

Fairhaven Board of Health
Thursday, August 6, 2020 – 4:00p.m.

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Present: Chairperson, Peter DeTerra, Mike Ristuccia and Geoff Haworth all attended in the Town Hall Banquet Room. 2020 AUG 28 PM 2:42

Interim Health Agent, Sarah Dupont was also present.

FAIRHAVEN,
MASS.

Mr. Dan Shea was at the meeting via Zoom, along with his attorney Philip Beuaregard.

Members of the public were also in attendance via the Zoom platform.

1. Call to order: Mr. DeTerra opened the meeting at 4:00p.m. and read the notice put forth by Governor Baker that the meeting was meeting all COVID guidelines and that they could provide the public with the zoom meeting as a public hearing, however would not be accepting Public Comment.

2. Minutes or previous meetings: Mr. DeTerra asked if there were any previous minute meetings to be approved. Ms. Dupont stated she had no minutes.

Mr. Haworth stated he would like to see minutes at their next meeting, as he doesn't want to see the Board get behind on approving the minutes, and that they should be done in a timely fashion.

Mr. DeTerra asked if the 'administrative assistant has been in.' Ms. Dupont stated, "Not this week."

Mr. Ristuccia asked if going forward the minutes could be done by someone else.

Mr. Haworth stated that on the boards he is on that someone is present and does the minutes and usually gets them to them by the next meeting date. He said that it is the Administrative Assistant should get the minutes done and as board members they should stay on top that this is being complete.

3. Health Agent Report: Ms. Dupont stated she's been getting acclimated with the work – there are many different topics. She says she is not feeling that she is receiving relevant information from staff and she isn't sure if they just don't have it or they are just not giving her the information. She says she is not sure how to go about filing the information or finding it. She said she cannot access the filing system.

Mr. Haworth stated he shared some concerns that she is there to help out to get things done while the Health Agent is out. Mr. Haworth said that the board needs to find out who they need to speak to in order to get Ms. Dupont the information she needs to do the job as the 'interim health inspector.' He recommended calling the current Town Health Agent and/or the Town Administrator. Mr. Haworth said he is getting phone calls that things

Ms. Dupont said that she is trying to stay on top of phone calls, but this week she is alone in the office but she has to be in/out of the office.

Mr. Haworth asked if she had access to retrieve phone messages.

Ms. Dupont stated that she can only access her phone line, as the phone number and her mailbox has been updated on the website. She says she is not sure how to access the office voicemail messages. She says she can not access phone messages on the Administrative Assistant's line.

Mr. Haworth said that is concerning and that she should be able to get those messages accessed and those calls should be returned by tomorrow.

Mr. Ristuccia asked if she has attempted to get the phone messages off the phone yet.

Ms. Dupont stated, "not yet." She said she didn't know who the best person was to ask about the phone messages and how to retrieve them.

She said her email is now up on the website and she can be reached by email now.

Mr. Ristuccia asked if the phone calls that are coming in are ringing to her direct line now, she said she was unsure how the calls were going through an operator. She said if they dial her directly to extension 125, then they will get her line.

Mr. Haworth stated he wants to make sure she has all the necessary tools to do her job.

4. COVID-19 Update: Ms. Dupont stated she had updated numbers as of yesterday. There are 2 individuals, case count is 247.

Mr. DeTerra thanked the public for following the guidelines. Social distancing, washing hands and wearing masks are key.

5. Request for Chickens: 8 Friendly Street, 5 Chickens: Mr. DeTerra stated there was a request for chickens at 8 Friendly Street, 5 chickens, no rooster. A plan was also submitted with the application.

Mr. Ristuccia made a motion to allow the 5 laying hens, no roosters at 8 Friendly Street and was seconded by Geoff Haworth. The motion passed unanimously.

6. Septic Plan: 148 Shaw Road. Mr. DeTerra asked if there was septic plans. Ms. Dupont said she could not locate septic plans. Mr. DeTerra said that they would pass over this agenda item.

Mr. Haworth stated that this shouldn't be passed over and a member of the public is being passed over unfairly. Mr. Haworth said 'we are trying'. Mr. DeTerra apologized to the public and stated that she will be able to get keys to the fire system to do her job correctly.

7. Subway/Mama DeLuca's Pizza: 19 Plaza Way Plan Approval. Ms. Dupont stated the plan is laid out in the folder she provided.

Mr. DeTerra asked if she has checked out the plan. He said this was the old Subway near WBSM is moving to where Hungry Heroes was.

Mr. Haworth asked about if any cooking food was going to take place there and if they needed a grease trap.

Mr. Ristuccia said any dishwashers being done there would need a grease trap and they go to the DPW for that information.

Mr. DeTerra said that the DPW approves the installation of grease traps not the Board of Health. He said that a letter needs to be sent to them to go to the DPW for the grease trap to sign off on the external grease trap.

Mr. Haworth made a motion to approve the plans for Subway/Mama DeLuca's Pizza at 19 Plaza Way and was seconded by Mr. Ristuccia. The motion passed unanimously.

8. Opening Meeting Law Discussion. Mr. DeTerra stated they received an open meeting complaint.

Mr. Haworth stated he read the opening meeting complaint and there was a perception that the agenda was not posted in a timely fashion. He said he understands meeting law completely and that the Town Hall was closed on Monday, July 27th in order to have the agenda posted. He said that there was a state emergency and because of the circumstances to have someone in the interim health agent seat there was a need to have the meeting quickly. He said he felt it did meet the open meeting law. He asked for a letter generated by Ms. Dupont for a response to this open meeting complaint, as the Town Hall was not opened to post within the 48 hours as required.

Mr. Ristuccia stated that there is an emergency of COVID-19 and the agent can't even access her computer. He said that everyday that is wasted within the pandemic is not acceptable and that's why the meeting was warranted. He said she had no support whatsoever to move forward.

Mr. Haworth made a motion to have Ms. Dupont send a letter to the State and the complainer regarding their response and was seconded by Mr. Ristuccia. The motion passed unanimously.

9. Complaint/Discussion: Health Inspector Daniel Shea. Mr. Shea was present and referred questions to his attorney, Philip Beauregard.

Mr. DeTerra asked that they keep the discussion to the agenda. He then advised Mr. Beauregard that he had the floor.

Attorney Beauregard stated he didn't have anything to bring up. He had heard from Mr. Shea that there was going to be complaints that were going to be discussed at this meeting and he was Mr. Shea was asked to be at this meeting. Attorney Beauregard asked if the Board thought this was going to be a disciplinary hearing.

Mr. DeTerra said he thought it was not, they were just going to read and review the complaints that were filed.

Attorney Beauregard asked if the context of the complaints were made known to Mr. Shea before the meeting.

Mr. Haworth asked Ms. Dupont if Mr. Shea was sent the emails, to which she said she didn't know she was supposed to send them to him, but she could.

Mr. Beauregard asked again if the context of the complaints have been forward to Mr. Shea and if not then is suggestion was that Mr. Shea should be notified so that he has time to respond.

Mr. Haworth stated he was under the assumption that the emails were sent to Mr. Shea by the agent. Ms. Dupont again clarified that she only sent them to the board members.

Mr. Haworth suggested they read the complaints in for the record, and that Mr. Shea didn't have to respond and they would move further to address at a later meeting.

Attorney Beauregard stated that he felt it was not a fair process to read them to the public without Mr. Shea be giving the opportunity to respond to them. He stated that Mr. Shea has not seen them. Furthermore, Mr. Beauregard stated that Mr. Shea has been told to "turn in his keys and stop all inspections." Mr. Beauregard stated he didn't know on what basis that email was sent and the reason why Mr. Shea has been asked to stop doing his job. He said the email made it sound as if Mr. Shea was terminated.

Mr. Ristuccia responded that Mr. Shea was asked to bring in his keys and ipad into Town Hall because he was not listening to his immediate supervisor. She was directing him to do something and instead of saying, "Yes." He was telling her the reasons why he didn't have to. Mr. Ristuccia stated that he told Ms. Dupont do to what you have to do and it was then that Ms. Dupont asked him to stop inspections.

Mr. Beauregard asked if it was Ms. Dupont that asked Mr. Shea to stop all inspections or was it the Board members.

Mr. DeTerra and Mr. Ristuccia both stated that the keys was in reference to the vehicle.

Mr. Ristuccia stated it was the interim health agent that asked that all inspections be stopped.

Mr. Beauregard stated there are some very serious problems and as far as Ms. Dupont standing as the Board agent, he wasn't sure that was correct. Mr. Beauregard stated the board of health agent is Mary Kellogg and she is out on sick leave at this time.

Mr. Ristuccia stated that as far as 'standing', Ms. Sarah Dupont is the acting Health agent so she has all the standing necessary to instruct Mr. Shea to what he should or should not be doing. Mr. Ristuccia stated that Mr. Shea works for her. Ms. Dupont is his immediate supervisor.

Mr. Beauregard stated that because the health agent, Ms. Kellogg is out sick that the board feels they can appoint an interim agent.

Mr. Ristuccia stated that because the state is in a pandemic crisis of COVID 19, they feel they should have an interim health agent.

Mr. DeTerra advised they were getting off topic and stopped the discussion.

Mr. Haworth called for point of order stating they were off topic.

Mr. Beauregard stated that the topic is out of jurisdiction of Ms. Dupont to instruct Mr. Shea to stop all inspections and turn his keys because she is not the health agent. He said that now the Board of Health has no certified inspector.

Mr. Haworth stated that this discussion pertained to the complaints they have received against Mr. Shea. Mr. Haworth instructed Mr. Beauregard to cease any other discussions regarding Ms. Kellogg as she was not on the agenda.

Mr. Beauregard stated that Mr. Shea is and continues to be the inspector for the Board of Health Department and has been asked not to perform his duties.

Mr. DeTerra stated they should read the complaints and discuss them as that is what is on the agenda and this is a public meeting.

Mr. Ristuccia agreed that they should read them in for the record as they are public information.

Mr. Beauregard stated that Mr. Shea has due process to have the context of the complaints forwarded to him so that he can then respond to them. He stated Mr. Shea has not seen them.

Mr. Haworth stated he received an anonymous phone call from a patron that was at a restaurant eating a meal that stated that one of the Board's employees photographed him and the patron asked not to be photographed, and the person stated he can do what he wants. Mr. Haworth stated I am not mentioning any names, as it was an anonymous complaint.

Mr. Beauregard stated that they are suggesting some very serious rights that Mr. Shea has.

Mr. Haworth stated he respectfully disagrees as he stated it was an inspector from their office, he did not say it was Mr. Shea.

Mr. Beauregard said, "Does this Board endorse anonymous complaints and then discusses them at meetings?"

Mr. Ristuccia stated as much as he would've liked to discuss this and move on, he believes that they should get Mr. Shea the letters of complaint and give him and his attorney time to review them to discuss at a later meeting. He stated that Mr. Shea's status would go unchanged.

Mr. Ristuccia made a motion to send copies of the complaints to Mr. Shea and to table this discussion to a future meeting. He also stated that Mr. Shea's status would not change and would be on hold. The motion was seconded by Mr. Haworth. The motion passed unanimously.

In a last comment, Mr. Beauregard suggested that the Board respectfully secure the advice and guidance of Town Counsel, as there are other things that won't be discussed here, but that they need to seek guidance.

10. Invoices/Other Business: In other business, Mr. Ristuccia stated that there was an invoice that was brought to his attention in the amount of \$3600 for an annual license fee, and \$175 for an iPad. He stated that he would like to know what the invoice is for and suggested that the Board does not pay for it until they can identify what it is for.

Mr. DeTerra asked Ms. Dupont to research the invoice and report back to the board.

In other business, Mr. Haworth stated the one thing he felt getting on the board was to provide transparency to the public. He stated that he has heard a lot about the board not discussing COVID or EEE and that is big things that are happening that needs to stay on the forefront of the Board of Health. Mr. Haworth stated he hopes that the board doesn't lose focus that they work for the public and how transparency is important. He also stated that the staff at Town Hall should work with the interim health agent to help her do her job to get access to the things she can not.

It was brought to Mr. DeTerra's attention that someone from the public was raising their hand to speak, however Mr. DeTerra stated this was a public meeting however public only to watch not to be able to speak.

Mike Ristuccia made a motion to adjourn and was seconded by Mr. Haworth. The motion passed unanimously at approximately 4:47p.m.

Respectively,

Patricia A. Pacella
Recording Secretary