

# **REGULAR MEETING OF THE OAKLAND BOARD OF HEALTH**

**April 19, 2016 - 7:30 p.m.**

**Conference Room - Municipal Building, Municipal Plaza, Oakland, NJ**

## **REGULAR BUSINESS**

### **CALL TO ORDER**

Mr. Tiffinger called the meeting to order at 7:40 PM.

### **ROLL CALL**

All Yeas - Ms. Ashkenazi, Mr. Ashkenazi, Mr. Ostapczuk, Mr. Tiffinger, Ms. West

### **ABSENT MEMBERS**

Mr. Pignatelli was absent due to a family matter and Mr. Talucci due to a work conflict.

On motion of Mr. Ostapczuk, seconded by Ms. West, Mr. Talucci's and Mr. Pignatelli's absences were excused.

Roll Call: All Yeas - Ms. Ashkenazi, Mr. Ashkenazi, Mr. Ostapczuk, Mr. Tiffinger, Ms. West

### **OTHERS PRESENT**

Thomas J. Romans, Esq., Council Liaison Russell Talamini and R.E.H.S. Kristin Caperino

### **MEETING ANNOUNCEMENT**

Mr. Tiffinger announced the meeting was being held in accordance with the regulations of the Public Meetings Law, notices of which were sent to The Record, Suburban Trends and any other persons requesting same

### **ADOPTION OF MINUTES**

The Board reviewed the March minutes.

Mr. Romans questioned several statements in the minutes made about Yuki Japanese Restaurant. Clarification was provided and no corrections were necessary. The Board discussed Yuki Japanese Restaurant in order to come to a consensus about how to proceed.

Inspector Caperino stated that summonses were issued to the owner of Yuki after the April 1st reinspection (second reinspection) during which a third Conditionally Satisfactory rating was issued. The court appearance for the summons is April 28<sup>th</sup>. At the March meeting, the owner was informed by the Board that if he receives another Conditionally Satisfactory rating, he would be required to come before the Board for a hearing to determine whether his health license should be revoked. The Board had agreed that if it becomes necessary to hold the hearing it would take place after Mr. Cheng goes to court for any summonses that are issued to him.

Inspector Caperino reported that when she conducted the reinspection at Yuki on April 1<sup>st</sup>, she asked Mr. Cheng for his pest control log. Mr. Cheng left the establishment. Inspector Meeker, who was next door conducting an inspection at Muscle Maker Grill, observed Mr. Cheng come in and ask the owner of Muscle Maker if he could borrow his pest control log and said he would bring it right back. The owner of Muscle Maker Grill refused to give it to Mr. Cheng. Inspector Meeker phoned Inspector Caperino to inform her of what had just transpired. When Inspector Caperino confronted Mr. Cheng about what he had done at Muscle Maker, he said he was not going to say it was his log.

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During the inspection, Inspector Caperino observed a large quantity of sushi fish out on the counter. Since the temperature of the fish was 50 degrees, the workers were told it all had to be thrown out. The workers said the fish was only out for five minutes. If that were the case, Inspector Caperino said their refrigerator must not have been working properly. Fish, beef and chicken were stored improperly in the walk-in box and food was being stored directly on the floor. Flour bags were improperly stored with the tops wide open. The employee at the sushi station washed his hands while another worker was talking to him in Chinese. Inspector Caperino said it appeared as though the employee washing his hands was being coached on procedure, though proper procedure still was not being followed. The worker took off his gloves and then put the same pair back on. Though there were many wipe cloths in the establishment, they were not being used properly. The sanitizer was spot on.

Inspector Caperino said she had a lengthy conversation with the owner about his HACCP Plan which appeared to have been left behind by the previous owner. Mr. Cheng was told he must have prepare a current HACCP Plan and he could find instructions on how to develop one on the internet. Inspector Caperino said this information was also covered at the Food Manager's Course which Mr. Cheng had successfully taken.

During the final inspection on April 18<sup>th</sup>, Inspector Caperino said there was neither any activity in the restaurant nor in the kitchen. Though there were still a few minor issues that had not been corrected she issued the establishment a Satisfactory rating.

Inspector Caperino reminded the Board this establishment opened only last September, without a license, and has been a problem since then.

Ms. Dubowick said Mr. Cheng came in and paid the reinspection fees. At that time Ms. Dubowick said she also explained to Mr. Cheng that the Board might be taking away his license to operate which is a very serious matter. She recommended that Mr. Cheng hire an attorney to represent him.

There was also discussion about whether an interpreter would be needed.

Mr. Cheng was scheduled to appear before the Board at 8 PM. Since the Board had informed Mr. Cheng in March what would happen if he received another Conditionally Satisfactory rating, the Board decided to proceed with plans for the hearing which would be explained to Mr. Cheng when he arrived. Mr. Romans said Mr. Cheng would have to be given 20 days advance notice of the hearing; therefore, the hearing would take place at the June Board of Health meeting. Mr. Romans also said Inspector Caperino would present testimony but the Board will have to make a decision based upon the facts.

On motion of Mr. Ostapczuk, seconded by Ms. Ashkenazi, the Regular Order of Business was suspended to address Mr. Cheng.

Roll Call: Ms. Ashkenazi, Mr. Ashkenazi, Mr. Ostapczuk, Mr. Tiffinger, Ms. West

### **NEW BUSINESS**

#### **YUKI JAPANESE RESTAURANT**

Mr. Tiffinger asked the owner to provide his name and address for the record. Mr. Kwok Tun Cheng said he resides at 210 Fondiller Street, Rivervale, New Jersey.

Mr. Tiffinger said Mr. Cheng was called before the Board again because he was issued another Conditionally Satisfactory rating. Subsequent to that, a Satisfactory rating had been issued. Mr. Tiffinger told Mr. Cheng a hearing would be held in June to determine whether the Board should close his establishment because he was issued three

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Conditionally Satisfactory ratings in a row. Regardless of whether everything is fine at his restaurant between now and June, the hearing will still be held. Mr. Tiffinger said Mr. Cheng could bring his own attorney. Mr. Romans told Mr. Cheng he will be given formal notice of the hearing and he can bring his own attorney and witnesses. Mr. Romans advised Mr. Cheng to stop him if at any point he does not understand. Mr. Cheng said he does not understand. Mr. Romans asked Mr. Cheng what his native language is. Mr. Cheng said Mandarin Chinese. Mr. Romans recommended that Mr. Cheng bring an interpreter with him to the hearing to explain what is being said. Mr. Romans said Mr. Cheng will be going to court on the 28<sup>th</sup> for the summonses issued to him and if he is found guilty of the charges, he will be notified of the June hearing. In the meantime, Mr. Romans said, Mr. Cheng's establishment will continue to be inspected by the inspector

and whatever she sees will be brought to the Board's attention at the hearing. Mr. Romans said if Mr. Cheng is doing what he is supposed to be doing, the inspector will tell the Board and it will work in his favor; however, if he is not doing what he is supposed to be doing, that testimony will be given at the hearing and Mr. Cheng will have a problem. Furthermore, the establishment will continue to be inspected. Mr. Cheng, asked, one more time in June, right? Mr. Romans and Ms. Ashkenazi said the inspector can do the inspection anytime she wants and the inspection results must be good every time the inspector walks through the front door. The inspections must be good not only between now and June, but all of the time going forward.

Mr. Tiffinger told Mr. Cheng he must listen to the inspector and do what she says correctly. Mr. Cheng said he does listen. Mr. Tiffinger said the inspector's reports must show that. Mr. Cheng said he has had a restaurant his whole life and he does not want it to be closed because he has three children and health problems. He said he works 18 hours every day, never takes a day off and tries to do his best. Mr. Cheng said he is scared. Mr. Romans said Mr. Cheng's restaurant is the only one in town that is a problem and every other restaurant does what they're supposed to do.

Mr. Cheng said he cannot take care of everything, he pays people to work for him but they are lazy and it is very tough for him. He said he knows what to do. Mr. Romans told Mr. Cheng he is not getting done what needs to be done and he might have to bring in someone else to help him. In the ten years or so Mr. Romans said he has been working in Oakland, there has only been one other time that a hearing was needed to revoke a license. It's unusual to have a hearing and Mr. Cheng has a serious problem. Mr. Cheng said he doesn't understand. Ms. Ashkenazi said Mr. Cheng took the Food Manager's Course and the inspector should not have to explain what he needs to do, rather he should already know. Mr. Tiffinger said once the inspector explains what needs to be done, Mr. Cheng should do it.

Mr. Cheng was advised that when he hires an attorney, he should contact Ms. Dubowick with the attorney's name and address so Mr. Romans can send him notification about the hearing. Mr. Romans will also explain to Mr. Cheng's attorney what will happen and the attorney will then explain it to Mr. Cheng. Mr. Cheng said it is difficult to find a Chinese attorney in New Jersey. They work in New York but not in New Jersey. It was also suggested that Mr. Cheng bring an interpreter. Mr. Romans told Mr. Cheng this is the reason why the Board is giving him lots of notice about what is going to happen. Mr. Cheng said he will bring in the name, address and phone number for his attorney.

Inspector Caperino told Mr. Cheng he must also bring in his pest control records. Ms. West asked Mr. Cheng what happened with pest control during the last inspection. Inspector Caperino said not the last inspection but the one before that. Mr. Cheng said the former owner took all the paperwork with him when he sold the restaurant. Mr. Cheng did not have the number to call the pest control company. Mr. Cheng said he went next door to get the pest control log so he could write down the number, but the owner wouldn't give it to him. The owner next door told Mr. Cheng that the log was his not and he could not have it. Mr. Cheng said he understood it was not his. He just needed it to get the name and phone number. Inspector Caperino said Mr. Cheng has owned restaurants before and he should know he has to have pest control. That requirement is the same in each town. Mr. Tiffinger asked if Mr. Cheng has pest control now and Inspector Caperino said he does. Ms. West asked how often pest control needs to come to a

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restaurant. Inspector Caperino said, normally, a Risk III or Risk IV restaurant has pest control come in once a month. Mr. Cheng said he would be happy to have them come in whenever they need to. Mr. Cheng said he will stop by with the information about his attorney the following day. He was also informed that he must go to Municipal Court for the summonses and to the Municipal Building for the hearing. Mr. Cheng said he understood.

On motion of Mr. Ostapczuk, seconded by Ms. West, the normal order of business was resumed.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. Ostapczuk, Mr. Tiffinger, Ms. West

**ADOPTION OF MINUTES (Cont'd)**

Mr. Ostapczuk noted his name appeared in the roll call under Unfinished Business when he was not present at the meeting. Ms. Dubowick deleted Mr. Ostapczuk's name.

On motion of Ms. West, seconded by Ms. Ashkenazi, the minutes were approved, as amended.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. Tiffinger, Ms. West. Mr. Ostapczuk abstained.

**REVIEW REPORTS**

The Board reviewed the following reports:

- BCDHS Public Health Nursing Activity Report – March
- CDRSS Report – March
- REHS' Monthly Report – March
- Secretary's/Registrar's Report – March
- Tyco Animal Control Report – March

On motion of Mr. Ostapczuk, seconded by Ms. West, the reports were accepted.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. Ostapczuk, Mr. Tiffinger, Ms. West

On motion of Ms. West, seconded Mr. Ostapczuk, the Board approved the following bills for payment:

**PAYMENT OF BILLS**

The Board reviewed the following bills:

<b>3/31/2016 – Tyco Animal Control</b> (Animal Control Services, per 2016 contract – Month of March)	<b>\$1,250.00</b>
<b>3/31/2016 – Tyco Animal Control</b> (Animal Control Emergency Services, per 2016 contract – Month of March – 1 Response)	<b>\$ 60.00</b>
<b>4/19/2016 – Thomas J. Romans, Esq.</b> (For professional services rendered, per 2016 contract – Attend 4/19/2016 Board of Health meeting)	<b>\$ 221.92</b>

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. Ostapczuk, Mr. Tiffinger, Ms. West

## **UNFINISHED BUSINESS**

### **SEPTIC INSPECTION ORDINANCE**

The Board discussed the possibility of amending the septic ordinance in order to require a septic inspection prior to any realty transfer. The purpose of the ordinance would be to ensure all cesspools are replaced at realty transfer and malfunctioning systems either have the required repairs done on them or are replaced. This amendment is being proposed as a result of properties with cesspools and malfunctioning systems being sold “as is”, without the knowledge of the Health Department or the Building Department.

Mr. Romans had many unanswered questions and the Board decided to discuss this further at a future meeting when a sample ordinance is available for review.

### **SEPTIC PUMPING PERMIT ORDINANCE**

A discussion took place about amending the septic pumping ordinance to change how permits are issued and no action was taken.

## **NEW BUSINESS**

### **80 RYERSON AVENUE – 3703/89.02 – NEW SEPTIC DESIGN PLAN**

Inspector Caperino reported she had reviewed and approved the septic design plan for this new house and submitted the plan to the Board for approval. The Board had no objections to the plan.

On motion of Mr. Ostapczuk, seconded by Ms. West, the Board approved the septic design plan for 80 Ryerson Avenue, Lot 3703, Block 89.02.

Roll Call: All Yeas - Ms. Ashkenazi, Mr. Ashkenazi, Mr. Ostapczuk, Mr. Tiffinger, Ms. West

## **ANY OTHER BUSINESS**

### **UPDATE ON THE WELLNESS CAMPAIGN**

It was reported the Kick-off for the Wellness Challenge was held last Tuesday at the Franklin Lakes Ambulance Corp. Building, with approximately 150 people in attendance from the three FLOW towns. It was very well received.

### **UPDATE ON QUESTION ABOUT SCHOOL IMMUNIZATION AUDIT FOLLOW-UPS**

At the March Meeting, the Board asked if the public health nurses follow up with non-compliant schools after immunization audits are conducted to ensure each school is brought into full compliance. A call to BCDHS Public Health Nurse Meg Mantello confirmed follow-ups continue until all schools are fully compliant.

## **ADJOURNMENT**

On motion of, Mr. Ostapczuk, seconded by Ms. Ashkenazi, the meeting was adjourned at 9:09 PM.

Roll Call: All Yeas – Ms. Ashkenazi, Mr. Ashkenazi, Mr. Pignatelli, Mr. Talucci, Mr. Tiffinger, Ms. West.

APPROVED:

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Stephen C. Tiffinger, President

ATTEST: \_\_\_\_\_  
Karin Kennedy Dubowick, Secretary

DATE: \_\_\_\_\_