

TOWNSHIP OF MAHWAH
BOARD OF HEALTH
MINUTES
JUNE 12, 2012

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 7:35 PM by President, Sydney Harris.

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

PRESENT: Mr. Harris
 Mrs. Spiech
 Mr. LaMontagne
 Dr. DeMaria (7:40pm)
 Mrs. Mertz
 Mr. Wasson

ABSENT: Mrs. DeSilva

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

APPROVAL OF MINUTES OF THE REGULAR MEETING

Moved by Mr. Wasson and, seconded by Mrs. Spiech to approve the minutes of the regular meeting of May 8, 2012.

Mr. Wasson inquired if the online certification classes for Local Board of Health members were available yet. Mrs. Musella responded that they were not but will apprise the Members when available.

There being no corrections or further questions, the minutes of the regular meeting were unanimously approved.

APPROVAL OF HEALTH ACTIVITIES REPORT

Moved by Mr. LaMontagne and, seconded by Mrs. Mertz to approve the Health Activities Report for May 2012.

Mr. Wasson requested additional information regarding the lake inspections, asking if we enforced any regulations regarding aeration or run-off of landscape chemicals.

Mrs. Homler was not aware of any requirement to aerate although it is often the solution to complaints regarding aesthetics and mosquito harborage. Bergen County Mosquito Commission routinely inspects several water bodies in Mahwah and water samples are taken in each of those locations; she will make an inquiry to find out if the lab tests for chemicals as well as larvae.

Mr. LaMontagne asked who was responsible for the aeration equipment at Silver Creek Pond. Mrs. Homler responded that the DPW operated that system.

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

HEALTH OFFICER'S REPORT FOR MAY

Moved by Mrs. Spiech and, seconded by Mrs. Mertz to approve the Health Officer's Report for May.

Mr. Harris requested a status update on the licensing fees review. Mrs. Musella replied that the staff had spent many hours reworking the schedule and restructuring the retail categories. She expects to present a draft to the Members next month. If acceptable, Mr. Mason will be asked to write up an ordinance to affect the increases.

Mrs. Spiech wished to confirm that a license for a dog that had been legally declared Potentially Dangerous would cost the owner \$750.00. Mrs. Musella responded that the fee is legitimate and purposefully imposed; a dog so declared has demonstrated that it is a clear threat to people and/or property.

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

BILLS

Moved by Mr. Wasson and, seconded by Mr. LaMontagne and, unanimously agreed by all present to pay the bills for May.

SITE PLANS

Mr. Harris requested if the Members or staff were aware of any updates to the Crossroads site plan. Mrs. Spiech stated that the developer's attorney had testified to the Planning Board the previous evening that the site was safe for development. Mr. Harris observed that the State was still overseeing the monitoring wells there and that claim was verifiable.

Mr. Wasson understood that a movie theatre was slated to be situated on a former 'hot spot' and a vapor lock barrier would be installed as part of that construction.

Mrs. Spiech is anxious for the survey performed by Ramapo College students and their professor to be released. A broad spectrum of concerns was to be investigated: environmental (including light and noise pollution), crime, sociologic, economic and cultural impacts.

Mrs. Homler stated that the final site plan has not been submitted; Mrs. Musella reiterated that our approval of the preliminary plan was conditional and not all of the stipulations can be fulfilled until construction begins and/or occupancy takes place.

SUNSHINE COMMITTEE

Mrs. Spiech reported that she had sent a sympathy card to the family of Pat Geigerich, who had passed away last month. Mrs. Geigerich had retired from service on this Board and moved away some years ago but still has family residing in Mahwah.

The Members were sorry to hear of her passing and Messrs. Harris and LaMontagne spoke fondly of her gentle demeanor. Mr. Harris thanked Mrs. Spiech for taking care of this matter.

REPORT OF ATTORNEY

Mr. Mason advised the Board that a change had taken place at the New Jersey Department of Environmental Protection in May regarding oversight of contaminated sites in the State. Responsibility for cleanup and enforcement is being conferred to private environmental consultants. These consultants must enter into a certification program offered by the State, and take an oath committing them

commits them to perform as an arm of the DEP regulatory process. Our Board's interest in this transition boils down to a need for increased vigilance in following the requisite paper trail. Mr. Mason counseled that it would be prudent to confirm all reporting requirements are being met.

His concern is that because a profit element has been introduced into the process, corners may be cut. At minimum, he suggests that the staff maintain listings of all sites in town that are being actively remediated and the stage of their completeness, as well as those that are now simply being monitored.

Mr. Wasson asked if the State was completely relinquishing responsibility in these matters. Mr. Mason responded no; the DEP will oversee the environmental consultants that it has certified, and will still impose penalties for non-compliance.

Mr. Harris shared Mr. Mason's concern how a profit motive could influence the thoroughness of an investigation. He asked Mr. Mason to provide him with a copy of the new regulation, and if possible, a list of the newly certified consultants.

Mrs. Musella was not aware of/had not been provided a list of those names. Mr. Mason stated that absent a list, it was within our authority to require proof of certification from any firm submitting a report to us.

Mr. Wasson questioned how a land owner would verify that the consultant he hired was certified or even know of the requirement. Mr. Mason advised that the question exposed an idiosyncrasy in the law: a property owner is not required to hire a certified consultant. Indeed, many firms will purposely retain in-house consultants that are not certified because they will not have to report every finding to the State.

However, when the work is ultimately completed, a certified consultant in the firm will have to sign off on the project. Conventional wisdom suggests that the person whose credentials, reputation and certification are on the line will not be disposed to jeopardizing them.

Mrs. Campbell noted that the DataMiner application on the DEP's website is a tremendous resource; contemporaneous lists of all the certified labs, engineers, contractors and contamination sites in the state are available there. Mrs. Homler stated each contaminated site had a project manager and asked if this person would be permitted to earn certification and return to the same site. Mr. Mason responded yes.

In the matter of State vs. DeMarino, Mr. Mason relayed information that was received from Property Maintenance Inspector, Tom Mulvey. The coops are still on the property and Mr. DeMarino is denying ownership of the chickens on site asserting that they are wild. The judge has given him until the end of next month to comply with the terms of the agreement they had reached.

If the Department receives complaints, Mr. Mason advised that we can issue summonses and/or direct Animal Control officers to round the chickens up. Until such time, he does not feel this would be an effective use of our resources. Mr. Harris agreed; the matter is in the court's hands.

FURTHER BUSINESS

Mrs. Musella was pleased to report that the spare refrigerator in the Municipal Building has been relocated to Police Headquarters (where it can be powered by generator) to safely store our vaccine during electrical outages.

Mrs. Musella then apprised the Board of a meeting she had with Mayor LaForet regarding food licensing for a temporary event called Bergen Fest 2012. The event showcases vendors who have been voted the "Best of Bergen" by readers of Bergen Health and Life Magazine.

The Mayor had preliminary discussions with Mrs. Homler and Mr. Maas seeking a waiver of the licensing fees for vendors participating in this event. The inspectors deferred the matter to the Health Officer. After Mrs. Musella was able to explain the scope of the work involved, the Mayor asked if she would consider reducing the fee in half to \$25.00 per license. Due to the number of vendors involved, Mrs. Musella told the Mayor she would prefer to bring the matter before the Board of Health.

Mrs. Musella's concern is that these events make significant demands on the staff. Pre-operational consultations are required to ascertain what the licensee is cooking, how they are cooking it, and how they are maintaining proper hot and cold holding temperatures of food product. The license application itself requires review for completeness, and we must document that the vendor holds current food handling certification. On the day of the event, overtime will be required as an inspector needs to be on site as the vendors arrive and remain there until cooking and plating begin to document that safe food temperatures were maintained from transport through service.

At a time when budget constraints are so tight, and indeed, having been specifically cautioned not to exceed our overtime budget, Mrs. Musella is concerned that eliminating the fee is neither prudent nor fiscally responsible. She also worries that it sets a precedent.

Mr. LaMontagne inquired who was sponsoring the event. Mrs. Musella responded it was the local Chamber of Commerce. Mr. Harris queried if the vendors will be selling product or giving it away. Mrs. Mertz observed that either way, participation promotes and advertises their business.

Mr. Harris then opened the floor to the Members for individual comments, thoughts or concerns.

Mrs. Spiech is not disposed to eliminating the fee; it is unfair to other applicants who have paid it and it devalues the importance of the work involved.

Mr. LaMontagne inquired what had been done in the past. Mrs. Campbell stated that the Chamber hosted an event called "Taste of the Region" at the Sheraton in 2010. At that time there was considerable grousing over some \$900 in licensing fees we imposed. This year, the Chamber sponsored that same event at the Crowne Plaza Hotel in Suffern, New York. The staff presumes the change in venue may involve our licensing fees.

Mrs. Homler stated that the spokesperson for the Chamber (Sharon Rounds) is strongly opposed to the food license fees for the upcoming Bergen Fest event. She told Mrs. Homler that back in 2010, the Chamber had paid the licensing fees on behalf of the vendors, because they had donated their time and food for the event. She also argued that for Bergen Fest 2012, other Township departments (i.e. Building) were waiving their licensing and/or inspection fees.

Mr. Harris asked Mrs. Homler to confirm if Taste of the Region was a charitable event. Mrs. Homler said no.

Mr. LaMontagne suggested meeting the Chamber half-way; the event is good for the Township and promotes its businesses. Mrs. Musella interjected briefly that any vendor already licensed and operating in Mahwah would not be charged a fee. Mr. LaMontagne explained that Mahwah belongs to a Regional Chamber of Commerce. Many of the vendors coming in from other towns will likely be co-members of the same chapter.

Dr. DeMaria inquired if out of town vendors could produce proof of satisfactory licensing in their home base of operation as a condition of obtaining a fee waiver or reduction.

Mrs. Musella replied that this is possible and provides some measure of vetting, but an onsite inspection is still required. Due to the nature of the business, at minimum we need to verify that the certified food handler scheduled to work the event is the same person that is actually sent.

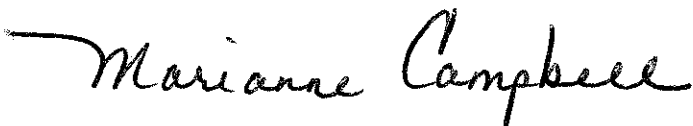
Mr. Wasson asked how many vendors were expected to participate. Mrs. Musella was informed that there are tentatively forty food vendors. Mrs. Spiech suggested a percentage reduction of twenty or thirty percent off the established fee. Mr. Mason advised that we need to refer to our ordinance and confirm if this option is available to us. Mrs. Musella stated that our ordinance only provides for a fee waiver or a reduction to \$25.00.

General discussion ensued as to the nature, logistics and purpose of the event. Mrs. Homler provided details as to the work load any temporary event generates for the Department. Based on experience, she requested that the promoter be required to submit a complete package to include all vendors and their applications, and not have the individual vendors submitting piecemeal.

On a motion by Mr. LaMontagne, with a second by Dr. DeMaria, it was unanimously approved by all present to offer a discounted temporary event food licensing fee of \$25 to each vendor that participates in the Bergen Fest 2012 event.

There being no further questions or discussion, a motion to adjourn was made at 8:35pm by Mrs. DeSilva, seconded by Dr. DeMaria and, unanimously approved by all present.

The next regularly scheduled meeting is scheduled for July 9, 2012 at 7:30pm.

A handwritten signature in cursive script that reads "Marianne Campbell". The signature is written in black ink and is positioned above the typed name and title.

Respectfully submitted,

Marianne Campbell
Secretary