

**TOWNSHIP OF MAHWAH
BOARD OF HEALTH
MINUTES
APRIL 14, 2015**

The regularly scheduled 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 First Vice-President, Robert LaMontagne.

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

PRESENT: Mr. Harris (8:10pm)
 Mr. LaMontagne
 Dr. DeMaria
 Mrs. Mertz
 Mr. O'Brien

ABSENT: Mrs. DeSilva
 Mr. Wasson

PROFESSIONALS: Mrs. Musella, Health Officer
 Mrs. Campbell, Secretary
 Mr. Mason, Attorney
 Mr. Maas, REHS
 Ms. Kim Nangle, Tyco Animal Control

APPROVAL OF REGULAR MEETING MINUTES

Moved by Mr. O'Brien and, seconded by Mrs. Mertz and unanimously agreed by all present to approve the minutes of the regular meeting of March 10, 2015.

APPROVAL OF HEALTH ACTIVITIES REPORT

Moved by Mrs. Mertz and, seconded by Mr. O'Brien to approve the Health Activities Report for March.

Mr. O'Brien asked where the bacteriologically unsatisfactory water sample reported on page two was obtained. Mr. Maas replied this was from the Fairfield Inn Spa.

Mrs. Mertz wished to confirm the numerous court dates scheduled for Southtown Farms, LLC asking how much longer would the defendant be allowed to postpone? Mr. Mason responded that sole discretion to adjourn a case belongs to the judge and prosecutor. The court will eventually lose patience and set a hard date to adjudicate the case if no plea arrangement can be made. As plaintiffs, we are entitled to adjournments as well if we need more time to prepare our case.

Dr. DeMaria asked if Southtown Farms was licensed to sell product. Mr. Maas explained that in 2013, the owner, Matt Soldano, obtained a Retail Food Establishment license from us to sell eggs. As the owner of a small flock, he is exempt from USDA requirements for labeling, sanitizing, sizing, packaging, candling, etc. However, our local license requires an inspection and one was performed of the refrigeration unit installed at the end of the Southtown Farms driveway. From there customers would retrieve eggs and, using the honor system, leave money in an empty coffee can.

In 2014, Mr. Soldano decided not to license a retail operation. As Mr. Maas drives past the farm daily, he confirmed that the refrigerator had been removed. While the Southtown Farms website indicates they currently offer an abundance of food product for sale, there is no overt evidence those sales are taking place on his Mahwah property.

Due to a Farmers Market that was being planned by a local business, Mr. Maas saw the potential for a scenario where Mr. Soldano would apply for a temporary food license to sell eggs when his farm operation had not been properly licensed since 2013.

Mrs. Musella wished to provide background regarding the Farmers Market due to a minor dust-up which had played out on social media: Licensing requirements for this event were relayed to the wife and owner. This was initially met with some resistance and ultimately hostility. The owner cancelled the event and posted a notice on his business website blaming the Health Department for the cancellation. Derogatory comments about the staff and Department posted beneath the notice prompted a meeting between the Mayor, the owner and the inspectors. The situation was resolved amicably with the Mayor agreeing no one is exempt from the law and the inspectors were acting within the scope of their authority.

Mrs. Musella reminded the Board that the Mayor's Wellness Day event was being held on Saturday May 16th, and she distributed a draft of the flyer that will be posted to promote it. Mrs. Mertz would like to see these forwarded to the schools, and Mrs. Musella agreed that the final version should be.

Mrs. Mertz was concerned that the Conditional rating given to Diwani Restaurant was a repeat offense. Mr. Maas was not sure if they had ever been Conditional on a routine inspection before. He then stated that Mrs. Homler had performed both the routine and re-inspections and Diwani was now Satisfactory.

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

APPROVAL OF HEALTH OFFICER'S REPORT

Moved by Dr. DeMaria and, seconded by Mrs. Mertz to approve the Health Officer's Report for March.

Mr. O'Brien asked for additional information regarding a reported case of the Mumps at Ramapo College. Mrs. Musella responded that the test results were negative (for mumps), but suspect cases must be reported. She also noted that the College has an isolation room prepared in the event a communicable disease is diagnosed amongst the resident population. Mr. LaMontagne asked if any positive cases had been diagnosed in town. Mrs. Musella has not been apprised of any thus far.

Mr. Harris asked why the Mahwah Patch was inquiring about a summons we issued to Sharon Racioppi. Mrs. Musella explained that Ms. Racioppi disagrees with Zoning regulations that require five acres to harbor fowl. She does not have the requisite acreage, nor does she wish to apply for a variance in order to keep her fowl. Ms. Racioppi contacted the Patch with her story, and they were following up on it.

There being no further questions or discussion, the Health Officer's Report for March was unanimously approved.

BILLS - MARCH

Moved by Mr. Harris and, seconded by Mr. O'Brien and, unanimously agreed by all present to pay the bills for March.

REPORTS OF STANDING COMMITTEES

No Activity.

REPORT OF LIAISON TO MAYOR AND COUNCIL

No Activity.

REPORT OF ATTORNEY

Mr. Mason reported that he and Mrs. Carol Tyler spoke with the Bergen County Prosecutors Office in a conference phone call this morning subsequent to Mr. Surgent's hearing. The Court found Mr. Surgent guilty on a number of charges, however the Prosecutor advised him that some procedural issues had been brought to the Court's attention. These included Mr. Surgent's resistance to availing Tyco or our inspectors access to his property for the purpose of inspection.

Mr. Mason asked Ms. Kim Nangle of Tyco Animal control if she would expound on the proceedings. Ms. Nangle disclosed that she was not at the proceeding herself but was relaying information from Mrs. Tyler. She reported that in a plea deal, Mr. Surgent agreed to four counts of disorderly persons (down from the original four counts of animal cruelty). He was fined a total of two thousand dollars.

Since the matter never went to trial, Tyco had no opportunity to show any of the evidence they would have offered to support the Cruelty Task Force's charges.

Ms. Nangle stated that Mr. Surgent did have the manure dumpster emptied, however another horse has since died on the property. Mr. Surgent is blaming that death on Tyco's directive to bring the horses into the barn during inclement weather. There is no indication that the horse suffered and witness and veterinarian accounts match Mr. Surgent's version of the events leading up to the horse's death.

Mrs. Campbell asked if this was the horse Mr. Surgent's young female volunteer was permitted to ride quid quo pro for her help maintaining the operation. Ms. Nangle responded yes, and that she was still cleaning up on her scheduled days however, Mr. Surgent was told to hire full-time help and has yet to do so. On inspection yesterday, Mrs. Tyler found four or five inches of manure in the turn-outs which Mr. Surgent had been instructed to clean daily. When confronted he told Mrs. Tyler that he would get to it by the weekend; he was too busy with court cases. When pressed, he would not agree yesterday (nor in court today) to remove all the horses from the farm as he previously suggested he might do.

In response to Mrs. Musella's inquiry, Ms. Nangle confirmed that the female volunteer assured her that Mr. Surgent was actively seeking paid help. Ms. Nangle herself has not seen any advertisements or help wanted postings.

Dr. DeMaria noted that she had accompanied Mrs. Tyler to the farm for an inspection and deemed it a "hard property" for the keeping of horses. There is an old concrete barn, the facility is run down and there is a very steep grade within the paddock as it runs down to the river. Half of the paddock is covered in a sheet of ice and the grade made it difficult for her and Mrs. Tyler to ascend, let alone horses. Most of the horses left on the property are lame. Dr. DeMaria feels Mr. Surgent's perception of what is acceptable in terms of care and housing is clearly not in line with best practices or veterinary standards.

Mr. Mason encouraged the Board to obtain a final report from Tyco regarding current conditions of the farm and documenting Mr. Surgent's progress in hiring the full time employee.

Mrs. Campbell asked if Mr. Surgent had been given the management plan that was previously discussed. Ms. Nangle apologized that she didn't have that answer; she only knew that it was provided to the Health Department and approved. Dr. DeMaria argued that Mr. Surgent clearly understands what is expected of him even if it hasn't been provided in writing, and Ms. Nangle agreed.

Mr. Harris opined that the crux of the problem is the need for help and the fact that he has not hired anyone. He has demonstrated that he cannot keep the operation in compliance alone or with part-time, volunteer help. Failure to comply will result in forfeiture of his right to keep horses.

Ms. Nangle interrupted the proceedings to advise that she had received a text message from Mrs. Tyler; the management plan had not been provided to Mr. Surgent. She offered to send, and the Board agreed to receive a copy of the plan that would be presented to him.

Mr. Harris indicated the management plan and a formal letter demanding compliance by a specific date should be sent to Mr. Surgent directly from the Board, and not via Tyco. As to time limits, Dr. DeMaria believes two months would provide enough time to bring the farm up to par and to hire help.

Mr. Mason said the management plan needs to be specific in nature so that each inspection date can document which items are in or out of compliance. Dr. DeMaria will coordinate with Tyco to accomplish that. Mr. Harris appointed Mrs. Musella to be the point-person to receive the plan and disseminate it to the Board Members by email.

Mr. O'Brien was concerned with the allocation of resources being dedicated to this farm. He questioned if the Township could recoup expenses for excessive inspection and enforcement activities? Ms. Nangle indicated that many towns have ordinances in place for that very reason, and offered to locate and send Mrs. Musella a copy of one.

CORRESPONDENCE

Date: 4/10/2015 To: Board of Health From: Kimberly Bolan
Letter of resignation as Part-time Clerk/Deputy Registrar

There being no further questions or discussion, a motion to close the meeting was made at 8:55pm by Mr. Harris and, seconded by Mrs. Mertz and, unanimously agreed to by all present.

The next Regular meeting is scheduled for **May 15, 2015** at 7:30pm.

Respectfully submitted,

Marianne Campbell
Secretary