

REGULAR MEETING OF THE BOARD OF HEALTH
October 7, 2013

A Regular Meeting of the Board of Health (BoH) was held at the Town Hall on Monday, October 7, 2013, at 6:30 p.m. The meeting was duly posted. Board members in attendance: Ms. Lopes, Mr. DeTerra and Ms. Acksen. Health Agent Patricia Fowle was also in attendance.

Chairman Lopes called the meeting to order at 6:30 p.m. and asked that the minutes of the Reorganization Meeting and the Regular Meeting of September 16, 2013, be amended or approved. Mr. DeTerra motioned to approve the minutes; Ms. Acksen seconded. The vote was unanimous.

The Board of Health is in receipt of a notice from the Planning Board regarding a proposal to place a one-year temporary moratorium on medical marijuana treatment centers in Fairhaven. The Planning Board seeks Board of Health input. Upon discussion it was noted that the full Board does not favor a moratorium. Ms. Lopes stated she is concerned about hardship cases that would allow the Massachusetts Department of Public Health (MaDPH) to grant certificates for home cultivation. Historically, home cultivation may lead to health nuisances and safety issues if done incorrectly. A local treatment center would eliminate that concern. Mr. DeTerra stated he has followed the regulatory process of the MaDPH. He believes the input from many different health and medical associations, along with the MaDPH's review of other States' regulations, has allowed the State to create a strong, well written regulation that represents good health care and is enforceable. Mr. DeTerra also stated that the distribution centers are allowed by law and cannot be denied. Ms. Acksen stated she concurs with Ms. Lopes and Mr. DeTerra and understands the need medically but she is interested to see what, if anything, the Planning Board would offer as additional zoning requirements that are not part of the State regulation (105 CMR 725.000).

Ms. Acksen asked Mr. DeTerra if there had been any meetings with the turbine developer. He replied "No."

The Health Agent's report:

1. A septic system inspection for 109 New Boston Road was performed by Sean McGonagle, McGonagle Septic, Humarock, MA on September 11, 2013. The health agent was present during the inspection. The report finding states that the system has failed due to evidence of fecal solids carryover into the distribution box and staining over the outlet tee invert of the septic tank.

Motion to accept the inspection report as written was made by Mr. DeTerra; seconded by Ms. Acksen. The vote was unanimous.

2. The health agent reported on Pumpnickel's Restaurant, 23 Center Street. Inspections have been on-going since August 28, 2013. The kitchen and bakery need cleaning and equipment upgrades. The work is on-going and the owner is cooperating very well. Over a period of time the owner has had fewer employees to assist with the everyday work and the cleaning has gotten ahead of him. With some help he is working during the evenings to accomplish the task. The food is well protected and not compromised. Food items are received, stored, dated and held properly. The Chairman accompanied the health agent on the last inspection of October 4, 2013, and spoke to the owner regarding his efforts. The Board

commented that they are to be kept apprised of the situation and there is to be no slacking with the requirements of the code. The health agent will reinspect this week and report the findings to the chairman.

3. The health agent reported on Harbor Mist Café, 1 Main Street. The health agent stated the eatery is permitted as a seasonal limited service establishment allowing the service of non-potentially hazardous, off-site prepared baked goods, coffee, teas, and the like. Over the summer the establishment had some structural work done to a windowed wall and it was reported that work was done to the kitchen without notification or permit. The owner intends to upgrade for a larger commercial kitchen. The health agent noted at this time that the establishment was serving Polish food such as kielbasa, golabki and pierogi bought from a licensed deli in Attleboro and stored frozen on site. The product was being microwaved in the owner's residential kitchen and served on serviceware from the residential kitchen. The owner questioned how he might continue the service. The health agent reported this to the chairman at that time. Upon discussion the health agent recommended allowing the service as long as the product was heated to proper temperature, served for single-service only, served on disposable single-service paper products and no use of the residential kitchen was allowed. The establishment was open for limited hours and days while the establishment moved towards a fully code compliant facility. At this time and unknown to the health agent, the owner was advertising menus with food items not allowed by the Board of Health. These menus were in local weekly newsprint. A copy of such an ad was presented and is part of this record. Also noted by the health agent was a daily advertising board placed outside the establishment which advertised many foods "coming soon". The Board office received inquiries about these menus. The health agent on at least two occasions asked that the menu board stop advertising items that cannot be prepared at the establishment and was informed that the foods are not being prepared or served. It is simply advertising what will be. The health agent asked this practice stop as it is confusing and misleading and the health department could not ensure that indeed these items are not being made, sold or served to the public. The only fully operational kitchen is the residential kitchen which is in full access to the basically vacant "commercial kitchen". The health agent stated on a number of occasions when on site, the chef is found in the residential kitchen with a variety of foods. The owner stated the chef is cooking for him personally; however there is no certainty that this is so. A letter dated October 4, 2013 was sent to the establishment stating specifically what foods were allowed and that the menu board should state so and that the matter would be discussed at the Board meeting of October 7, 2013. The letter was approved by the Board chairman prior to the health agent delivering it in hand on October 4, 2013. The chef was present at that time alone and was angered by the visit. The menu board continued. The inquiries continued. The only certified food manager is the owner and he is not present all the time in the food establishment. Ms. Acksen stated she was made aware of the situation when visiting the establishment seeking donations for a local charity. She stated the owner maintains a small, clean establishment and would like to have a fully licensed commercial food establishment. The chef comes from a family of restaurateurs and chefs and is well trained. The chef may not have a certified food manager certificate but knows what she is doing. Mr. DeTerra stated he visited the establishment and all it is is four walls, a three-bin sink that appears not to be used and a handwash sink. The floors, walls, ceiling finishes are not to code. There is no food preparation equipment in the establishment itself, not even a work table, and he has seen the ads run over the summer advertising full meals. This is misleading. The health agent trusted the establishment to do what was permitted. This appears to be not always the case and it is difficult to ensure it to be so. Ms. Lopes stated protecting the public is first in this matter. Mr. DeTerra motioned that the establishment stop serving food. There was no second. Mr. DeTerra motioned that only non-potentially hazardous foods that are made at an approved kitchen be allowed until the kitchen on site is in full code compliance and that the lead chef be a certified food manager as well as the current owner. Ms. Lopes seconded. Board members voting to approve the motion: Ms. Lopes and Mr. DeTerra. Ms. Acksen abstained from voting.

The Chairman asked that a letter stating the requirements be mailed certified to the establishment. The Chairman will approve the letter prior to mailing it to the establishment.

4. The health agent is in receipt of an invitation to the Board from the New Bedford Health Director, Wendy David to participate in a tabletop exercise on December 4, 2013, in New Bedford on food defense. Working with local supermarkets, medical associations and health departments the exercise will concentrate on a contaminated food supply entering the food chain. Board members expressed an interest in attending along with the public health nurse, Lisa Russell from the Fairhaven Community Nurse Association. The New Bedford Health Department will be notified of the Board's involvement.

5. The health agent informed the Board of a written complaint received from the landowner at 128 Huttleston Avenue where the Huttleston Motel is situated. The structure is owned independently from the land and there is a long-standing lease between the two parties. The land owner is bringing the complaint against the structure owner. The written documentation showing an engineering review of the structure along with photos of the inspection was reviewed by the Board. The health agent will be part of the inspection team comprised of the Building Commissioner, Fire Department and Electrical, Plumbing and Gas inspectors. Both the land owner and structure owner will be present for the inspections which will begin this month.

6. The flu clinics are scheduled Tuesday, October 15, 2013, from 11:00 a.m. to 2:00 p.m. and Wednesday, October 16, 2013, from 5:00 p.m. to 8:00 p.m. at the Recreation Center, 227 Huttleston Avenue. All 500 flu vaccine doses have been received.

7. The landfill has been mowed as required by Massachusetts Department of Environmental Protection. One monitoring well gas cap was damaged and will need to be replaced.

8. An upcoming event is the Harvest Fun Festival October 12 which requires food booth inspections.

9. The invoice from Global Remediation Services, Inc., Taunton, was received today for the clean-up and disposal of the chemical bottles dumped along Sconticut Neck Road on September 15, 2013. The total is \$4,390.50. The health agent will be working with the Fire Department to seek funds from the land owner prior to seeking funds from the Town to cover the cost as the Board has no funds available.

Appearing before the Board:

Mr. Donald Spooner asked the Board to consider being the first in the area to require restaurants to post health code inspection grade cards that would be mandatorily displayed in the restaurant window. He first saw this done years ago in San Diego when he was in military service. He has spoken to other health departments in the area but not to the health Boards. He would like Fairhaven to take the lead. He presented information from the City of San Diego website where the practice is in use. Ms. Lopes thanked him for the information and said the Board would review it.

Invoices were signed.

The next Board of Health meeting is October 21, 2013 at 6:30 p.m. at the Town Hall.

There being no further business before the Board, motion to adjourn was made by Mr. DeTerra; seconded by Ms. Acksen. The vote was unanimous. The meeting was adjourned at 7:40 p.m.

Respectfully submitted,
Patricia Fowle,
Health Agent