



TOWN OF BURLINGTON, MA
BOARD OF HEALTH
MINUTES
TOWN HALL MAIN MEETING ROOM

TUESDAY, AUGUST 23, 2022

Board Members Present: Ed Weiner, PhD, Chairman; David McSweeney, Vice Chairman; Gayle Damore; Andrea Sheehan, and Maribeth Welch

Board Members Absent: None

Staff Members Present: Susan Lumenello, REHS/RS, CHMM, Director of Public Health; Michael Greene, Associate Health Director, Christine Mathis, Environmental Engineer, Marlene Johnson, Health Agent, and Sammantha Hardy, Associate Health Inspector

I. Open Meeting/Pledge of Allegiance

Dr. Weiner called the Board of Health meeting to order at 7:00 PM.

The Pledge of Allegiance was recited.

II. Approval of Minutes:

MOTION: Mr. McSweeney moved to approve the Board of Health minutes of June 28, 2022 as amended. The motion was seconded by Ms. Welch and voted 5-0-0.

MOTION: Ms. Sheehan moved to approve the Board of Health minutes of July 26, 2022 as amended. The motion was seconded by Mr. McSweeney and voted 4-0-1. Ms. Welch abstained from voting.

III. Chairman's Report:

Dr. Weiner stated that the COVID pandemic seems to have become endemic, but we now face a new challenge in monkeypox. Dr. Weiner then thanked the Board of Health's Supervisory Nurse, Christine Paulik, who is retiring. Ms. Paulik served Burlington as a highly trained and outstanding medical professional during one of the most challenging times in this country, and worked to help establish health fairs, streamline our vaccination programs, and was a key to our medical reserve core.

Mr. McSweeney and Ms. Welch also thanked Ms. Paulik for her service to the community.

IV. Citizen's Time:

There were no citizen's coming forward.

V. Hearing:



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Dunkin Donuts, 85 Wilmington Rd. - Notice to Suspend Permit for BOH Regulations Governing Food Service Establishments

Jeff Sauvageau, Chief Operating Officer of The Catalano Companies, appeared before the Board.

Ms. Hardy stated that Dunkin' Donuts has violated (for a second time) Section 3(B) of the Burlington Board of Health Regulations Governing Food Service Establishments for not having a certified food protection manager on-site. They have worked on getting members of their staff certified and have submitted a plan.

Ms. Lumenello stated that Dunkin' Donuts is a Risk Category 1 establishment, which means that they don't prepare any food and are inspected once per year. Dunkin' Donuts reheats pre-cooked, commercially processed temperature control for safety foods for immediate service and does not cool temperature control for safety foods. Risk Category 2 is an establishment that does prepare food; however, they don't have any special processes. Risk Category 2 establishments are inspected twice per year. Risk Category 3 are those establishments that prepare food through special processes (i.e., acidification or reduced oxygen packaging) and are inspected three times per year. Ms. Lumenello added that we're seeing a lot of Risk Category 1 type of establishments because they have big turnover with food, and they don't have internal training for each of their employees.

There are two recommendations:

- 1) Take no action if determined by the Board of Health that the food service establishment is in compliance with *Board of Health Regulations Governing Food Service Establishments* to have a certified food protection manager on-site at all times.
- 2) Suspend the establishment's food permit if determined by the Board of Health that the food service establishment is not in compliance with *Board of Health Regulations Governing Food Service Establishments* until such time that the Board of Health determines that the establishment is in compliance.

Mr. Sauvageau stated that he can't speak on the violation that happened last year (October 4, 2021), but the most recent one (June 24, 2022) was our own fault due to the turnover we've had between managers and staff throughout the COVID pandemic. When this violation was brought to my attention, we immediately acted by certifying the managers at this particular store as well as all crew members that perform opening and closing functions to ensure that the gap is always covered. We have sent all the certificates to the Board of Health. To keep this going, we have now scheduled monthly food safety and Allergen classes that will happen on the fourth Wednesday of every month. The Catalano Companies has created this policy for all our stores in Massachusetts. I strongly believe in providing clean, healthy, food-safe environments and if there were any changes to that policy, we plan to have a working relationship with the Board of Health to ensure that we're providing the environment that you expect of us to operate in this Town.

Ms. Welch asked if that policy will be in practice as you continue to hire. Mr. Sauvageau replied yes.



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Mr. McSweeney asked Ms. Johnson and Ms. Hardy if they are comfortable with the plan that they have put together. Ms. Johnson and Ms. Hardy both replied yes.

Dr. Weiner stated that we have a good relationship with Dunkin' Donuts and I find them to be in compliance at this point. A year from now, however, we're not going to take no action.

MOTION: Ms. Welch made a motion to find Dunkin' Donuts, 85 Wilmington Rd., in compliance with *Burlington Board of Health Regulations Governing Food Service Establishments* and to take no action at this time. The motion was seconded by Ms. Sheehan and voted 5-0-0.

111 Middlesex Turnpike - Nuisance Violation

Ms. Lumenello stated that Brixmor came before the Board on June 28, 2022 because of the nuisance issue of flooding / standing water in the parking lot. At that Meeting, the Board was looking for a solution and requested that they provide an update at tonight's Meeting. Their attorney had indicated that they had hired a company, Sanborn Head, to do a study and offer some solutions, but it's going to take a few more weeks. They sent a letter to the Board of Health requesting to appear before the Board at the Meeting on October 11, 2022 with an update.

MOTION: Mr. McSweeney made a motion to continue this matter to the Board of Health Meeting on October 11, 2022. The motion was seconded by Ms. Welch and voted 5-0-0.

VI. Permits:

Keeping of Animals – 20 Algonquin Drive

Lori Elliott of 20 Algonquin Dr. appeared for the permit.

Ms. Hardy stated that she did the inspection on August 11, 2022. The coop is sized appropriately for the three (3) chickens, and all setbacks for location of the coop were met. Ms. Hardy recommended to the Board to vote to grant the permit for 20 Algonquin Dr.

Dr. Weiner asked Ms. Elliott why she wants chickens. Ms. Elliott replied that she wants to have fresh eggs and keep the chickens as pets.

Mr. McSweeney asked if there were any abutters. Ms. Lumenello replied that they haven't received any complaints.

MOTION: Ms. Welch made a motion to grant the permit for 20 Algonquin Drive for the keeping of 3 chickens. The motion was seconded by Ms. Sheehan and voted 5-0-0.

Keeping of Animals – 7 Edgemont Avenue

Xinning Gao of 7 Edgemont Avenue appeared for the permit.

Ms. Hardy stated that she did the inspection on August 18, 2022. The owner is using an existing shed structure to house the six (6) chickens, but they also built coops inside. The coops are sized appropriately and



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all setbacks for the location of the coop were met. Ms. Hardy recommended to the Board to vote to grant the permit for 7 Edgemont Avenue.

Dr. Weiner asked Ms. Gao why she wants chickens. Ms. Gao replied that organic eggs are getting expensive and because they want their eggs fresh.

Mr. McSweeney asked if there were any abutters. Ms. Lumenello replied that they haven't received any complaints.

MOTION: Mr. McSweeney made a motion to grant the permit for 7 Edgemont Avenue for the keeping of 6 chickens. The motion was seconded by Ms. Welch and voted 5-0-0.

VII. Discussion:

San Soo Kap San Sushi, 3 Old Concord Rd. – risk control plan

Ji Hu Nan, Owner, and Tai H. Kim, Manager, of San Soo Kap San Sushi on 3 Old Concord Rd. appeared before the Board.

Ms. Johnson stated that San Soo Kap San Sushi had three (3) repeat violations and are classified as Risk Category 3 because they have sushi. In summary, due to the three (3) repeated violations, the owner and manager met with Ms. Johnson, Ms. Hardy, and Mr. Greene on August 8, 2022 at the Board of Health office. This meeting was to complete a Risk Control Plan to prevent future violations. The three (3) violations that were repeated were (1) No pH/calibration log for sushi rice (the pH meter has to be calibrated to make sure it's working correctly), (2) No fish invoices on site for the fish used for sushi because we need to know the source, and (3) No distilled water used to make sushi rice slurry to test for pH. The reasons for the violations was that the owner was taking the fish invoices and pH/calibration log home, and the manager failed to provide distilled water and a new pH/calibration log when it was discovered that the owner took the original log home. These violations fall under 8-103.12, which is not following their approved HACCP plan. The risk factors include the food source (fish invoices) and the acidification of sushi rice. Sushi rice is usually kept at room temperature and if it's not properly acidified, it can grow bacteria (i.e., *Bacillus cereus*). According to the Board of Health protocol, if, in the future, the Health Inspector determines that San Soo Kap San Sushi fails to implement the Risk Control Plan, then a hearing before the Board of Health will be scheduled where the Board may vote to suspend the food permit or revoke or not renew the food permit.

Ms. Johnson then summarized what must be achieved to gain compliance in the future:

- Consistent calibration of pH meter daily and recorded on log
- Consistent pH testing of sushi rice and recorded on log for all batches of sushi rice
- Consistent use of distilled water when making sushi rice slurry for testing pH
- A plan to keep fish invoices on site until the fish is no longer in the food establishment



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Dr. Weiner wanted to know more about the fish invoices and asked where they get their fish. Mr. Kim replied True World Group. Dr. Weiner then asked if the fish comes in frozen and whether it is parasite-free. Mr. Kim replied that it does come frozen and is parasite-free.

Ms. Sheehan asked what were the dates of the violations. Ms. Johnson replied that they were over the previous year and a half, and since it is a Risk Category 3 establishment, we have to inspect them three times per year.

Ms. Lumenello stated that this is an internal protocol that we created for violations of food-borne illness risk factors, which is what you will get in a Risk Category 3 type of establishment. We're going to make sure that the Risk Control Plan gets implemented. However, if we discover that they are not implementing the Risk Control Plan, we're going to have them back before the Board.

Mr. McSweeney asked how long they have been in business. Ms. Johnson replied since 2009. Mr. McSweeney then asked Ms. Johnson whether she tested the acidification of the rice while she was there during inspection. Ms. Johnson replied that we had them do it in front of us.

Ms. Johnson stated that the results are being communicated back to me by them emailing me their log (from August 15 – September 26, 2022).

VIII. Staff Reports:

Health Agent

Ms. Johnson presented her report.

- Took a virtual 5-day course: FDA Special Process at Retail
- Routine swimming pool inspections were conducted
- Currently working on plan reviews:
 - Smith & Wollensky at 92 Middlesex Turnpike
 - Mom's Organic Market at 34 Cambridge St

Ms. Welch congratulated Ms. Johnson for her recognition from the National Environmental Health Association, and then asked if she was seeing, similar to Dunkin' Donuts, that restaurants and other food establishments in town are having difficulty finding resources. Ms. Johnson replied that there's a lot of staff turnover and it's expensive to take training courses. What some establishments are doing now is that they will have someone at their corporate office who is able to act as a proctor and administer / teach the course.

Mr. McSweeney commented that we are keeping the residents of Burlington safe from potentially getting sick because our processes work. I'm proud of the restaurants in this town because we do a great job of making sure they adhere to standards that a lot of the other surrounding towns I think sometimes lack.

MOTION: Ms. Welch made a motion to approve the Health Agent's report. The motion was seconded by Ms. Sheehan and voted 5-0-0.



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Associate Health Inspector

Ms. Hardy presented her report.

- Working on the following Inspections:
 - Camps, Tobacco, Tanning, and the Keeping of Animals

Ms. Welch asked if you see a lot more applications coming in now for chickens (Keeping of Animals). Ms. Hardy replied that we tend to lose a few every year because I think people lose interest, they move, or it is too difficult keeping chickens.

Mr. McSweeney asked if we had made notifications regarding the new tobacco regulations. Ms. Lumenello replied that we did make notifications that we were changing the regulations. Our inspections are now in-line with the state regulations because we have changed them.

MOTION: Ms. Sheehan made a motion to approve the Associate Health Inspector's report. The motion was seconded by Ms. Welch and voted 5-0-0.

Environmental Engineer

Ms. Mathis presented her report.

- Reminder that the Household Hazardous Waste Event is Saturday, September 17, 2022
- Risk for Burlington (Mosquitoes): Low for West Nile Virus (WNV) and Remote for Eastern Equine Encephalitis (EEE)
 - Very few cases across Massachusetts

Dr. Weiner asked about the disposal of mercury contaminate materials from a thermometer break. Ms. Mathis replied that a homeowner broke a thermometer and contacted both us and the Fire Department. I walked her through the cleanup and told her how to capture the mercury. The homeowner cleaned it up properly and put the cleanup materials outside.

Dr. Weiner then asked if the Household Hazardous Waste Event will be accepting mercury thermometers. Ms. Mathis replied yes (any mercury-containing apparatus).

MOTION: Ms. Welch made a motion to approve the Environmental Engineer's report. The motion was seconded by Mr. McSweeney and voted 5-0-0.

Associate Director of Public Health

Mr. Greene presented his report.

- Highlighted the Institutional Biosafety Committee Community Representative Training
 - Reviewing the process of getting a protocol, reviewing the protocol, generating questions for the IBC meeting

Ms. Welch inquired about the investigation at 5 Morrison Rd. Mr. Greene replied that the investigation is still underway, but we've moved forward with some agreements.



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MOTION: Ms. Welch made a motion to approve the Associate Director of Public Health's report. The motion was seconded by Ms. Sheehan and voted 5-0-0.

Director of Public Health

Ms. Lumenello presented her report which included the Supervisory Nurse.

Ms. Lumenello stated that we still have COVID test kits and so members of the public can stop by the Board of Health and pick up the test kits.

Dr. Weiner stated that he has been asked what other communicable diseases we are involved in surveillance for. Other communicable diseases (besides COVID-19) include: Human Granulocytic Anaplasmosis, Pertussis (and other Bordetella species), Campylobacter jejuni, Lyme Disease, Group B Strep, Varicella, Hep B, etc. Ms. Lumenello added that we get reports every day through MAVEN and some of those require more work than others.

Mr. McSweeney asked if the Board of Health had received any calls from Burlington residents regarding monkeypox. Ms. Lumenello replied no. Ms. Welch asked if there is contact tracing with monkeypox. Ms. Lumenello replied it's monitoring because there's no quarantine for it. The transmission is very close contact (not similar to COVID-19).

Dr. Weiner commented to make sure the public understands that that every time you make a phone call, it is always 100% confidential. We don't give out any personal information.

Ms. Lumenello stated that one of the things that we're currently working on is the hoarding protocol. We've had three (3) complaints over the past month regarding hoarding. It has to be treated differently from an irregular housing case because resources are needed for people to be able to come in compliance in those types of situations. Several years ago, I created a case management agreement in which we work with social workers in the town to assist us on these cases.

Dr. Weiner asked what have we heard about our shared-services grant. Ms. Lumenello replied that she signed the agreement, but they have to sign the agreement and get it back to me. I haven't received it back yet from DPH. Once they sign the agreement, it takes a few weeks before you actually get the funds.

Dr. Weiner stated that the Board has decided that after Labor Day, we're going to have a public announcement and invite the three towns together to announce this agreement formally to the community.

MOTION: Ms. Sheehan made a motion to approve the Director of Public Health reports. The motion was seconded by Ms. Welch and voted 5-0-0.

IX. Adjourn:

MOTION: Mr. McSweeney made a motion to adjourn the Board of Health regular meeting at 8:09 PM. The motion was seconded by Ms. Welch and voted 5-0-0.



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*Respectfully Submitted by Eric Bergeron,
Recording Clerk*



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DOCUMENTS REVIEWED AT MEETING – TUESDAY, AUGUST 23, 2022

I. Open Meeting/Pledge of Allegiance/Agenda

II. Approval of Minutes: 06/28/22 & 07/26/22 Board of Health Minutes

III. Citizen's Time: None

IV. Chairman's Report: None

V. Hearing:

Dunkin Donuts, 85 Wilmington Rd. - Notice to Suspend Permit for BOH Regulations Governing Food Service Establishments

8/23/22 Hearing: Dunkin Donuts, 85 Wilmington Rd., S. Hardy; Catalano Companies letter to BOH

VI. Permits:

Keeping of Animals- 20 Algonquin Drive

8/23/22 S. Hardy Permit Request; 7/27/22 Permit Application for Keeping of Animals; 20 Algonquin Drive Site Drawing; 7/27/22 Consent for Permit Application; 8/1/22 S. Hardy appearance letter; 8/1/22 S. Hardy memo

Keeping of Animals- 7 Edgemont Avenue

8/23/22 S. Hardy Permit Request; 7/28/22 Permit Application for Keeping of Animals; 8/2/22 S. Hardy appearance letter; 8/2/22 S. Hardy memo

VII. Discussion:

San Soo Kap San Sushi, 3 Old Concord Rd. – risk control plan

8/23/22 Discussion: San Soo Kap San Sushi, 3 Old Concord Rd., M. Johnson; 8/8/22 Risk Control Plan; 8/23/22 M. Johnson memo; 8/2/22 National Environmental Health Association letter

VIII. Staff Reports: Health Agent's Report, Associate Health Inspector's Report, Environmental Engineer's Report, Associate Director of Public Health's Report, and Director of Public Health's Report (Includes Supervisory Nurse's Report), 7/26/22 S. Hardy memo; 8/2/22 S. Lumenello memo; 7/26/22 Norfolk County-8 Coalition, 7/12/22 Norfolk County-8 Coalition, 7/18/22 K. Midgley email

IX. Adjourn: None