

**Burlington Board of Health
Minutes – Regular Meeting
Tuesday, March 25, 2008**

Board Members Present: Edward Weiner, Ph.D., Chair; Jim Dion; Catherine Read, Ph.D.; Terry McSweeney; Wayne Saltsman, M.D.

Staff Members Present: Sharon Walker Mastenbrook, Director of Public Health; Heidi Porter, Environmental Engineer; Marlene Johnson, Health Agent; Andria Nemoda, Supervising Nurse

Chairman Weiner called the meeting to order at 7:00 p.m.

CITIZEN'S TIME:

Gregory Smith, 36 College Road addressed the Board regarding water issues at his property. Ms. Porter relayed that she had inspected the area and sent a letter to the abutter reminding them about the proper disposal of water on their property.

APPROVAL OF MINUTES:

March 11, 2008

MOTION: To accept the minutes of the regular meeting of March 11, 2008 as submitted (Dr. Read; second: Mr. Dion).

APPROVED: 4-0-1

HEARING

▶ **Bugaboo Creek, 43 Middlesex Turnpike – Food Code Violations**

Present representing Bugaboo were Steve Ricker, Vice President of Operations; David Roberge, Regional Manager; Todd Formosa, Kitchen Manager; and Michael Church, General Manager. Ms. Johnson's report indicated that Bugaboo has had on-going code violations during routine inspections, and that there are no systems in place to maintain sanitary conditions; cleaning schedules are poor to non-existent; management lacks ability to follow up with cleaning and maintenance; and restaurant lacks sufficient staff to maintain cleanliness.

The Board reviewed the history of food code violations as well as the inspections and complaints. The last two inspections were held in August of 2007 and February of 2008. Management had been informed of the poor conditions found during the August inspection and were informed that if issues were not improved upon the next routine inspection, management would be required to have a hearing before the Board of Health.

Ms. Mastenbrook said that the restaurant makes improvements after inspections for a short while, but then falls back into poor sanitary conditions. She explained the department's *Successful and Flexible Code Enforcement Model for Food Establishments*, a model on how to handle repeat violations.

Dr. Weiner summarized the overwhelming number of violations at both inspections and expressed his deep concerns relevant to the number of code violations, many of which were critical.

When asked why there is no dishwasher until late afternoon, Mr. Ricker explained that there are three line cooks, and the cooks handle the dishwashing during slow periods. When pressed to explain exactly why there are so many issues, each of the individuals present said they could not explain because they had not been with the corporation long enough, but Mr. Formosa explained, there has been significant management inconsistency. Dr. Saltsman explained that the Burlington Board of Health takes public safety issues very seriously.

Mr. Church stated that he was appalled at the conditions and said he would be a presence at this location and assured the Board that the expected improvements will be made. At this time, he said, there is a plan. Cross training has started, ten people were recently hired, and the dishwasher issue will be addressed.

It was Ms. Johnson recommendation that the establishment:

1. follow the Code Enforcement Model;
2. remain open until October 31, 2008 (permit expires November 1, 2008);
3. submit to the Board of Health monthly sanitation reports, April – August 2008, from an independent contractor at the restaurant's expense;
4. have three additional inspections by a BOH inspector, at the food permit holder's expense, April – August;
5. have successful routine health inspection before September 30, 2008;
6. appear before the BOH in September 2008 for a progress report;
7. renew their food permit for 2008-2009 if above conditions met

Mr. McSweeney expressed his extreme concern with respect to the number of violations and the types of violations occurring at this family restaurant, and he motioned to close Bugaboo Restaurant for one week.

MOTION: to close Bugaboo Creek for one week for the purpose of cleaning the entire establishment and to correct all violations (Mr. McSweeney; second: Dr. Saltsman).

Discussion: Dr. Read stated that sustainability must be addressed.

MOTION FAILED: 1-4-0

Dr. Read suggested that Ms. Johnson's recommendations be put into place and that the Health Agent conduct another inspection, and Dr. Weiner suggested shutting down the operation for one day in order to conduct this inspection. The Board agreed that the restaurant would be closed for one day, March 26, 2008. An inspection by the Health Agent would take place early in day, with members of the Board present. After the inspection, if it is decided that the restaurant may be opened, the Health Agent's recommendations will be put into place immediately. Mr. McSweeney would like the restaurant to be closed for one week in order to be property cleaned for the public.

MOTION: To suspend the license of the Bugaboo Restaurant for one day, March 26, 2008, in order to conduct a health inspection to ascertain whether or not the restaurant has the ability to open, after which time the Health Inspector's recommendations will be put into place (Dr. Saltsman; second: Mr. Dion).

APPROVED: 4-1-0

VARIANCE REQUEST

▶ **Shrimp Market, 75 Middlesex Turnpike – Exterior Grease Trap**

Christian Schmidt was present representing Shrimp Market. Ms. Johnson informed the Board that the restaurant, which serves shrimp entrees, would be located in the Burlington Mall Food Court. There will be two frialators, and they will be attaching an internal, automatic, timed, grease recovery unit to the ware wash sink. This unit warms and skims grease and places it in a container next to the unit. The restaurant will also open and clean the grease trap on a monthly basis, and maintenance/cleaning log will be kept for both the automatic skimmer unit and the manual cleaning.

Ms. Johnson recommended denying the variance, because they are cooking with fats, oils, and grease. In the event the Board granted the variance, she included conditions on the March 25, 2008 variance request. DPW Superintendent, John Sanchez, included recommendations as well.

MOTION: To grant Shrimp Market a one-year variance for an exterior grease trap. Proponents will appear before the Board of Health in one year, at which time the Board will review their logs and discuss the possibility of granting a permanent variance (Dr. Saltsman; second: Mr. Dion).

APPROVED: 5-0-0

VARIANCE REQUEST

▶ **Ruby Thai Kitchen, 75 Middlesex Turnpike – Exterior Grease Trap**

Tony Leung was present to receive Board of Health approval for a variance for an exterior grease trap. Ms. Johnson explained that Ruby Thai Kitchen will be located at the Burlington Mall Food Court. There will be two frialators. Mr. Leung stated that there would be two individual grease traps, with one being connected to the ware wash sink and the other to the wok range unit.

Ms. Johnson recommended denying the variance, because they will be preparing foods containing fats, oils and grease. If the variance is granted, standard conditions were included in the variance request dated March 25, 2008, and Ms. Johnson recommended it be granted for one year, after which time the proponents would appear before the Board of Health to request a review for a permanent variance.

Dr. Weiner reminded Mr. Leung to keep accurate logs.

MOTION: To approve a one-year variance for an exterior grease trap for Shrimp Market, Burlington Mall Food Court (Dr. Read; second: Mr. Dion).

APPROVED: 5-0-0

VARIANCE REQUEST

▶ **The Ginger Pad, 4 Wayside Road – Acidification for Sushi Rice**

Christine Chan, owner of the Ginger Pad, was present. Ms. Johnson explained that Ms. Chan was seeking a variance from the food code requiring food to be kept at specific hot or cold temperatures. They are requesting to instead use acidification, with vinegar, as a method of food preservation.

Ms. Johnson recommended that the Board approve a permanent variance with standard conditions. Dr. Weiner asked the owner if she understood the conditions, and she said that she did.

Other items discussed were control logs for calibrations on pH meters, and proper training in acidification. Ms. Johnson suggested that Board consider purchasing a pH meter for the department.

MOTION: To grant a permanent variance for The Ginger Pad to use vinegar as a method of food preservation (acidification) as allowed per FC 3-502.11 (Dr. Saltsman; second: Mr. McSweeney).

APPROVED: 5-0-0

STAFF REPORTS

› Environmental Engineer's Report

90 Cambridge Street: Regarding the drums found at this location, laboratory results indicate that the contents contained hazardous materials. The barrels have been removed, and no permits were required by the Conservation Commission to take the samplings from the area where the barrels were located. Sampling data will be submitted to the Board of Health

Sump Pump: Ms. Porter recommended that the Board of Health policy regarding the pumping of water from a residence be posted on the website.

Nordblom: Septic tank removal is expected to take place in April. In order to protect the aquifer, the proponents agreed to have the tank emptied and removed from the property on the same day.

Household Hazardous Waste Day: Ms. Porter said she expected the pamphlets would be in the mail within the next two weeks. The event will take place on Saturday, April 26, from 8:30 a.m. to 12:00 noon, at the Marshall Simonds Middle School. Ms. Porter said that medical sharps will also be collected, and medical sharp containers will be available for purchase. Propane tanks, pesticides, acid and mercury bearing batteries will be accepted.

MOTION: To accept the Environmental Engineer's report as submitted (Mr. McSweeney; second: Mr. Dion).

APPROVED: 5-0-0

› Health Agent's Report

Maki of Japan Update: Ms. Johnson reported that as of the last inspection, this restaurant is in compliance with Board of Health grease trap regulations.

The Ginger Pad: Ms. Johnson said that Ms. Chan had submitted paperwork for the plan review but it was incomplete. She has since corrected the situation, Ms. Johnson said.

Pools: A pool seminar is scheduled to take place in April.

MOTION: To accept the Health Agent's report as submitted (Mr. Dion; second: Dr. Saltsman).

APPROVED: 5-0-0

► **Board of Health Nurse's Report**

Protocol: Ms. Nemoda informed the Board of the Nursing Department's new, emergency protocol established for the Human Services Center. The first step taken is a call to 911, followed by Ms. Nemoda's tending to the individual until the arrival of emergency personnel. She will also see anyone in the building who has non-emergency issues. Ms. Nemoda will look into the best way to communicate this new information to the public. Dr. Weiner suggested a form be created to track all aid given and that it be kept on file.

Grant: Ms. Nemoda explained that she received a grant for drug and alcohol awareness for the purpose of giving positive reinforcement for the youth of Massachusetts. She worked in conjunction with members of the Drug and Alcohol Task Force in the Community Life Center. The Board congratulated Ms. Nemoda.

MOTION: To accept the Nurse's report as submitted (Mr. McSweeney; second: Dr. Read).

APPROVED: 5-0-0

► **Director of Public Health's Report**

Rabies Vaccination Clinic: Ms. Mastenbrook said that the next rabies vaccination clinic for dogs, cats, and ferrets would be on Saturday, March 29 from 8:00 a.m. to 12:00 noon. Dr. Sarfraz Mian, DVM, from Merrimack Animal Hospital, would once again be present.

Flu Vaccine: Free flu vaccines are still available until June.

MOTION: To accept the Director of Public Health's report as submitted (Mr. McSweeney; second: Mr. Dion).

APPROVED: 5-0-0

DISCUSSION

Dr. Saltsman thanked Ms. Johnson for agreeing to inspect the Bugaboo Restaurant early the next day.

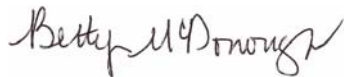
Dr. Weiner thanked Paul Nichols for visiting the offices of the Board of Health. Mr. Nichols, he said, is an expert in the computer field and works for a major medical institution. The Board has since been informed him of a proposal that will meet most of the requirements of the department.

As an update on Captain Pizza, Ms. Mastenbrook said that the state will hold an auction at the location on April 10, and the store is expected to be empty by April 11.

Mr. McSweeney reminded the public to vote on April 5, 2008.

MOTION: To adjourn at 8:35 p.m. **APPROVED: 5-0-0**

Respectfully Submitted,

A handwritten signature in cursive script that reads "Betty McDonough".

Betty McDonough
Recording Secretary