

**CITY OF NEWBURYPORT
DEPARTMENT OF PUBLIC HEALTH
MEETING**

Name of Committee Meeting:

BOARD OF HEALTH

Date of Meeting: January 15, 2009

***LOCATION: 2nd Floor
Conference Room
City Hall 7:00pm***

NEW BUSINESS

7:00PM

1. Call to Order
2. Minutes of previous meeting, December 18, 2008
3. Board of Health Business
 - A. Housing Regulations
 - B. Famous Pizza Update

7:15PM: Request for Hearing: RESCHEDULED
Please refer attached letter received 01/13/08
Gerald F. Moynahan, 182 Storey Avenue

7:30PM: Compost Facility – Ron Klondenski

Gerald F. Moynahan
Apartment No. 13
376 West Fourth St.
South Boston, MA 02127

DELIVERED ON MONDAY 12 JANUARY 2009 BY FAX TO 978-465-9958

Monday 12 January 2009

Mr. John Morris
Director of Public Health
Health Department
City of Newburyport
60 Pleasant Street
Newburyport, MA 01950

RECEIVED

JAN 13 2009

CITY OF NEWBURYPORT
HEALTH DEPARTMENT

Dear Mr. Morris:

Please be advised that by reason of ill health I am unable to be present on Thursday evening, 15 January, for the scheduled hearing I requested before the Board of Health regarding the Order to Vacate. I hereby request that this hearing be rescheduled for the Board's meeting in May, or, if that is not possible, for the Board's meeting in March, but not in either February or April.

The immediate reason for this request is the fact that on Wednesday evening, 07 January 2009, at about 9.30 pm, I sustained very considerable injury to my entire right side when I slipped and fell very hard on that side on the concrete of a sloping sidewalk near the Landmark Centre that I had not realized was completely covered with a thin coating of clear ice that had newly formed.

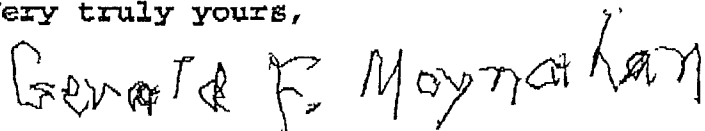
These injuries have not improved, as I had hoped they would, in the intervening days: I am still unable to use my painful and greatly swollen right hand, and my right ribs and hip are very painful, especially upon any movement. (I am typing this with only my left hand, and the signature which will appear below will also be with my left hand -- and I am right-handed.)

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In a furthur irony: Without the Board's actions of 06 October 2008, the urgent errand that I was on at the time of the fall -- while carrying a package in my right hand -- would not have existed. And this urgent errand was the only reason I was where I was at the time -- in fact, it was the only reason I was out that night at all. So the fall would not have happened absent the Board's action of 06 October 2008. And thus these very painful and incapacitating injuries are yet another direct effect of the Board of Health's action upon my health -- in this, my seventieth (70th) year! (And our forty-fifth (45th) year of paying taxes to the City of Newburyport on the property at 182 Storey Avenue!)

To reiterate: Because the present condition of my heath renders me unable to be present on 15 January, I hereby respectfully request that the hearing I requested be rescheduled for the Board's meeting in May -- by which time also I hope and anticipate that my health will have permitted me to finish the extensive work I have begun in rearranging and "straightening up" the house in response to your letter of 06 October 2008.

Very truly yours,



Gerald F. Moynahan

P.S. Two furthur points:

1. In case it should be necessary to repeat this: Please be assured that I have been (since early-to-mid 2002!), am at this time, and will continue to remain in complete conformity and obedience to the Order to Vacate.
2. If it is not possible to reschedule the hearing for the Board's meeting on the third Thursday of May, then the third Thursday of March appears at this time to be a possible alternative; but, and I respectfully request, not the third Thursday of February nor the third Thursday of April.

**CITY OF NEWBURYPORT
DEPARTMENT OF PUBLIC HEALTH
MEETING**

Name of Committee Meeting:

BOARD OF HEALTH

Date of Meeting: January 15, 2009

**LOCATION: 2nd Floor Conference Room
7:00pm**

ATTENDANCE:

ROBIN BLAIR O.D.
SUSAN BELUK M.D.
PATRICIA LAWRENCE, R.N.
JOHN W. MORRIS
MOLLY ETTENBOROUGH
BRIAN DERRIVAN
RONALD KLODENSKI

BOARD OF HEALTH, CHAIRPERSON
BOARD OF HEALTH
BOARD OF HEALTH
DIRECTOR PUBLIC HEALTH
RECYCLING COORDINATOR
COUNCILOR WARD 5
RESIDENT WARD 5

MEETING WAS CALLED TO ORDER AT 7:10PM

**ROBIN BLAIR O.D. CHAIRPERSON B.O.H. NOTED INACCURATE INFORMATION PERTAINING TO SUBJECT MATTER:
NEWBURYPORT HIGH SCHOOL SMOKING. CORRECTIONS WILL BE MADE AS NOTED.**

**SUSAN BELUK M.D. MEMBER B.O.H. ALSO NOTED INACCURATE INFORMATION PERTAINING NOISE BEING EMITTED
FROM NEWBURYPORT HIGH SCHOOL. CORRECTIONS WILL BE MADE AS NOTED.**

**ROBIN BLAIR O.D. MADE A MOTION TO APPROVE THE MINUTES OF DECEMBER 18, 2008 WITH CORRECTIONS.
SECONDED BY SUSAN BELUK M.D., SO VOTED UNANIMOUSLY.**

BOARD OF HEALTH BUSINESS

HOUSING REGULATIONS:

Mr. Morris presented a rough draft proposal to the Board of Health pertaining to "Housing Inspection and Rental Permit Regulations" whereby owners of rental property must obtain a Certificate of Habitability prior to renting or leasing certain dwelling units. Mr. Morris advised the Board that this regulation is enacted in accordance with the Board of Health's authority as set forth in Massachusetts General Law c.111, section 31, and the Sanitary Code 105CMR 410, Minimum Standards of Fitness for Human Habitation.

Robin Blair O.D. advised all in attendance that this proposed regulation would be a conflict of interest as he owns rental property in Newburyport and this would create an appearance of impropriety. In addition, Patricia Lawrence R.N. also owns rental property in Newburyport; however Patricia stated that she was in favor of this regulation.

Mr. Morris stated that in order to solve this matter the Health Department would contact the State Ethics Commission and advises them that two (2) members of the Newburyport Board of Health own rental housing which would be impacted by the adoption of such a regulation. Mr. Morris advised the Board that he'll request a written legal response to be presented to the Board.

The Board voted to request an opinion from the State Ethics Commission to determine if reviewing, debating, and voting on this type of regulation creates a conflict of interest pursuant to State laws.

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FAMOUS PIZZA UPDATE:

Mr. Morris advised the Board of the current progress pertaining to the above Food Service Establishment. Letters / Progress Reports have been submitted by Pamela Ross Kung, founder of Safe Food Management. Her expertise is in food safety, quality assurance and regulatory compliance, including food protection and defense. Ms. Pamela Ross Kung stated that she's been observing food handling practices and ensuring the facility is maintained in a sanitary manner. She stated that the establishment has been making some progress and will continue to send updates as contracted for. In addition, the cost recovery fee of \$500.00 was submitted on time, January 9, 2009.

Regarding the "Cost Recovery" as mentioned above received from Famous Pizza, Robin Blair O.D. inquired as to what account the funds received would be deposited into. Do we have a revolving account set up? Robin Blair O.D. stated that the Health Department has been trying year after year to set up a revolving account to utilize the funds collected. Where do we stand on this?

Mr. Morris informed the Board that although a revolving fund for the above situation, cost recovery and other similar situations has not as yet been established by the Health Department we do in fact have a revolving account set up for Medical related matters. The funds received will be obtained through a Medicare reimbursement program relating to the flu clinics held in 2008. This revolving fund will be used to maintain emergency planning programs. In addition, these funds shall be used to offset City expenses associated with carrying out Health Department activities.

CROW LANE LANDFILL / LETTER FROM MAYOR MOAK:

This letter was not on the agenda. The Board did not review prior to the meeting. Mr. Morris stated that the Mayor Moak is awaiting a reply from Mark Reich attorney for Kopelman and Paige. Mr. Morris suggested that the Board read the letter in their leisure. Robin Blair O.D. advised all in attendance that the letter would be read and would take it under advisement.

PUBLIC HEALTH NURSE MONTHLY REPORT:

Melinda Gibbons R.N. submitted her 5 page nursing report for the month of December 2008.

Susan Beluk M.D. had inquired prior to the B.O.H. meeting regarding the testing of children for lead and what age this should take place. Dr. Beluk stated that she had investigated this inquiry herself prior to the meeting. Mr. Morris stated that Melinda Gibbons R.N. had provided him with the following reply:

1. At risk children 3-6 years of age who have not been previously tested
2. Children who live in or regularly visit a house or apartment built before 1950, or before 1978 if the dwelling has been/ or is undergoing renovation or remodeling
3. Children with a playmate or sibling who has or did have lead poisoning

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182 STOREY AVENUE:

The owner of the above location, Mr. Moynahan submitted a letter to the Health Department dated January 13, 2009. Mr. Moynahan stated in the letter that he was unable to attend this meeting as he was in ill health as he sustained an injury to the entire right side of his body during a fall on the ice. He has requested his meeting with the B.O.H. be rescheduled to take place in March 2009. The Board so voted to continue Mr. Moynahan's hearing until March 19, 2009. A certified letter will be sent to confirm as such.

COMPOST FACILITY- RONALD KLODENSKI:

Mr. Klodenski stated the following:

- A. The "Compost Facility" registration form was submitted to the DEP in the late 1980's by the Health Director at that time. Mr. Klodenski went on to say that the form was filled with inaccurate information and misleading such as; the site size, site location, distance from residents. In addition, during that time the site was filled with excavated clay soil to a depth of about 4 feet. It's likely that bedrock outcroppings, many of which are still visible in areas were covered with this fill and are less than 5 feet below the surface.
- B. During the Mayor Mead administration composting was discontinued due to an obvious odor being emitted from the compost facility. The site then became a leaf collection site. The plan was to allow a maximum of 100 cubic yards of material to be stored at the site. Composting was not to occur.
- C. In 2004 sometime after the Mayor Mead administration the composting operations resumed at the site without notification to the abutting residents. The odor was not investigated by the abutters because of the Crow Lane Landfill situation.
- D. A request for compliance was sent to Bruce Vogel the City Councilor for Ward 5 at that time. Composting operations were taking place within 15' of wetlands and the City had not been able to produce a Notice of Intent or an Order of Conditions which should have been issued by the Con-Com.
- E. The City has now decided to accept the Town of Amesbury leaves to be composted with Newburyport.
- F. In late November 2008 in non-flood conditions, water levels in the wetlands adjacent to the site on the west side were about 4' below the level of the compost pile beds.

Patricia Lawrence R.N. inquired if the above was in writing. Did Mayor Mead provide written documentation for the Board to review? Mr. Klodenski stated that he has numerous e-mails.

Mr. Klodenski has requested that the Board stop composting immediately.

Molly Ettenborough, Recycling Coordinator for the City of Newburyport stated that the composting is conducted by Agresource. We are not composting at the site. Mr. Klodenski stated that he knew we were.

Also, Mr. Klodenski stated the site has wetlands and is between two little river tributary streams immediately adjacent to the site as close as 50'.

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Robin Blair O.D. inquired if the compost facility is the same site of what the City used to call "The Stump Dump". Mr. Klodenski replied, yes. Again at this time Mr. Klodenski stated that the site was filled with excavated clay soil to a depth of about 4 feet. It's likely that bedrock outcroppings, many of which are still visible in areas were covered with this fill and are less than 5 feet below the surface.

Mr. Klodenski advised the Board that the compost facility currently has 18 – 20 foot high piles of leaves. By law the height requirement is no higher than 12 feet. This is considered a violation against wetlands regulations.

Susan Beluk M.D. questioned Mr. Klodenski regarding the following:

1. Should the site be closed?
2. Should we move to another site?
3. What would satisfy the State guidelines?

Mr. Morris advised the board that if in fact the compost facility did close down the City would not benefit the revenue collected for over 2500+ residents. Also, if we start trucking out the leaves that would drive up the compost sticker cost. Mr. Morris stated that we need to look at the following:

- A. Resident outlook
- B. Economic outlook
- C. Cost to truck out

Mr. Klodenski suggested the relocation of the compost facility on an area just off where the DPW facility is located on Perry Way. Mr. Klodenski stated that you need an area of at least 2 acres to properly run a compost facility. The DPW site would be an excellent location for the facility and an excellent location for the residents.

Dr. Beluk mentioned obtaining the services of the Energy Advisory Board to look into our situation. Possibly they could advise the City regarding the guidelines pertaining to moving the compost facility and may also have insight into grant(s) to help fund the move or assist with the current matter on hand.

Mr. Klodenski stated that this site is in chaos. Not the way its operated but, (a) procedures, (b) location and (c) 200' away from residents.

Robin Blair O.D. questioned Mr. Morris if there had been any complaints pertaining to the compost facility. Mr. Morris stated, no.

Robin Blair O.D. questioned Mr. Klodenski if he or his family had experienced any ill effects from the compost facility. Mr. Klodenski stated that the annoyance of the odor being emitted from the compost facility is the biggest complaint. It bothers his wife and a few neighbors. Mr. Klodenski stated that back in 2000 he started compiling data with Mayor Mead and Mr. Chatfield. Mr. Morris stated he was no aware of any complaints and has not seen any paperwork from 2000 to present regarding the compost facility. Mr. Morris requested Mr. Klodenski provide documentation regarding these complaints. Mr. Klodenski stated he would provide the documentation requested.

Molly Ettenborough stated you cannot compare the compost facility in its current state, 2009 vs. 2000. This is a totally different situation/environment at the compost facility.

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Mr. Klodenski stated that the key factor in determining the rate of decomposition is temperature. It must be carefully monitored and controlled. In addition, Mr. Klodenski stated that no temperature, moisture and oxygen measurements had been produced by the City to verify that measurements are were taken and used to determine the schedule for turning the leaves. Molly stated that in speaking with Kay Halloran, former Recycling Coordinator for the City of Newburyport, she had in fact taken the temperature with a special thermometer. The temperature would read between 140° - 160°. Yet no documentation could be provided.

Mr. Morris suggested that Mr. Klodenski please bring to the next B.O.H. meeting another abutter to provide additional information/documentation. Mr. Klodenski stated again that he has no problem with the manner in which the compost facility is being run but he does have an issue with certain procedures and the location of the compost facility.

Susan Beluk M.D. inquired about our agreement with Agresource. Molly Ettenborough stated that the piles may well be 18' but by the time Spring rolls around it will be down to 12', just in time for Agresource to haul away and mix with sludge which is provided by our Sewer Dept. The mixture is then brought back to the compost facility and provided free of charge to residents.

Mr. Morris requested Molly Ettenborough do a cost analysis on all matters related to the above and submit at the next meeting.

Robin Blair O.D. suggested that this matter be taken under advisement for further discussion at the next B.O.H. meeting.

A brief discussion ensued regarding the 64 gallon recycling containers to be distributed during the month of June 2009. Dr. Beluk inquired as to the purchase procedure for obtaining two (2) recycling bins. Molly Ettenborough advised Dr. Beluk that she could have two (2) recycling bins and would be noted on her list.

Robin Blair O.D. inquired about the placement of one (1) large throwaway item curbside. Is it still in effect? Molly replied, yes.

Meeting adjourned: 8:22pm