

NORTH ATTLEBORO BOARD OF HEALTH

Meeting Minutes of
December 14, 2010 6:30 pm

Attendance: Donald Bates, Chairman; John Donohue Jr. and Jonathan Maslen, Members; Public Health Nurse Anne Marie Fleming, and; Agents: Rob Casper and Robert Davis

Visitors: Jay MacNevin, Cannistraci Fine Foods; John Knobel, owner, 105 East St.; Kelly Barratt, tenant, 105 East St.; Pamela Franciscus, Monkey Joe's; Dena Sarcia, 241 Ellis Road; Darren Michaelis, Foresight Engineering Inc.; Antonia Gkilas; Richard Walter, Rolling Stove; Patrick Jergens, Country Boy Hot Dogs.

Chairman Donald Bates opened the meeting at 6:30 PM.

LICENSES AND PERMITS:

The Bristol Lodge at 46 South Washington Street needed a Temporary Food license to sell hot dogs and chilli at the annual Santa Parade (November 28, 2010), but applied too late to be considered at the last meeting..

MOTION was made by Mr. Maslen to reaffirm the Temporary Food license for the annual Santa Parade given to Bristol Lodge at 46 South Washington Street, North Attleboro. Seconded: Mr. Bates. After discussion, all in favor, motion passes 2-0.

Pamela Franciscus came before the Board to answer the Members' questions regarding her application for a Food Service and Ice Cream application for Monkey Joe's at 1360 South Washington Street, North Attleboro.

MOTION made by Mr. Maslen to grant both a Food Service and an Ice Cream license for Monkey Joe's at 1360 South Washington Street pending the inspection by the Health Agent. Seconded: Mr. Bates. After discussion, all in favor, motion passes 2-0.

HEALTH NURSE'S MONTHLY REPORTS:

Anne Marie Fleming presented her Health Nurse's Monthly Reports for October and November 2010 and answered the Members' questions. Much discussion ensued.

MOTION made by Mr. Maslen to accept the Health Nurse's Monthly Reports for October and November 2010. Seconded: Mr. Bates. After discussion, all in favor, motion passes 2-0.

LICENSES AND PERMITS:

Jay MacNevin came before the Board to answer the Members' questions regarding his application for a Retail Food license for Cannistraci Fine Foods to sell his bread products at the Winter Farmer's Market.

MOTION made by Mr. Maslen to grant a Retail Food license for Cannistraci Fine Foods for the Winter Farmer's Market. Seconded: Mr. Bates. After discussion, all in favor, motion passes 2-0.

105 EAST STREET COMPLAINT #10-92 HEARING:

John Knobel, owner of 105 East Street, requested a hearing before the Board with respect to minimum housing complaint #10-92 and came before the Members to request an extension of the time allowed to correct the violations that his property had been cited for. Mr. Knobel explained that because of eviction proceedings and interpersonal issues with his tenant, he would like to wait until the apartment is vacant to begin the work on the violations cited. Mr. Knobel answered many questions for the Members before they invited the tenant, Kelly Barratt, to respond. Ms. Barratt explained that she was primarily interested in having 3 violations corrected specifically: the potential for mold from a ceiling leak, the repair or replacement of the kitchen stove, and the repair of a defective hall light. In the discussion that followed, Mr. Knobel said he wasn't aware of all the issues cited until he received the Health Department's notice,

but that he fully intended to fix all of them and more when the tenant finally left (by court order) at the end of February.

MOTION made by Mr. Donohue that John Knobel, owner of 105 East St. correct items #2, 5, 6, 7, 12, 15 and 21 on the inspection report within five days and item #3 within 14 days, with a report to be given by the Health Agent on the owner's progress towards correction of items #4 and 17 at the January 5, 2010 meeting. Seconded: Mr. Maslen. After discussion, all in favor, motion passes 3-0.

STABLE OPERATION AND LICENSE:

Mrs. Dena Sarcia came before the Members' in regard to the lack of a stable license for her property. With respect to the establishment of some form of payment plan for the property's delinquent taxes, Mrs. Sarcia testified that she had met with the Town Treasurer and established such a plan, but her attorney subsequently advised that no payments could be made on it until sometime in January, due to some personal bankruptcy proceedings. Considerable discussion ensued between the Members and Mrs. Sarcia without resolve, including Mrs. Sarcia's contention that the payment plan with the Town Treasurer was still in effect even after an e-mail from the Treasurer was read stating the 12/7 arrangement referred to was indeed null & void.

MOTION was made by Mr. Donohue to amend the Board's prior motion to order the removal of all horses from the stable by December 31 pending the Sarcia's payment of a prior fine with the Board and establishment of an acceptable tax delinquency plan with the Town Treasurer, extending the deadline one final time until January 31, 2011. Seconded: Mr. Maslen. After much discussion, all in favor, motion passes 3-0.

After the motion, Chairman Bates emphasized with everyone's understanding that this additional 30-day extension for the Sarcia's would be the last such exception the Board will consider in this case.

NEW BUSINESS:

Before the Board could take up New Business on the agenda, Mr. Darren Michaelis of Foresight Engineering, Inc., Middleboro, MA interrupted the Members and asked to be recognized. Mr. Michaelis explained that he was coming before them unannounced and not on the agenda in order to obtain a Title 5 Inspector's License from them. He told the Members that he had mailed his application materials to the Health Department a while ago, but they had yet to be received. He had another set in his possession, with the applicable fee, and asked to be granted the license he wanted. Discussion ensued with respect to the process as well as the content of Mr. Michaelis' application.

MOTION was made by Mr. Maslen to grant a Title 5 Inspector license to Darren Michaelis of Foresight Engineering, Inc., Middleboro, MA, pending verification of his application's paperwork. Seconded: Mr. Donohue. After additional discussion, all in favor, motion passes 3-0.

Mobile/Temporary Food Licenses –Zoning Issues

Recently, the Building Inspector had to issue a cease & desist order to a BOH-licensed food vendor because the vendor had moved onto property that was not specifically zoned for his business. Upon further examination, the Inspector realized that at least 3 other similar, but more seasonal, vendors would have to be treated equally. Because the Building Inspector acts as the enforcement officer for the Town Zoning Board, he has interpreted the zoning bylaws' silence on such businesses as a *prohibition* of them. Discussion ensued, and the vendor first affected answered many questions on behalf of the other vendors present. In support of all such vendors current and future, in an effort to keep their small businesses viable in North Attleboro, Mr. Donohue suggested that invitations be extended to Building Inspector Rod Palmer and Zoning Board Chairman Patrick Murphy to continue the discussion at the Board's January 5th meeting if the issue hasn't resolved itself before then. The Members also discussed sending a letter of support for these small, mobile businesses and/or submitting a warrant petition for the Special Town Meeting in January that might clarify the bylaw language in question.

HEALTH AGENT'S MONTHLY REPORT:

Chairman Bates thanked Mr. Casper for his patience waiting to present his own Health Agent's Monthly Report for November. Mr. Casper gave his report and answered many questions for the Members in the discussion that followed.

MOTION made by Mr. Maslen to accept the Health Agent's Monthly Report for November 2010. Seconded: Mr. Donohue. After discussion, all in favor, motion passes 3-0.

MINUTES:

MOTION made by Mr. Donohue to accept the minutes of November 16, 2010. Seconded: Mr. Maslen. No discussion, all in favor, motion passes 3-0.

LICENSE FEE REFUND:

Earlier in the meeting, Mrs. Sarcia had complained that the Town had cashed her check earlier in the year that included a \$255 stable license fee for the current year, but that it has been refusing to issue the license since. Mr. Davis explained that two years' worth of stable license fees had been included in that same check, and that in fact, the morning after the Board voted not to issue such a license for FY11, the process began to refund the fee for the current year. Per the instructions of the Accounting Department, the process was due to reach its next logical step this evening if the Board would only vote to approve the refund and sign a letter to that effect. A letter that had been previously prepared to that effect, pre-dated with today's date, was presented to the Board for its consideration.

MOTION made by Mr. Maslen to table the license refund in question until the February 1, 2011 Board meeting, with appropriate action to be taken on it at that time if such action proves to be necessary. Seconded: Mr. Donohue. After more discussion, all in favor, motion passes 3-0.

MEETINGS:

The Members agreed to hold their February meetings on February 1, 2011 and February 15, 2011 at 6:30 PM in locations still to be announced. Barring some unknown conflict, Mr. Donohue suggested changing the Wednesday January 5th meeting to Tuesday, January 4th, and the Members agreed.

MDEP:

The Massachusetts Department of Environment Protection has used an outside section of the budget to dump massive solid waste site assignment and permitting responsibilities onto the State's local Boards of Health as of last July, without any funding or expertise otherwise to support the work. Mr. Davis and Solid Waste Manager Michele Bernier attended a meeting with the author of the plan, MDEP Assistant Commissioner James Colman, and others earlier in the day. This will be a very expensive, risky and potentially hazardous unfunded mandate for all local boards of health to deal with, but particularly those with <50 tons-per-day transfer stations as in North Attleboro. Discussion ensued.

MOTION was made by Mr. Bates to send a joint letter with the Selectmen to the MDEP stating their strong opposition to this plan due to the disastrous effect it could have on local levels of government throughout the state. Seconded: Mr. Donohue. After more discussion, all in favor, motion passes 3-0.

BOTANICAL INCENSES:

Botanical Incenses ostensibly sold for their burning aromas have been deemed synthetic drugs not intended for human consumption. The DEA has just frozen all sales across the U.S. of such products as K-2, K-4, etc. which are considered to be versions of an artificial marijuana, for an entire year.

OLD BUSINESS:

SUV

The FINCOM heard the Board's request for a Reserve Fund Transfer to complete the latest repairs necessary and return the Health Department's SUV to operational use last evening. Before rejecting the

request, the FINCOM members suggested that the Health Department use a portion of the \$1,000 held in the Department's budget for Vehicle Maintenance first before asking for a Reserve Fund Transfer.

BUDGET REDUCTIONS:

FY 11 Department Hours

Town Administrator Mark Fisher has informed Mr. Davis that the Health Department will need to submit a plan to reduce its employees hours as projected in order to be able to balance the budget by the fiscal year end. The half hour per week reduction per full-time employee originally proposed to go into effect July 1st, now needs to be a one hour reduction for the 26 weeks remaining in the fiscal year, beginning December 30, 2010. In the discussion that followed, the Board agreed that the Health Department will reduce the pay of its full time employees by 1 hour per week beginning December 30, 2010 and close the Health Department accordingly at 3 PM each Friday for the rest of the fiscal year thereafter.

Budgeting for FY12

Town Administrator Mark Fisher has informed all Town departments should plan for level funded, 5% less and 10% less in their budgeting for FY12. Without some kind of relief, this type of budgeting will require further staff reductions in order to take money from staff salaries to pay for basic operating expenses. This could mean that the Health Department would have to close at noon on Fridays, or reduce more hours during the week.

COMPLAINT LOG:

An MDEP Cease & Desist Order at Trent Davis's property at 119 East Street (for illegal asbestos removal from the property basement) continues to play itself out administratively. Upon information and belief, the property owner has yet to respond to MDEP's immediate cleanup orders clearly and emphatically issued the day before Thanksgiving.

FY12 CIP REQUEST:

Mr. Davis will be submitting a request for another departmental vehicle under the FY12 CIP on December 22nd.

EVALUATIONS:

The Members will need to do another annual evaluation on Mr. Davis as Health Director, and Mr. Davis will need to do one on Ms. Fleming to satisfy the Human Resources' requirements. There should be three or four goals established for each person for the upcoming year.

DIRECTOR'S REPORT:

Food Inspection Scam

The State's Public Health Department has informed all local Boards of Health that a scam is currently being perpetrated on the Asian restaurant community. Con artists are calling these restaurants, identifying themselves as state food inspectors and warning of impending night time inspections, hoping to take advantage of language difficulties to obtain money for bogus violations. Mr. Davis reported two such attempts in North Attleboro already and warned the public that this activity is indeed a scam, that no monies should ever be exchanged during a legitimate food inspection, and that any restaurants so approached should call the Police immediately.

ADJOURN:

There being no further business to discuss, a **MOTION** was made by Mr. Donohue to adjourn the meeting at 8:42 PM. Seconded: Mr. Maslen. No further discussion, motion passes 3-0.

