

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

Name of Committee Meeting:

BOARD OF HEALTH

Date of Meeting: December 18, 2008

***LOCATION: Lower Level
City Hall 7:00pm***

NEW BUSINESS

7:00PM

1. Call to Order
2. Minutes of previous meeting, November 6, 2008
3. Board of Health Business

- A. Food Service Inspection Program
- B. Melinda Gibbons R.N. – Public Health Nurse Update

7:15PM: Request for Hearing: Please refer attached letter
Gerald F. Moynahan, 182 Storey Avenue

7:30PM: Notice of Hearing: Please refer attached letter
Famous Pizza – Mr. George Asprogiannis

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ATTENDANCE:

ROBIN BLAIR O.D.
SUSAN BELUK M.D.
PATRICIA LAWRENCE, R.N.
JOHN W. MORRIS
GEORGE ASPROGIANNIS

BOARD OF HEALTH, CHAIRPERSON
BOARD OF HEALTH
BOARD OF HEALTH
DIRECTOR PUBLIC HEALTH
FAMOUS PIZZA - OWNER

MEETING WAS CALLED TO ORDER AT 7:02PM

SUSAN BELUK M.D. MADE A MOTION TO APPROVE THE MINUTES OF NOVEMBER 6, 2008 AS WRITTEN.

SECONDED BY PATRICIA LAWRENCE R.N., SO VOTED UNANIMOUSLY.

ALL IN ATTENDANCE WERE ADVISED THAT BEGINNING JANUARY 2009 FUTURE BOARD OF HEALTH MEETINGS
WILL BE HELD IN THE 2ND FLOOR CONFERENCE ROOM.

BOARD OF HEALTH BUSINESS

MELINDA GIBBONS R.N.:

Melinda Gibbons R.N. submitted her monthly case report for the Board's review and comment. Susan Beluk M.D. expressed her concern over the number of cases of Lyme Disease within our community. Dr. Beluk inquired as to the total number of cases submitted. Is it possible that some doctors' offices do not submit these cases to the Department of Public Health to be included in our numbers? Mr. Morris stated that could be possible. Dr. Beluk suggested we begin a study by name, location etc of each case. Mr. Morris will work with and discuss this project with Melinda Gibbons. The Board will be advised of the progress.

FOOD SERVICE INSPECTION PROGRAM:

Mr. Morris stated that this program is going rather well. However, we do have a few stragglers that aren't paying for their initial / follow-up inspection on time. Letters are sent as reminders which usually result in immediate payment. Also, Mr. Morris advised the Board that Mr. Allen Gromko is not working out as we originally thought. The food establishment inspection report form has two (2) pages. When violations are present at various establishment comments pertaining to these violations should be noted on the second page. Mr. Gromko has continued to notate these violations on the first page using minimal word descriptions. Mr. Morris has instructed Mr. Gromko numerous times on the correct procedure, which Mr. Gromko is fully aware of, but refuses to correct. Mr. Morris recommended that Mr. Gromko be relieved of his duties as Food Service Inspector for the City of Newburyport. In addition, Mr. Morris suggested that Maureen Lee be offered all of Allen's food service inspections. Robin Blair, O.D. inquired as

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to whether or not Maureen Lee could handle this load. Mr. Morris stated that he believed she could but if not we could find someone else to take Allen's position. Mr. Morris advised the Board that the Mayors office has in fact received a few complaints regarding Maureen Lee, but all were investigated and justified. Mr. Morris stated that Maureen Lee is extremely thorough and detailed. Mr. Gromko is not as thorough and detailed. Mr. Morris will discuss this matter with Maureen Lee and report back to the Board.

NEWBURYPORT HIGH SCHOOL SMOKING: Robin Blair O.D. stated his concern regarding smoking at Newburyport High School. Doctor Blair advised the Board that Newburyport High School had appointed "Special Ticket Agents" to enforce the "no smoking policy". Patricia Lawrence R.N. inquired as to the location where the student (s) were known to try to smoke. According to Doctor Blair, they may possibly be as close as across the street. Doctor Blair requested that Mr. Morris obtain the Newburyport High School smoking policy for their review. Upon receiving the policy we need to determine if they (Special Ticket Agents) are enforcing the policy and also, who are these "Special Ticket Agents"? How were they assigned the position etc...Mr. Morris advised the Board that he would obtain the high school smoking policy.

SUSAN BELUK M.D. / NOISE FROM NBPT HIGH SCHOOL:

Doctor Beluk mentioned the noticeably unpleasant loud pounding sound coming from atop Newburyport High School. Doctor Beluk believes that this disturbing, pounding sound comes from the heating system which is situated on the roof of the High School. Mr. Morris had investigated this noise previously. Doctor Beluk stated that her entire home, but especially the upstairs section is affected. The pounding has reached such a loud but subtle pitch that Doctor Beluks migraines have returned. Mr. Morris will speak with Steven Burkholm regarding this matter. Patricia Lawrence R.N. suggested that we may want to speak with the Building Inspector regarding this matter. Patricia stated that a short while back she had a problem with a bright light shinning into her living space. After repeated requests with the neighbor (offender) Patricia went to the Building Inspector and inquired. The Building Inspector deemed it a violation against an ordinance pertaining to "Light Intrusion". Patricia suggested that possibly Doctor Beluks noise could be considered under this specific ordinance.

182 STOREY AVENUE:

The above location was originally scheduled for a "Hearing" this evening. The owner Mr. Moynahan had to reschedule. Mr. Morris provided photo's for the Boards review regarding the interior and exterior of the dwelling. Mr. Morris stated that the investigation has been ongoing for some time now. A well-being check had been conducted with Policewoman Nora Duggan, Roseanne Robillard, Director Council on Aging and Mr. Morris. Mr. Morris advised the Board that he no longer resides at the 182 Storey Avenue but outside the Boston area. With the help of the Police we located his current address whereupon numerous letters were sent back and forth and a scheduled hearing set.

Motion to continue the Moynahan hearing until January 15, 2009 at 7:15pm, Patricia Lawrence R.N., seconded by Susan Beluk M.D..

HILLER PROPERTY:

Mr. Morris advised the Board that Attorney Timothy Schiavoni, Guardian of Bruce Hiller has requested an extension of time against the "Order to Demolish" regarding the 4 Hillside Avenue location. The extension was granted until January 31, 2009.

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FAMOUS PIZZA HEARING 7:30PM:

ATTENDANCE:

ROBIN BLAIR O.D.
SUSAN BELUK M.D.
PATRICIA LAWRENCE, R.N.
JOHN W. MORRIS
THOMASINE WOUNDY
GEORGE ASPROGIANNIS

BOARD OF HEALTH, CHAIRPERSON
BOARD OF HEALTH
BOARD OF HEALTH
DIRECTOR PUBLIC HEALTH
ADMIN ASST HEALTH DEPT
FAMOUS PIZZA – OWNER

Mr. Morris, Newburyport Director of Public Health, has called forward this meeting by the Newburyport Board of Health, due to the nature of its violations. All those in attendance stated their name and position. Mr. George Asprogiannis was introduced as the legal owner, manager, and person in charge of the establishment that appeared to represent Famous Pizza before the Board of Health.

Mr. Morris presented the Board with a "History of Violations and Complaints and Sanitary Code Issues", food service reports, complaints and Health Department Administrative Actions which have taken place since May 2005. These reports indicate that Famous Pizza has been cited for violations of 105CMR 590.000 and Newburyport Rules and Regulations consistently and repetitively over 3 ½ years. These violations have been of a critical nature which pose a threat to public health if not corrected. In addition to the history Mr. Morris stated that it's apparent that during the course of 9 Administrative Actions initiated by the Health Department since May 2005, Famous Pizza has had ample opportunities to achieve compliance with applicable laws and has been clearly warned that further enforcement actions may be undertaken.

Mr. Morris pointed out that at the most recent Board of Health meeting prior to tonight's meeting dated November 6, 2008, Mr. Morris advised the Board that on November 5, 2008 Famous Pizza had 5 "Critical Violations". It appeared to Mr. Morris that the increased food service inspections have not motivated the owner, Mr. George Asprogiannis to realize how "Critical" this situation is.

At this point in time Mr. Morris presented an e-mail he received from a Mr. Kyle Trafford dated 12/18/08 @ 10:20am. Mr. Trafford had stopped by the Health Department prior to the meeting and signed the e-mail. Mr. Trafford was asked by the Health Director Mr. Morris to attend the meeting but he was unable. The e-mail was marked "True Statement" and dated 12/18/08. The e-mail stated that the employees do not wear gloves, only when they see the Health Inspector coming do they put them on. Also, Mr. Trafford stated in his e-mail that the establishment tends to hide meats that aren't at the required temperature when they see the inspectors arrive.

As per Mr. George Asprogiannis, owner of Famous Pizza, Mr. Trafford was fired on Sunday, December 14, 2008 due to lack of work. Mr. Asprogiannis also stated that he was forewarned by text message that Mr. Trafford would be sending an e-mail to the Health Director regarding the above issues.

Patricia Lawrence R.N. asked Mr. Asprogiannis if everyone working at the establishment wore gloves. Mr. Asprogiannis stated yes. They started wearing gloves one (1) year ago.

Robin Blair O.D. inquired about smoking in the facility. Mr. Asprogiannis replied, no smoking at all in the facility.

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Mr. Asprogiannis stated that his Mother and Father have been in the business for over 35 years. These are all new rules and regulations. This is all new to him. Over the course of the past 5 years Mr. Asprogiannis like he was being harassed more so than being inspected. Mr. Asprogiannis stated what the Health Inspector does is, "Finds Things". "There's always something wrong. That is understood when the Inspector comes in".

Mr. Asprogiannis went on to talk about his new refrigeration unit. Maureen Lee, the Health Agent who did the last inspection noted the temperature at 43°F. Mr. Asprogiannis stated this is a new unit and it was all checked out. It should be correct. An air flow test was conducted. Mr. Asprogiannis also stated that the compressor hopefully, will be fixed today, December 18, 2008.

Susan Beluk M.D. inquired as to the correct temperature guidelines pertaining to what the State mandates. Mr. Morris advised the Board as to the correct Hot/Cold temperatures according to State guidelines. Mr. Morris also stated that he believed that the Preparation woman who comes in early is keeping the meat out longer than she should. Mr. Morris asked Mr. Asprogiannis to explain the hot hold procedure. Mr. Asprogiannis answered the question as best he could to Mr. Morris satisfaction. Mr. Morris also stated that someone should there at his establishment to explain the Hot Hold process to employees, especially the woman who arrives early in the am.

Mr. Morris asked Mr. Asprogiannis if he had done anything in the past 3.5 years to correct any of the critical, non-critical violations. Mr. Asprogiannis stated that he had done something to correct the critical and non-critical violations.

Mr. Asprogiannis also stated that his kitchen is extremely hot all the time. Mr. Asprogiannis does not expect the refrigeration unit to maintain the correct 41°F during the summer. Mr. Morris stated that no matter what the season, the unit must maintain 41°F at all times.

Mr. Morris brought up the "Modified Order" dated August 20, 2008. It stated that Famous Pizza shall be subject to increased inspections by Health Department Inspectors for a 4 week period in September 2008 beginning the week of September 8, 2008. Famous Pizza was also placed on notice that the administrative probation imposed February 14, 2008 is in effect and shall remain in effect until December 31, 2008. The probation may be extended or dissolved at that time. This letter was hand delivered and signed by Mr. Asprogiannis.

Mr. Morris conducted a "Food Service Seminar" on February 11, 2008 which Mr. Asprogiannis did attend. The seminar consisted of the following:

1. Routine Inspections
2. Re-Inspections
3. Documents/Retention/Reporting Requirements
4. P.I.C.'s
5. Refrigeration Requirements
6. Bare Hand contact
7. Capital Improvements
8. Future Enforcement Policies
9. Changes in Labeling

At this time Mr. Morris referred to a letter mailed certified, September 16, 2008 to Mr. Asprogiannis regarding being in the Ice Cream business. The following points must be taken care of prior to selling ice cream:

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- A. The ice cream area needs major renovations and will not be permitted in 2009 until improvements are complete. All walls, ceilings, and floors must be non-absorbent, smooth, washable surfaces. Proper wall coving needs to be installed.
- B. All clutter must be removed from the ice cream area.
- C. A three (3) compartment sink and dedicated hand sink must be installed.
- D. All counter top areas must be smooth, non-absorbent, washable surfaces.
- E. All refrigeration equipment must be rated for food storage and maintain product temperature of 41°F or 0°F as applicable.

If Famous Pizza cannot complete the items necessary before December 31, 2008 they were requested to provide a revised schedule.

In addition to the above mentioned in the letter dated September 16, 2008, Mr. Morris pointed out a few areas of concern pertaining to Capital Improvements which needed to be corrected in a reasonable time frame.

Also, Mr. Morris referred to the letter mailed certified to Famous Pizza on October 9, 2008 regarding "Special Inspections" & "Capital Improvements". Whereas Famous Pizza was issued increased weekly inspections for a four week period during the month of September 2008, critical violations were still present on September 10, September 11 and September 25, 2008. Famous Pizza was advised at that time they would remain on administrative probation until December 31, 2008. Mr. Morris stressed the importance of remaining vigilant and if necessary provide additional training to employee's which specifically address critical violations of the sanitary code. At this time Mr. Morris scheduled inspections for November and December.

Mr. Asprogiannis stated at this time," all this is new to me". He stated he had no idea about all of this food service protection stuff and he's owned the business for 6 years. Mr. Asprogiannis stated that Mr. Morris is doing a great job cleaning up this town. He appreciates what he is trying to do. Mr. Asprogiannis also stated that he has very experienced employees such as; his Mother and Father who ran the establishment prior to Mr. Asprogiannis taking over. They are always there at the establishment to oversee the others.

Mr. Morris asked Mr. Asprogiannis to describe a critical violation. Mr. Asprogiannis stated that the violations he had were not critical in the sense that he didn't have any rats or cockroaches. Mr. Morris asked Mr. Asprogiannis if he would consider bare hand contact with food and tuna and mayo at 45°F instead of maintaining product at 41°F a critical violation. Both of these were repetitive violations on his food service reports. Mr. Morris looked at Mr. Asprogiannis and asked, "Can you honestly say you did not / do not understand what a critical violation is"? "This is not a joke". Mr. Asprogiannis stated that he was given a violation for not having paper towels in the rest room. According to Mr. Asprogiannis, this is so small it should not be a violation. Mr. Asprogiannis went on to say that he now has three (3) hand sinks at \$8K later. He went on to say that everything Mr. Morris asked him to do he did.

Both Susan Beluk M.D. and Robin Blair O.D. suggested to Mr. Asprogiannis that he get a copy of the food code and read it from cover to cover and fully understand it. Doctor Blair told Mr. Asprogiannis that maybe in his mind it appears that the Health Department is picking on him, but that is not the case. Doctor Blair went on to say that these violations are real and they are the laws that you must follow and the Health Department must enforce. Mr. Asprogiannis stated that he knows he has problems. Doctor Blair looked at Mr. Asprogiannis and said, "So do something about it"!

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Mr. Asprogiannis advised the Board that everyone has a different opinion, Maureen Lee, Allen Gromko and Mr. Morris. They all interpret the food code differently. Mr. Morris stated that the above people mentioned all use the same food code when doing inspections. Mr. Morris stated the, "The code is the code". It must be followed to the letter".

Mr. Morris at this point in time recommended to the Board the following:

1. Suspend the permit for Famous Pizza for 30 days, with 5 days to serve immediately and 25 days suspended for a 1 year probationary period, which may be imposed if critical violations are cited.
2. Famous Pizza engages a food service consultant, approved by the Health Department, to review all reports and develop a corrective action plan on or before January 12, 2009.
3. Famous Pizza engage a consultant to work a full-time schedule approved by the Health Department for a 3-week period, and work a 2-day schedule approved by the Health Department for 3 weeks after and provide weekly inspection reports to the Health Departments.
4. Famous Pizza pay a combined fine and cost recovery amount \$500.00

At this point in time Mr. Asprogiannis said, "Are you saying you want to close my store for 5 days"? Why can't I just get a consultant? Mr. Asprogiannis stated that he felt that the Board was going way overboard. Susan Beluk M.D. explained to Mr. Asprogiannis that he has total responsibility over his store and his employees and it appears that he has a disconnect of understanding the seriousness of the matter. Mr. Asprogiannis went on to say that his establishment has an excellent reputation over many years within the community. He has owned the food establishment for over 6 years and has not had one foodborne illness during that time. Patricia Lawrence R.N. stated that may not be the case. Just because no one has contact you doesn't mean that a foodborne illness did not occur at your establishment. Again Doctor Beluk stated that Mr. Asprogiannis does not understand. He is disconnected from this matter.

Robin Blair O.D. stated at this time that over the past 5 – 6 years the establishment has lapsed back and forth trying to adhere to the code. It appears there is some confusion but again Mr. Asprogiannis is trying. Doctor Blair stated that he (Mr. Asprogiannis) is not the only one in the city that has gone through this particular problem. A few restaurants were named at this time, but no details followed. Doctor Blair asked Mr. Asprogiannis if in fact he fully understood the severity of the situation.

The Board of Health explained the severity of the situation to Mr. Asprogiannis and the Board discussed other options and issued the following decision and order.

The Board of Health has determined that significant violations of applicable laws have occurred at Famous Pizza which pose a public health threat if not addresses. Further, the Board determined that action is required to bring Famous Pizza into compliance while seeking a long term permanent solution and therefore issued the following order. Famous Pizza is ordered to take the following actions immediately and within the time frames specified:

- A. Engage a consultant to review all reports and develop a corrective action plan acceptable to the Health department. Famous Pizza must provide not less than three (3) consultant names to the Health department on or before December 23, 2008. The Health Department will select and approve of the consultant to be used. Said consultant must begin service as soon as possible, however, no later that December 29, 2008. The consultant must be able to provide service on a full-time basis (40hrs/wk) for a period of three (3) weeks on a schedule approved by the Health Department. Further, the consultant must be available for three (3) more weeks, 2 days per week, on a schedule approved by the Health Department, with service immediately following the initial three (3) weeks of full-time service.

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Additionally, the consultant must provide weekly inspection reports to the Health Department.

- B. Famous Pizza's permit to operate a food service establishment issued by the Newburyport's Health Department is suspended for 30 days. This suspension is suspended for a one (1) year probationary period (2009 calendar year) and may be imposed at any time by the Health Department if reports indicate that Famous Pizza is still cited for critical violations. This suspension may be imposed based upon reports by the consultant or reports issued by the Health Department during routine inspections, complaint inspections, foodborne illness inspections, etc.
- C. Famous Pizza must forfeit the amount of \$500.00, payable by check to the City of Newburyport, for a combination of fines and cost recovery fees pursuant to applicable laws. Said amount must be paid within 21 days, on or before January 9, 2009.

Doctor Beluk at this time again inquired, "Do you fully understand what we have just told you"? After each question inquiring whether Mr. Asprogiannis understands what was said, Mr. Asprogiannis had no reply.

A motion was made by Susan Beulk M.D. to approve and enforce the order as listed above. Seconded by Patricia Lawrence R.N.

Mr. Asprogiannis stated that his employees take pride in their work and they will work hard to make this work. His employees are not afraid of health inspections. They are ready.

Mr. Morris advised the Board that the outside refrigerator has a lock that is still missing. Anyone, person or child could open this door to the refrigerator. It must be fixed immediately. Mr. Asprogiannis agreed to fix the lock.

Meeting adjourned: 9:17pm