

MINUTES OF THE BOARD OF HEALTH MEETING

May 17, 2000

ROOM 221, MEMORIAL BUILDING

FRAMINGHAM, MASS

The Board of Health meeting, held on Wednesday, May 17, 2000, was called to order by Chairman Adam Sisitsky.

Board Members Present: Adam Sisitsky, Chairman
Thomas L. Treadwell, M.D., Secretary
James A. Gordon

Staff Present: Robert T. Cooper, Public Health Administrator
Loretta L. DeLucia, Administrative Assistant
Michelle Zeamer, Tobacco Control Program Director

Other Attendees: Rachel Williams, Christie May Martin, George Leurini, Lori Leurini,
Charles Daly, Micheal Murphy, Miniag Imtiaz

ACCEPTANCE OF MINUTES -

The minutes of the February 23rd meeting were discussed. Dr. Treadwell made a change and the minutes were then accepted unanimously as amended. The minutes of the April 26th meeting were accepted unanimously.

REQUEST FOR CAT PERMIT: SARAH DALY, 180 NEWBURY STREET

Adam Sisitsky opened the discussion by informing the attendees that the Town requires an animal permit if a resident wants to keep more than 3 cats. The owner is requested to attend a hearing before the Board to state his/her reasons for wanting to maintain more than 3 cats. All abutters are also notified of the Board Hearing and invited to attend to raise any questions or objections. This being said, Adam Sisitsky gave the floor to any abutters who wished to be heard. It was noted at this time that the owner of the 18 cats, Ms. Sarah Daly, was not present.

Mr. Charles Daly, (brother-in-law to Ms. Sarah Daly) spoke out that he and his wife were opposed to so many cats. He claimed that just two years ago, there were only three cats. He also stated that the cats can and do get out. They have gotten impregnated.

James Gordon asked if the Board could reject a permit if the owner was not present. Robert Cooper replied affirmatively.

Mrs. Casey, another abutter, commented that she had not seen the cats around the neighborhood and that there was no odor.

Adam Sisitsky asked for a motion. James Gordon made a motion to deny the animal permit. All were in favor, and the permit was denied. The Health Department will inform Ms. Daly and the Animal Control Officer.

GRASSIA, MURPHY & WHITNEY: HEARING IN REGARD TO FRAMINGHAM INDIAN GROCERY'S SUSPENSION

Robert Cooper recapped the events leading up to this hearing. Specifically, Framingham Indian Grocery (FIG) was ordered to close for 30 days and be placed on a six month probation. Under regulations, FIG has a right to a hearing, which they are exercising. FIG will have to show cause why they should be allowed to maintain their license.

Attorney Michael Murphy was present to represent FIG. He started by saying that he had been out to visit FIG during the previous two weeks and learned about their operation and how their vendors operate. It was Attorney Murphy's contention that FIG appeared to try to cooperate. In review of the file, FIG filed for a permit to repackage in September, 1999, and had always intended to repackage. FIG's final plan was filed in March, 2000. The work was now done and had been approved by the Local Building Inspector. Attorney Murphy continued that he believed the Board's frustration with FIG was due to the fact that a vendor in New York was sending packages of food products with the labels loose in the box. When the Board put FIG on probation for two days in February, FIG clearly understood the reason, and took goods off the retail shelves and put it all, along with the repackaging equipment, under the cashier's counter. This is a Mom and Dad run store with children helping out. There was some confusion about the repackaging goods being stored under the counter. Further, Attorney Murphy contended that on 4/3, all the evidence taken by the Health Department was taken from under the counter. It was not FIG's intention to violate regulations. They have been in Framingham for 14 years – this is their livelihood. This was just a misunderstanding. Now all is in order for repackaging, therefore, Attorney Murphy requested that the Board now approve FIG for repackaging.

James Gordon stated that this was not FIG's first violation. The Board has to set standards, and has been very considerate of FIG. Robert Cooper added that his first contact with FIG was when they first opened on Union Avenue with no permits. They moved a couple of times without getting permits. They showed total disregard of the Health Department's regulations. He continued that when they were told what to do, they would comply, except for repackaging. On the Health Department's insistence, they finally applied for a repackaging permit.

Adam Sisitsky spoke out that FIG's pattern of conduct shows deceit. In regard to the repackaging matter, the packages under the cashier's counter were also on the retail shelves. FIG always goes back to their old ways. They were told on 2/23 that the repackaging material should not have been there. The Board finds it difficult to believe that they did not understand. Adam Sisitsky then addressed Rachel Williams, the former Sanitarian for FIG. Rachel Williams responded that she told FIG to remove all items, repeatedly. They did not listen to instructions. It was the feeling of Ms. Williams that the Board has been more than fair. She continued that a 30 day suspension was a light punishment in view of FIG's blatant disregard of the law for ten years. Repackaging is against the State Code.

Robert Cooper responded that at late as April 4, the Health Department found repackaged product on the retail shelves, the same ones were under the counter. At that time, FIG was told that a Sanitarian would be back. On the most recent inspection, just days before this meeting, the store was inspected and was cleaner than ever before. Also, an area for repackaging was properly completed.

Attorney Murphy spoke for FIG contending that now counsel is involved, and FIG would respect all regulations.

Dr. Treadwell responded that what it boils down to is that FIG was repackaging all along. This sends a message of deceit. There were repackaging material on sale with handwritten labels. Dr. Treadwell again noted that the repackaging material under the counter was identical to what was on the shelves. Bags and loose labels were under the counter.

Attorney Murphy defended FIG stating that he was under the impression that Rachel Williams was in touch with a New York vendor to learn about their packaging ways. Rachel Williams admitted that she

contacted a vendor. Attorney Murphy asked Ms. Williams if the New York vendor admitted to handwriting the labels. Rachel Williams stated that she understood them to respond they did not handwrite labels. Mrs. Imtiaz interrupted stating that sometimes they sent labels affixed on packages and sometimes they were unaffixed. Mrs. Imtiaz claimed that she had a harsh discussion with her vendors. Again, Rachel Williams responded that FIG was told to destroy all repackaging materials.

Adam Sisitsky took the floor and interjected that the Board has not heard any evidence to convince them of any need to change the April ruling. At this point, Mrs. Imtiaz became emotional blurting out that store is all cleaned up now.

Attorney Murphy asked if the suspension would be only for one day now that all the corrections are made. Since public health is the issue, and FIG has made efforts to clean up and they now have an area converted to do proper packaging, can the suspension be withdrawn.

Adam Sisitsky asked for a motion. James Gordon expressed concern about past violations, and reluctantly moved to maintain the suspension. Dr. Treadwell seconded the motion. The motion passed to maintain the thirty day suspension and six month probation. Robert Cooper mentioned the element of punishment for past violations of the code. Attorney Murphy stated that there is no longer the threat on public health. Robert Cooper told Attorney Murphy that he would check with Town Counsel in regard to this matter. For now, the thirty day suspension stands.

APPOINTMENT OF CHRISTIE MAE MARTIN AS AGENT FOR TOBACCO CONTROL & REVIEW OF NEW GRANT

Michelle Zeamer introduced Christie Mae Martin, currently the Tobacco Program Director for Marlborough and Hudson. Michelle Zeamer continued that she wanted to hire Ms. Martin as a health agent to do evening and weekend inspections in Framingham. James Gordon asked if there would be regularly set hours. Michelle Zeamer responded no as she did not want the restaurants to know when an agent would be stopping in.

Adam Sisitsky asked if there were any further questions. James Gordon asked how long Ms. Martin had been with Marlborough. Ms. Martin responded two years.

Adam Sisitsky asked for a motion to appoint Ms. Martin as a Health Agent for the purpose of Tobacco Control. A vote was taken. All were in favor. The motion passed. Robert Cooper will check with Town Counsel to see if Ms. Martin needs to be sworn in.

Michelle Zeamer reviewed the Tobacco Control Department's budget. Robert Cooper brought up the fact that Michelle Zeamer is being review for a raise. He was have some difficulty getting it approved due to the change in HR Director's and the fact that Ms. Zeamer is not on a regular pay schedule. It appears that an approval is close at hand, and it will be retroactive.

Michelle Zeamer announced that only two other towns got the funding that they requested, and Framingham actually got more than they requested.

Adam Sisitaky asked about Tin Alley. He was there recently and believed them to be in violation of the by-law. There were children in the bar area; of the two entrances leading to and from the bar, one opening did not have a door. Also, there appeared to be more seats in the bar than allowed. Michelle Zeamer stated that she and Ms. Martin would be going again on Monday evening.

Finally, Michelle Zeamer announced that she would be hiring an assistant in July to do cessation and work with Framingham State.

APPLICATION FOR MASSAGE THERAPY: MEGHAN CARROLL

Robert Cooper stated that Ms. Carroll had all the training and certificates necessary to do massage therapy. Ms. Carroll was requesting to do chair massage with all clients fully clothed for stress management. MSP Group of Framingham sent a letter requesting relief from having to qualify as a "Massage Therapy Establishment" so that the Board can issue a license to Meghan Carroll.

Adam Sisitsky asked if there were any questions. Mr. Cooper stated that Ms. Carroll's papers were all in order. A motion was made to grant Ms. Carroll a Massage Therapy License. The motion passed to allow Ms. Carroll to do Chair Massage Therapy exclusively at MSP Group with all clientele remaining fully clothed.

BUDGET – TOWN MEETING

Robert Cooper announced that the new budget was approved.

James Gordon was approached by the American Cancer Society about whether the Board of Health would get involved with working with schools on risks of smoking and cancer. Adam Sisitsky felt that the Board should be involved. Robert Cooper mentioned that the school nurses might resent any involvement, as they do not wish us to impinge on nursing. James Gordon then suggested that we could approach the schools in regard to other issues, such as lyme disease or sun exposure.

ADMINISTRATOR'S REPORT

Robert Cooper announced that the Health Department is in the middle of re-licensing retail stores and pools. Mr. Cooper stated that the Department was getting pressure from the industry to relax standards for pools, however, we have resisted the pressures.

Robert Cooper brought up some of the problems that Ebenezer's is having. Specifically, they have trouble monitoring the bathrooms as they are in the basement. People getting off the trains use the bathrooms, as do the homeless, and the bathrooms are always filthy. The homeless have a tendency to steal the toilet paper and soap. Ebenezer's is trying to work out a better monitoring system.

The next meeting was scheduled for June 21 and the meeting adjourned at 9:20 p.m.

Adam Sisitsky, Chairman