

**TOWNSHIP OF MAHWAH
BOARD OF HEALTH
MINUTES
May 13, 2014**

The regular monthly meeting of the Board of Health of the Township of Mahwah, held at the Municipal Offices, 475 Corporate Drive, Mahwah, New Jersey, was called to order at 7:30 PM by Vice-President, Robert LaMontagne.

The Opening Statement was read according to the Sunshine Law and was followed by Roll Call:

PRESENT: Mr. LaMontagne
 Mrs. Mertz
 Dr. DeMaria
 Mrs. DeSilva
 Mr. Wasson

ABSENT: Mr. Harris
 Mr. O'Brien

PROFESSIONALS: Mrs. Musella, Health Officer
 Mrs. Campbell, Secretary
 Mr. Mason, Attorney
 Mrs. Homler, REHS

APPROVAL OF REGULAR MEETING MINUTES

Moved by Mr. Wasson and, seconded by Dr. DeMaria to approve the minutes of the Regular Meeting of April 8, 2014.

Mrs. Mertz inquired if there was any resolve to the pig licensing issue. Mr. Mason responded that he had been in communication with Mr. Chewcaskie in response to Council's inquiry. He advised Mr. Chewcaskie that the Board of Health was deferring licensing of this pet pig to the Township in accordance with our understanding of the Township's ordinance.

There being no further questions or discussion, the Minutes of the meeting of April 8, 2014, were unanimously approved.

ADMINISTRATIVE HEARING: MR. GYO PING YOU, NAGOYA RESTAURANT

Mrs. Musella introduced herself to Mr. You and thanked him for voluntarily coming to the meeting. Mr. You acknowledged that he did not speak English very well but he did understand it. Mrs. Musella encouraged him to ask her to repeat or rephrase anything that might not be clear to him. Mr. You noted that he had asked an associate (Mr. Dan Weixeldorfer) to come and help interpret but he had not yet arrived. Mrs. Musella offered to postpone the start of the hearing until his arrival, but Mr. You wished to begin.

Mrs. Musella then introduced the Board of Health, explaining their role and legal authority to enact local ordinances and enforce local and state laws pertaining to public health. She explained to Mr. You that both she and the rest of the staff take direction from and report to the Board of Health.

Mrs. Musella referenced Nagoya's most recent inspection report [4/22/2014] and is not convinced that Mr. You is taking his obligations to food safety or the law seriously. She noted that she and the staff have invested considerable time ensuring that his restaurant is compliant. Mrs. Musella continued that she would like to address some of the more serious violations such as the disconnected grease trap in his establishment.

Mr. You protested that the grease trap violations had been corrected. Mrs. Musella agreed; however, on the 4/22/2014 inspection by Mrs. Homler several violations were found that have still not been addressed. She stressed that the purpose of the law was to prevent foodborne illness and protect the public health. Mr. You responded that he knew this. Mrs. Musella countered that knowing was not doing, and he was not adhering to the law.

Mr. You stated that he would do everything that Mrs. Homler asked of him and that he had requested she come to the store and teach him. Mrs. Musella replied that he had a HACCP [Hazard Analysis and Critical Control Point] plan and needed to follow it; while the staff is willing to help, it is his responsibility to learn and understand what is required of him.

Mrs. Musella then asked Mrs. Homler to explain the pH meter violations to the Board. Mrs. Homler explained that Nagoya uses an acidification process to prepare rice that safely permits it to remain at room temperature. His HACCP plan spells out exactly how he must prepare and test the rice in order to keep it safe and what tools are required in order to accomplish this. Mr. You did not have the single most important tool: a working pH meter. Additionally, required buffer solutions were missing or expired,

there was no distilled water required to attain accurate readings, no miniature screw driver to calibrate the meter and no log of pH readings was being kept.

Because the rice is such an essential component of his menu [and the chief reason he was required by State Law to purchase a HACCP plan], Mrs. Homler was very upset that he didn't even have a working pH meter on premises. Most disturbing she said, was that not only is the protocol spelled out for Mr. You in his HACCP plan, she herself has reviewed it with him many times in the past as had Mr. Maas - who had made a special visit to the restaurant to discuss and review these particular procedures with him.

Mr. You defended his preparation of the rice as a well-loved and old family recipe that he follows consistently. Mr. Wasson asked what happens when the rice is not prepared correctly. Mrs. Homler responded that proper pH levels prohibit the growth of bacteria. Mr. You stated that many of his customers prefer sweeter rice and adding too much vinegar or wine gives it a sour taste that they do not like. He conceded that sushi is fish and must be kept cold to remain fresh, but they do not use leftover rice; always preparing it fresh for lunch and dinner.

Mr. You explained that he makes the rice the same way every day. He had not kept a log assuming it would test the same. Mrs. Homler rejected that argument stating he was not on premises 24/7 making all the rice, and the log is required regardless. Mrs. Musella noted that he was the only person in the establishment with food handling certification [Mr. You is a Certified Food Manager]. Mrs. Musella told him that he is now required to have one more staff member attain Food Manager certification.

Mr. You complained about employee turnover, the transience of the young people he is able to hire and the cost of getting someone certified. Mrs. DeSilva asked if he were to be home sick for a week, who would run his business? Mr. You said his cousin would take over. Mrs. Homler said that his cousin should get certified as a Food Manager, and Mr. You agreed. Mrs. Musella further stated that Mr. You was responsible for educating the people who work for him and perhaps posting signs (i.e. to take temperatures, wash hands, etc.) would be beneficial.

Mrs. Musella then discussed some unsatisfactory housekeeping issues which the inspectors had documented in their reports and with photographs. Mr. You acknowledged that some issues existed, but he had addressed them. Mrs. Musella instructed him that he should be on top of sanitation and housekeeping at all times not just in response to an inspection. Mr. You agreed, stated that his place was now very clean, and promised that there would be no more problems.

Mr. LaMontagne advised Mr. You that the primary concern and interest of the Board was protecting the public health. When these reports are brought to the Board's attention, it is because there are significant problems; and this was the first time in his memory that a licensee had been brought before them. Mr. LaMontagne further admonished Mr. You that his repeated violations only serve to confirm a willful disregard of the inspectors' directives. He apprised Mr. You that the Board of Health had the legal authority to shut his operation down if he did not conform to the law.

Mrs. Musella asked Mr. You to fax his pH log covering the prior two weeks to Mrs. Homler. Mr. You replied that he would hand deliver it. Mrs. Musella noted that the staff would provide him with a generic cleaning check list that could be posted in the kitchen as a reminder and for accountability by the person(s) performing the tasks.

Mrs. Musella then asked Mr. You if he had any questions regarding everything covered in the meeting. Mr. You was concerned that his cousin was returning to China and would not be available for the Food Manager course. When asked, Mr. You stated that his wife was also at the restaurant every day. Mrs. Musella suggested that his wife be the one he sends to get certified.

Mrs. DeSilva asked Mr. You if he understood the requirement that two people in the restaurant were now required to hold Food Manager Certification. Mr. You responded yes. He asked what would happen if that person left after six months. Mrs. Musella responded that many establishments face the same problem, and he would then need to get someone else certified. Mr. You requires courses presented in Mandarin, and Mrs. Homler will find out who offers them.

Mr. You was excused. Mr. Mason suggested that the Board direct a supplemental abatement notice be issued spelling out the new certification and notification requirements being placed on Nagoya as a determined at tonight's hearing; so moved by Dr. DeMaria, seconded by Mrs. Mertz and unanimously agreed by all present.

HEALTH ACTIVITIES REPORT

Moved by Mrs. DeSilva and, seconded by Mr. Wasson to approve the Health Activities Report for April.

Mr. Mason inquired as to a bat exposure. Mrs. Homler replied that a second bat had entered the same home where a bat exposure occurred last month. Both bats tested negative for rabies.

Mrs. Campbell was pleased to note that a birth had been reported in Mahwah - a rare occasion as we have no hospital or birthing center. The Township has only recorded some twenty births in the last fifty years.

There being no further questions or discussion, the Health Activities Report for April was unanimously approved.

HEALTH OFFICER'S REPORT

Moved by Mrs. DeSilva, seconded by Mrs. Mertz and, unanimously agreed by all present to approve the Health Officer's Report for April.

BILLS

Moved by Mrs. Mertz and, seconded by Dr. DeMaria and, unanimously agreed by all present to pay the bills for April.

REPORT OF LIAISON TO MAYOR AND COUNCIL

No report.

REPORTS OF STANDING COMMITTEES

No Report.

REPORT OF ATTORNEY

Mr. Mason distributed a copy of his memorandum to Mr. Chewcaskie characterizing the Board's understanding of the Township's pet ordinance and our conclusion not to license Mr. Morris' pig as livestock. The memo satisfied Council's request for a formal response once we had completed our investigation.

CORRESPONDENCE

None.

There being no further questions or discussion, a motion to close the meeting was made at 8:25pm by Mrs. Mertz, seconded by Mrs. DeSilva and, unanimously agreed to by all present.

The next Regular meeting is scheduled for **June 10, 2014** at 7:30pm.

Respectfully submitted,

Marianne Campbell
Secretary