

**BOARD OF HEALTH
MINUTES
April 9, 2019**

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 7:32PM by President, Sydney Harris.

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

PRESENT: Mr. Cimis
 Dr. DeMaria
 Mrs. DeSilva
 Mr. Harris
 Mr. Matysiak
 Mr. Wasson

ABSENT: Mr. Lofaso

PROFESSIONALS: Mrs. Mandeville, Acting Department Director
 Mrs. Hagan, Secretary
 Mr. Mason, Attorney
 Mrs. Homler, REHS
 Mr. Maas, REHS

OATH OF OFFICE

Board of Health Attorney, Jeffrey Mason, administered the oath of office to Mrs. DeSilva.

APPROVAL OF JANUARY MEETING MINUTES

Moved by Mr. Cimis and seconded by Mr. Wasson to approve the Minutes of the Regular Meeting of January 8, 2019.

Mrs. DeSilva requested an update on the vicious dog case (aka Bella.) Carol Tyler, ACO, provided the names of several witnesses including Kathy Santos, Dr. DeMaria and Dr. Brady. All made their statements. The defendant hired one P.J. Goldsmith as an independent evaluator. It is Mrs. Homler's understanding that Mr. Goldsmith trains canines and has protective clothing. He wanted to enter the pen with the dog. Mrs. Tyler would not allow this as she

felt she could not provide adequate protection despite having two Wyckoff police officers present in case their assistance was needed. Mr. Goldsmith made his evaluation from outside the pen. Mrs. Homler did not receive the written evaluation until the day of the hearing. Mr. Goldsmith's statement was that he could not make an accurate evaluation due to his inability to have direct access to the dog. In order for this to happen, it was requested that the defendant's attorney provide a liability waiver which must be approved by Township Attorney, Brian Campion, along with the Township of Wyckoff attorney as the facility is located in Wyckoff. Bella will not be moved to another location or environment.

The trial date is scheduled for April 30, 2019, at 1:30 pm. Judge Harraka is adamant that a decision will be made by the court at that time. Carol Tyler reached out to the prosecutor, Joe Demarco, to see if any further information was received from the defense attorney; it was not. Mrs. Tyler does not want to receive any evaluation results on the day of trial without adequate time to review the information. Mrs. Homler has generated a list of twelve potential witnesses to be subpoenaed if the prosecutor so chooses. There are thirty-one pieces of discovery which will be reviewed to formulate one packet to be delivered to all parties.

Mrs. DeSilva wished to know whom was fighting so hard to save the dog. Mrs. Homler explained it was not the foster parents but, rather, the owner of the rescue organization. Although the foster parents licensed the dog in Mahwah, it was determined by the prosecutor that the true owner of the dog is the rescue organization.

There being no further questions or discussion, the Minutes of the Regular Meeting of January 8, 2019, were unanimously approved.

APPROVAL OF MARCH MEETING MINUTES

Moved by Dr. DeMaria, and seconded by Mrs. DeSilva to approve the Minutes of the Regular Meeting of March 12, 2019.

Mrs. DeSilva queried whether the issues at 95 Halifax Road have been abated. Mrs. Homler had hoped to have an answer to that situation prior to tonight's meeting, but no answer regarding the Zoning Department issues has been received. She has been unable to conduct a follow-up inspection due to time constraints.

Mr. Wasson inquired as to why this would be a Health Department issue. Mrs. Homler explained that the initial complaint came in and was forwarded to several departments. Mrs. Homler and Mr. Maas made

an initial inspection of the property and determined this to be a zoning issue. Mr. Maas explained that much of the property is located in the flood plain. Photographs of the property taken by the complainant document there was a large ride-on tractor on the property. The complainant was concerned that the motor oil or gasoline present in the tractor could be an environmental hazard. No imminent health issues were discovered and, the issue was referred to the Zoning Department.

There being no further questions or discussion, the Minutes of the Regular Meeting of March 12, 2019, were unanimously approved.

APPROVAL OF MARCH HEALTH ACTIVITIES REPORT

Moved by Mrs. DeSilva and, seconded by Mr. Matysiak to approve the Health Activities Report for March 2019.

Mrs. DeSilva requested an update on abatement notices issued to property owners harboring fowl. Mrs. Homler replied that notices were sent to four property owners. Two owners removed their fowl and those cases are abated. The violations on Campgaw Road and Ramapo Valley Road are pending. The property owner at 611 Campgaw Road has contacted the Zoning Department and will pursue the necessary steps to obtain a variance. The owner at 1030 Ramapo Valley Road has hired an attorney who sent a letter to the Health Department indicating all health issues have been addressed and remediated. He believes the case should be closed. Mrs. Homler replied that the zoning issues have still not been addressed; and, therefore, the Health Department is unable to issue a fowl license.

Mrs. DeSilva queried whether our zoning ordinance is too prohibitive regarding the keeping of chickens. Nearby municipalities are much more lenient pertaining to property size requirements. Mr. Maas indicated that at this point, permission to harbor chickens on these two properties lies directly with the Zoning Department. Neither has the five acres required by Zoning, and neither has proven an uninterrupted history of maintaining fowl. There are over 100 chickens at 1030 Ramapo Valley Road (which goes by the name "Cluck U Farms"). This property is just shy of the acreage requirement at 4.8 acres and all indications are that this is a production farm. The property on Campgaw Road is significantly smaller with about five hens and a barn.

Acting Department Director, Mrs. Mandeville, has been in contact with the Zoning Officer who is consulting with the township attorney on how to proceed. The attorney representing the property owner is very clear that they consider the matter abated, and they are not going to

seek a variance. Mrs. Homler said the owner of 1030 Ramapo Valley Road maintains that several years ago the neighbor "gave" his father-in-law a portion of their property. No paperwork documenting this land transfer between the two neighbors has been produced.

Mrs. DeSilva queried whether this type of commercial use would be permitted if there were five acres; Mr. Maas replied affirmatively. Mrs. Homler explained that an exception to permit roosters would have to be made if the property owner obtained Commercial Farm Status from the State. She also noted that the licensing fee would drop significantly as we charge a flat fee of \$250 for a commercial farm vs. a residential fowl license.

Mr. Maas informed the Board that the property next door at 1010 Ramapo Valley Road does have Commercial Farm Status and does have roosters. That property was recently transferred and the new owners have made substantial improvements and have complied fully with Health Department requirements.

Mr. Mason suggested the Health Department conduct an inspection of 1030 Ramapo Valley Road regardless of zoning status. It is the responsibility of the Health Department to protect the public health and make sure sanitary conditions are being maintained by the property owners whether or not Zoning approves the use. The Board directed the Health Inspectors and Tyco Animal Control to inspect the property and ascertain its conditions.

Mr. Matysiak inquired as to the health implications to humans caused by chickens. He is concerned that the Township ordinance requiring five acres might be too restrictive and render Mahwah an "unfriendly" place to live. Mr. Wasson queried the fowl ordinances maintained by surrounding municipalities. Mrs. DeSilva believes the Planning Board should be made aware that over the years there have been several inquiries by potential homeowners/realtors regarding the Township's stance on owning fowl. This may lead the Zoning officials [Planning Board] to reconsider the five-acre requirement. Mr. Mason suggested that any inquiries that come into the Health Department regarding ownership of fowl be referred to Zoning.

Mrs. DeSilva requested additional information on four Conditional ratings that were issued in March. Mrs. Homler stated that during a routine Chapter 24 inspection of Imperial Dynasty, she found several unsanitary conditions, i.e. dirty equipment, food preparation violations and the removal of equipment (prep sink) without obtaining Health Department approval. She feels there are cultural and language barriers contributing to these violations, but she is pleased to report that all critical violations were addressed, and the establishment is now Satisfactory.

Mr. Maas provided insight on the Conditional inspections of Blueberry, Café Amore and Gateway Gourmet Deli. Issues at these establishments included housekeeping, food temperatures and sanitation. Blueberry has abated all issues and is currently Satisfactory on Re-inspection. Café Amore is in the process of addressing their violations, and Mr. Maas is hopeful they will be back to Satisfactory within a few days.

Gateway Gourmet Deli has numerous housekeeping issues regarding dirty equipment. Also, it was discovered that no bleach was being used for sanitizing. There has not yet been a response from the owner regarding how these issues will be addressed. Mrs. Homler added that the Gateway Deli has a pending summons as they failed to pay for the 2019 Food License by February 1. A late fee notice was mailed which indicated payment was due in the Health Department by March 1st. No payment has been received.

Mr. Matysiak inquired whether the Health Department conducts more frequent inspections after having issued a Conditional rating to an establishment. Mrs. Homler replied inspection frequency is based on the risk level assigned to the establishment. However, if an establishment has consistent violations, more frequent spot checks will be conducted. The department also has a system in place where inspectors rotate assignments so as to always have a "fresh set of eyes" viewing an establishment and its practices.

Mrs. DeSilva complimented the inspectors on their hard work.

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

APPROVAL OF HEALTH OFFICER'S REPORT FOR MARCH 2019

Mr. Cimis queried how the Health Department has progressed along the lines of putting out a statement regarding the Department's stance on vaping. Mrs. Homler informed the Board that many seminars have been conducted by Mahwah Municipal Alliance regarding this topic. Mrs. Homler recently received a phone call regarding an establishment in town selling vapes to underage minors. Mr. Grotheer (part-time Inspector) went to the establishment and spoke with the employee on duty about enforcing identification checks for individuals wishing to purchase vapes. Our Department then received a second call about this at the same establishment, and Mr. Grotheer went out again and discussed proper protocols with a different employee. Finally, on a third follow-up, Mr. Grotheer was able to speak to the owner and informed him that any future incident will be addressed with a summons.

Mrs. Homler stated that no official comment by the Health Department was put out regarding vaping. However, the Mahwah Municipal Alliance recently offered an informational program, and our Health Educator through Northwest Bergen Regional Health Commission (NWRBHC) has conducted programs with the school nurses.

Mr. Cimis apologized for the apparent confusion between the issues of vaping and legal marijuana. He clarified that his inquiry actually concerned the Department's stance on the sale of legal marijuana in the Township. A Township ordinance has been established banning the sale of such products in Mahwah.

Mrs. Homler commended the efforts of the Mahwah Board of Education and the Mahwah Municipal Alliance to inform the public of the dangers of vaping among middle schoolers and high schoolers. Mrs. Campbell has been successful in adding a link to the Municipal Alliance on the Board of Health's webpage.

Mrs. DeSilva queried if we could do the "sting operation" which was done in the past with cigarette sales to minors. Mrs. Mandeville informed the Board that the State has pulled the funding for that program [Tobacco Age of Sale Enforcement or TASE], and it is no longer offered. This is unfortunate because TASE was quite successful, and many violators were caught and fined appropriately.

Mrs. Mandeville was pleased to report that Mrs. Musella and NWRBHC are establishing a plan for her to return to work. She relayed Mrs. Musella's sincere appreciation to the Board for their understanding while she is on leave. Mrs. Mandeville stated the most pressing thing she has been working on has been the measles outbreak and the response put forth by Rockland County. Her office has been responding to the various media outlets, and she is happy to report that upon consultation with the regional epidemiologist, no cases have been reported in Bergen County thus far.

There being no further discussion, a motion was made by Mrs. DeSilva, seconded by Mr. Matysiak and approved by all to approve the Health Officer's Report for March 2019.

BILLS

Moved by Mrs. DeSilva, seconded by Mr. Wasson and unanimously agreed by all present to approve the bills for March 2019.

REPORTS OF STANDING COMMITTEES

No reports were presented. Mr. Harris supports the Members taking a pro-active stance in support of public health and establishing a presence within the community. He encouraged any Member to come forward with their ideas or to propose areas in which they feel we should become involved.

REPORT OF ATTORNEY

Mr. Mason deferred to Mrs. Mandeville regarding the stance of other municipalities on the vaping issue. Mrs. Mandeville is only aware of one town that has passed an ordinance regarding vaping; the Township of Washington included vaping in its marijuana ordinance. Mrs. Mandeville stated vaping is governed by the same law as smoking, and limiting the sale of vaping products could create potential problems when it comes to regulating the sale of cigarettes and nicotine products. She reiterated that the Health Department's focus is primarily on education of both students and parents and spoke highly of the Health Educator's programs within the schools and for parental awareness.

Mrs. DeSilva queried the best way to reach the middle school youth. Mrs. Mandeville would like to see the sting operation reinstated as it was extremely effective in dissuading shop owners from selling to youth due to the high fines levied against proprietors.

Mrs. Homler replied with information pertaining to NJ GASP. An attorney from GASP spoke at the most recent meeting of the Bergen County Health Officers, and Mrs. Homler was impressed with the excellence of the program presented regarding vaping and youth. She will seek permission to share the presentation with the Board.

Mr. Mason addressed Mr. Harris regarding his reply to the Township Attorney on the updated Noise Ordinance. Mr. Mason stated that the Board's official response was "no comment on this issue."

CORRESPONDENCE

None to present.

OTHER BUSINESS

None presented.

PUBLIC COMMENTS

Jayne Demsky from the group, *Mahwah Stigma Free*, introduced herself and enlightened the Board on the goals of the New Jersey Stigma Free Program. The inception of the Stigma Free program in 2014 came about when a Paramus resident became discouraged by a lack of resources and the stigma associated with PTSD which affected her husband. She spoke with Bergen County Executive, James Tedesco, who agreed that something should be done. Working with the Bergen County Department of Health, they pioneered the Stigma Free initiative. Their hope and goal is to get all municipalities to sign on and offer their residents programs and information on mental health awareness.

Mahwah signed on as a Stigma Free Town in 2017, and a voluntary committee was formed. They have been able to procure a \$2,000 grant from the Division of Freeholders to establish a website with information and links to useful mental health information. Ms. Demsky's purpose in addressing the Board is to request assistance in promoting Mahwah Stigma free and to petition for any funding the Board of Health could provide. Mr. Harris responded that the budget for the Health Department is set by Township Council, and the Board is not authorized to make discretionary donations.

Inquiry was made as to whether they have considered partnering with National Association of Mental Illness (NAMI.) Mrs. Demsky replied NAMI does not provide any funding assistance.

There being no further comments or discussion, Mrs. DeSilva made a motion to adjourn at 8:47 pm, which motion was seconded by Mr. Wasson and unanimously agreed to by all present.

The next meeting is scheduled for May 14, 2019, at 7:30pm.

Respectfully submitted,

Kathryn Hagan
Secretary