Annual Town Meeting Warrant Articles the BOH may want to review, along with the complete set of the Town Meeting Warrant Articles.
11. Memo from Mr. Carbone to the BOH, dated 3/5/2019 concerning the appointment of the new Public Health Nurse, along with her Resume.
12. Memo from Mr. Carbone to the BOH, dated 3/6/2019 for monthly update on the Thin Film Plastic Bag and Polystyrene ban.
13. Memo from Mr. Carbone to the BOH, dated 3/6/2019 concerning LUA requests for 203 Haggetts Pond Road and 478 River Road.
14. Memo from Mr. Carbone to the BOH, dated 2/20/2019 concerning the 2018 Annual Report as well as the Annual Report.
15. Environmental Health Report for February, 2019.