

**MINUTES OF THE BOARD OF HEALTH MEETING**  
**January 8, 2009**

The meeting convened at 1:07 PM. Present were Chairman Louis Fazen, III, Members Nancy A. Sacco and Richard H. Seder, Public Health Director Paul C. Pisinski, Public Health Nurse Leslie Chamberlin, Sanitary Inspector Dennis Costello and Administrative Assistant Barbara M. Luther.

**The minutes** of the December 3, 2008 were not reviewed due to time constraints

**Members were briefed on the agenda and any scheduled appointments.**

Mr. Pisinski briefed members on the people who would be attending today's meeting. Mr. Bill McClune of the Worcester Regional Tobacco Control Consortium is expected at 1:30 PM to discuss hookah and cigar bars. Peter Bemis is to be here at 3:00 with a preliminary petition regarding a variance request on MacNeil Dr. Mr. Pisinski explained that there are some natural barriers in the area where the variance is being requested such as wetlands that surround the stream and a road between the reservoir and the proposed septic system. Mr. Bemis's presentation is only preliminary and the Public Hearing will be held at the February Meeting, but his client is looking for an idea of what the board will require in the variance request.

**PETITIONS/PUBLIC HEARINGS**

**Tobacco Control**

Mr. Bill McClune arrived at 1:55 to discuss hookah and cigar bars. Mr. McClune explained that a hookah is a device for smoking flavored tobacco in a mist. It takes anywhere from 45 to 60 minutes to smoke the pipe and the smoke is held in the lungs for longer than when smoking a cigarette. There is major concern about the hygiene of the water in the pipe. This began as part of the Lebanese culture and is now used by many college students as a social activity. Mr. McClune explained that Worcester is requiring signage and regulations to be met, because there are already hookah bars in the city. The regulations regarding these places/uses come under Chapter 270 sec. 22. Dr. Fazen asked if there is an under age restriction, to which Mr. McClune answered, yes. The bar must get a permit from both the state and the town. Chapter 270 sec. 22 outlines all the regulations. The Commonwealth of Massachusetts has regulated all combustible items that can be inhaled, but these devices don't produce the same emissions as cigarettes. Worcester has a stipulation that with more information their regulations could be subject to future changes or even the possibility of closing of these bars. The local Board of Health can require restrictions stricter than the state regulations, but although 31 towns have smoking bars only 2 towns have restrictions. Mr. McClune offered the city of Lowell's regulations as an example. He also advised that a town can ban a smoking bar. Mr. Pisinski stated that he understood a town Board of Health was not able to ban a private club that met all the requirements which comprise a private club. Dr. Fazen said that he would like to get Town Counsel's opinion on this and would like to have Attorney D.J. Wilson from the State Department of Tobacco Control division address the issues for the board. Mr. McClune also provided the members with a copy of Leicester's smoking in public places/workplace regulations. He again explained that any town can develop regulations beyond the state regulations, but felt that it is easier to ban the bar before anyone applies for a permit. Once a permit is applied for or issued the problem of interfering with someone's livelihood can become

a problem. Mrs. Sacco stated that she would rather ban the bars all together than to deal with them after they have been established. Dr. Fazen brought up the idea of banning all pharmacies from selling tobacco products just as Boston has done. This would be a portion of the board's desire to create a healthy community. Dr. Fazen would like to take a comprehensive look at Southborough's regulations and develop new stricter regulations to be phased into effect. Mr. Pisinski shared the opinion of a Professor of Public Health at Boston University School of Public Health that if the sale of cigarettes is banned in pharmacies, why not candies and any other sweets because of their potential to cause health problems. Mr. McClune advised; any regulation that can't be enforced shouldn't be passed. He believes that the biggest part of public health should be education, education, education and we don't do enough of that. Dr. Fazen asked the members if they felt that the board should take a new look at the tobacco regulations in light of hookah bars and pharmacies and the consensus was yes. Dr. Fazen said that it is really only kids that are beginning to smoke these days, adults don't seem to be starting or restarting. He asked Mrs. Chamberlin if she would like to get involved with these issues if we have an attorney for support and a justification to ban these items. Mrs. Chamberlin would like to complete her current projects before taking on this new project. Dr. Fazen said that as we move forward with our healthy community project we should look into education in the schools and for other groups with information against smoking. Nicotine is very addictive and we want to prevent kids from ever smoking. We need regulations to accomplish this and a comprehensive approach to accomplish this. We also need to consider banning hookah bars, blunts and pharmacy sales. D.J. Wilson will be invited to a meeting to give the background on these issues as they have occurred throughout the Commonwealth. Mr. McClune will be happy to also help the board.

**Guidelines for granting variances to the Title 5 Code, as developed by Mr. Pisinski in 1996**

Mr. Pisinski had mailed a copy of the guidelines for granting a variance request to the Title 5 Code to each member before the meeting. He had developed these guidelines in 1996 and was please that people at the Central Mass D.E.P. office used his guidelines in some of their requests for determination. Dr. Fazen asked if Mr. Pisinski felt that the guidelines were still relevant or if they needed to be updated. Mr. Pisinski explained how many of the setback distances came about due to soils on the Cape, which are very granular and allow lateral transmission of nutrients and pathogens. Whereas, the soils and water table movement in Southborough impedes lateral movement. Therefore, the criteria are only marginally useful. Mr. Pisinski and Mr. Costello were asked to review and update if necessary the guideline in hope of the board voting on making them policy for the Town of Southborough Board of Health. Dr. Seder asked if the guidelines had ever been challenged, and Mr. Pisinski advised that they have not and related how D.E.P. has used them.

**3:44 PM Mr. Peter Bemis** of Engineering Design Consultants arrived to have a prepetition discussion on a variance request that will be submitted by B&B Realty. Dr. Fazen acknowledged that the board has Mr. Bemis' letter, but wants him to understand that they can only respond to a formal proposal. Mr. Bemis asked that the board at least review his proposal so that when his client does formally apply for the variance better information will be provided to help them render an opinion. He asked if they felt that they would be able to grant a relief variance to his client. He wanted to know if it were possible so that his client would be able to choose if they wanted to proceed with the process and its expenses. Dr. Fazed advised that the board can't advise him or his client as to how they would respond to a variance request before a

formal presentation. Mr. Bemis explained that in 1960 B&B Realty Trust was established by Leo and John Bartolini. Leo Bartolini is deceased. The property has not been developed because a family issue, but has been taxed as a buildable lot for over 40 years. Mr. Bemis is presenting the variance request to the board because until 1995, when the setback distance to a reservoir changed, the property would not have required a variance to build a septic system on this lot. He also pointed out that this reservoir is listed as an emergency water supply, but because of the new regulations it is treated as a Class A. Surface Water Supply. Mr. Bemis gave a brief overview of his presentation, which is proposed to have an impermeable barrier as part of its environmental protection. Mr. Bemis believes that the 1995 regulations are creating a manifest injustice for his clients and that his proposed plan will provide the proper protection of the environment. Mr. Bemis wanted to apply for the variance without doing soil testing. He believes that the board could approve the variance request contingent on the soil testing results meeting the Title 5 Code. Mr. Costello stated that he believes that asking the board to approve a plan without soil testing and or having the Department of Conservation and Recreation's (DCR) comments on the proposal would be working with only half a proposal. Mr. Pisinski suggested that Mr. Bemis might advise his client that the Board of Health would feel better about their review at the Public Hearing if the client could provide a copy of a letter sent to DCR requesting their review and comment within a determined number of days and inviting them to the Public Hearing with any comments. Mr. Bemis again advised that his client would prefer not to expend the money for soil testing if the variance is going to be denied. Dr. Fazen asked that the sanitary inspector make time in his schedule to observe the soil tests in time for a plan to be developed from the information gathered. Mr. Bemis thanked the board for their input and left the meeting.

**Tribute Plaque for Dr. Stone** – Dr. Fazen would like to take another look at the wording of the award, to insure that it appears open to all people who are improving the health of the public in the Town of Southborough. He also said that the board needs to look at the criteria for how the award is to be presented at Town Meeting. Mr. Pisinski suggested that the annual report might indicate that the board is looking for candidates. Dr. Fazen would like something specific written for Town Meeting. He asked that Mr. Pisinski put some suggestions as to criteria on the next meeting agenda and the board members can discuss and make some choices then. Board members will get their suggestion to Mr. Pisinski before the next meeting.

## **NEW BUSINESS**

**Parent's letter of concern regarding Neary School and health issues (asthma attacks, rashes, headaches, chest pain, swollen eyes, etc.) of her child resulting in ER visits and hospitalizations** - Mrs. Chamberlin explained the problems of a 9 year old at Neary School and the concerns that the problems were caused by the rug and maybe the ventilation system. This was in part because over school break the child only had one episode even with all the exercise she had during the vacation. Mrs. Chamberlin explained the interaction she had with the school nurse and janitor. The rug was immediately pulled up and the classroom was given a full cleaning. The vents are scheduled to be cleaned and there is a spot on the roof that may need to be addressed. The Head Nurse for the school system is continuing to monitor the progress of repairs and cleaning as well as the child's progress, and has promised to report back to Mrs. Chamberlin. Dr. Fazen complimented Mrs. Chamberlin on her quick and thorough response, which has resulted in some dramatic changes being made. However, he wants to monitor the

vent and roof repairs. Mr. Pisinski was asked to contact the Facilities Manger for the school system and ask him about maintenance procedures and what he plans on doing to address the situation at Neary School. Dr. Seder asked what is done for a child that has a severe peanut allergy. Mrs. Sacco, who often substitutes as a nurse at the schools, advised that there are peanut free classes and in the lunch room there are peanut free tables. It was decided that the Public Health Nurse will monitor the level of response taken to this situation and if it is not completely satisfactory Mr. Costello will contact the state to determine what must be done.

It was noted that Finn School is requesting an early inspection of it kitchen because it is being accredited as a preschool and must have a recent inspection. Mr. Costello advised that he would do the inspection on the very next day.

**Inspection Fee's for Construction of Semi-Public Pools:** The board was advised that there is a small fee for annual inspection of semi-public pools in town because they must be inspected at least once each year, but the fee for the construction of a pool should be reviewed. Mr. Pisinski explained that in all the years he has worked for Southborough only one permit to construct a semi-public pool was ever requested, but that he is expecting a construction permit to come from an architect for Fay School's new facility. Mr. Pisinski spoke with the architect yesterday and explained that the fee for the construction permit may be as high as \$800 due to the magnitude of inspections a project this size will require the staff to make. A discussion resulted in a unanimous decision of the board members. **All construction permits for semi-public pools will be charged a \$600 submittal fee with the final fee being determined by the number of inspections made by Board of Health staff. Any additional fees, over and above the \$600 will be collected before the Certificate of Occupancy is signed.** This will be added to the Board of Health fee schedule.

**Dr. Seder's report on attendance at Citizen Advisory Committee to MWRA:** Dr. Seder reported on his attendance at two MWRA meetings of late, one was a Water Supply Citizens Advisory Committee (WSCAC) meeting held at the MWRA Fayville dam building in Southborough. The meetings were to discuss current status of the new water treatment plant and tunnels, all successfully completed and in use. The concern is that a substantial reduction in State budgeted aid for additional needed maintenance and improvement projects will have major negative effects on a system as a whole. One MWRA response has been a move to coordinate the efforts of all MWRA advisory committees on both water supply and sewer treatment. These meetings were intended to be informational meetings. Dr. Seder has been a member of WSCAC for ten years, during which the organization has generally been strongly opposed expansion of its water supply area, i.e. into more towns. Constituted initially as a voice for the western parts of the state, WSCAC has been adverse such expansion because they believe that the eastern towns are "stealing their" water. At a next meeting a water supply analyst and planner for the New York metropolitan area will address the impact of global warming and rising sea levels on treatment facilities. He is expected to offer alternative resolutions to this problem.

Dr. Seder also attended the Planning and Zoning meeting last evening and told the members that the Board of Health is looking into "Healthy Community" issues. During this discussion, Mr. Pisinski explained the issue of the building inspector's belief that the septic system for any commercial building must be on commercial property. He advised that this

has created issues with developers of new commercial buildings. Mr. Pisinski has made presentations explaining that septic systems are like all other utilities and should be exempt from being located on the same commercial property, as they are in every community he has ever worked in.

## **REPORT ON CORE DIRECTIVES**

### **Emergency Preparedness**

**Mutual Aid Agreement with the 5 town subcommittee:** Mrs. Chamberlin gave a draft copy of the Mutual Aid Agreement developed by the 5 town subcommittee of which Southborough is a member at the end of the last meeting. The draft named all the agents and towns in the sub-district and their intent to respond as mutual aid to the other towns if needed. Mrs. Chamberlin reported that Bob Landry, of Marlboro and Sam Wong of Hudson have signed the agreement for their towns.

Dr. Fazen asked if the members were interested in moving forward with the Mutual Aid Agreement saying that he believes that the Board will have to explain to the Board of Selectmen that this agreement won't be like the mutual aid agreements that the Fire Department has entered into using many of the town's resources on a regular basis. The Board will plan on voting on the agreement, which has been approved in two of the subcommittee towns and is pending in three.

Mrs. Chamberlin explained to the board members about the **NIMS courses** that all staff and members involved in Emergency Preparedness are required to take as part of the 2009 Deliverables.

### **Wellness/Obesity**

Dr. Fazen brought in an article from the Globe regarding the Governor's program to reduce obesity. Dr. Fazen felt that the Southborough Board of Health should gather a committee of people who are interested in responding to the obesity issue and hold a summit meeting to discuss preventative measures. Dr. Seder asked what happened to the "Walk to School Day", and Mrs. Sacco advised that the infrastructure in Southborough is not conducive to holding a Walk to School Day. Mrs. Sacco said that she believes that the town has a great recreation department with lots of activities, but that she would like to address a way to let kids expend energy during the school day. Dr. Fazen said that a forum in town to determine a local response to a National and State wide obesity epidemic is needed. Mrs. Sacco felt that the "Friends of Recreation", physical education teachers, library personnel, as well as committees and public officials should be invited to such a forum. The consensus was that the board should look for a date and move forward in addressing this issue. Dr. Seder asked if the board was going to sponsor a "Biggest Loser Competition" again this year. Mrs. Chamberlin advised that she is very busy with an active TB case in a family of five, which is requiring a lot of case work contact, and tracking. Therefore she is not able to work on a Biggest Loser Competition at this time.

## **NOTIFICATION OF ACTIONS BETWEEN MEETINGS & PENDING ITEMS**

### **BUDGET**

#### **Continued discussion on 2010 Budget**

**Budget details and justification of new hours for Public Health Nurse** – Mr. Pisinski gave copies of the budget to each member of the board. His requested increase is 0.52 percent. He reported that the Board of Selectmen made no comment on the Board of Health budget. The Advisory has requested three budgets even though the Board of Selectmen has not. Mr. Pisinski explained four budgets to the members; one with the 0.52 % increase, one with level funding, one with 5% cut and a fourth budget showing the large 7% increase that would be required if the board is forced to hire another full-time 30 year plus public health veteran, with the same credentials and certifications as Mr. Pisinski as Public Health Director. Mr. Pisinski advised the board members that he would like to increase the public health nursing hours to 15 hours per week. He has calculated budgets with public health nursing hours at 14, and remaining at 12, but the workload really requires at minimum 15 hours. Dr. Fazen and Mrs. Sacco stated that they may be willing to look at level funding, but will have to refuse to accept a 5% decrease, which would render the department unable to do the job require as agents of the State Department of Public Health.

Mr. Pisinski advised that the union contract gives the Administrative Assistant a 3% increase as a cost of living increase, and there is an option for a 2% merit increase which he intends to recommend to the board. The Public Health Nurse is a member of the Salary Administration Program an as such is eligible for a 4% increase. All members agreed to attend the Selectmen's Budget summit on January 10, 2009, but asked that Mr. Pisinski make the budget presentation.

**Contract:** Dr. Fazen moved to accept the contract with Dennis Costello as Sanitary Inspector, with the addition of a 4% increase in his hourly rate. Mrs. Sacco seconded the motion and Dr. Seder made the vote unanimous. Dr. Fazen stated that he believes that the board will continue to move toward a professional administrative agent for the board. Dr. Seder asked what the other members felt would happen when Mr. Pisinski decides to retire completely, asking if the other members felt that a new Public Health Director would have to be hired. Dr. Fazen said that the board will need 12 to 15 hours budgeted for someone who is credentialed and certified as Mr. Pisinski is, and who understands the state system.

Mrs. Sacco moved to maintain Mr. Pisinski's contract for another year, the motion was seconded and approved unanimously.

**Next Meetings:** It was decided that the next meetings would be held as follows: Tuesday, February 10, at 1:00PM; Monday, March 2, at 1:00PM; Monday, April 13 at 10:00AM and Tuesday, May 12, at 1:00PM.

**The meeting adjourned at 5:00 PM**

Respectfully submitted by: Barbara M. Luther, Administrative Assistant to the Board of Health