

REGULAR MEETING OF THE OAKLAND BOARD OF HEALTH

May 21, 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 7:42 PM.

ROLL CALL

All Yeas - Ms. Ashkenazi, Mr. Ashkenazi, Mr. Talucci, Mr. Pignatelli, Mr. Tiffinger, Ms. West

ABSENT MEMBERS

Mr. Ostapczuk was absent due to a work conflict.

On motion of Mr. Pignatelli, seconded by Ms. Ashkenazi, Mr. Ostapczuk's absence was excused.

Roll Call: All Yeas - Ms. Ashkenazi, Mr. Ashkenazi, Mr. Pignatelli, Mr. Talucci, 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 April minutes.

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

Roll Call: All Yeas - Ms. Ashkenazi, Mr. Ashkenazi, Mr. Tiffinger, Ms. West. Messrs. Pignatelli and Talucci abstained.

REVIEW REPORTS

The Board reviewed the following reports:

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

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

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

PAYMENT OF BILLS

The Board reviewed the following bills:

Regular Meeting of the Oakland Board of Health – May 17, 2016 – Page 2

4/21/2016 – North Jersey Media Group (Publish adoption of Ord. #16-Code-92)	\$ 40.12
4/30/2016 – Tyco Animal Control (Animal Control Services, per 2016 contract – Month of April)	\$1,250.00
4/30/2016 – Tyco Animal Control (Animal Control Emergency Services, per 2016 contract – Month of April – 1 Response)	\$ 60.00
5/16/2016 – Bergen/Passaic Registrar's Assn. (Dues for Registrar & Deputy Registrar)	\$ 20.00
5/17/2016 – Thomas J. Romans, Esq. (For professional services rendered, per 2016 contract – Attend 5/17/2016 Board of Health meeting)	\$ 221.92

On motion of Mr. Pignatelli, seconded by Ms. Ashkenazi, the bills were approved for payment.

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

UNFINISHED BUSINESS

OAKLAND PIZZA

Mr. Tiffinger asked the owner of this establishment to state his name and address for the record. Mr. Chris George stated he resides at 133 Center Street, Pompton Lakes, NJ. Mr. Tiffinger stated Mr. George was summoned to appear for several reasons. There was a sewage backup, for hand washing violations and for food being out of temperature.

Inspector Caperino reported there was a sewage back up and that the restaurant must be closed whenever that happens. It just so happened that Inspector Caperino walked in as it was happening. Mr. George said he was unaware the restaurant needed to be closed. He said he called Zuidema who usually comes quickly and that he, obviously wouldn't have his workers working in the grease and working with food at the same time. Mr. Tiffinger said anytime he has a problem like that he must call the Health Department and an inspector will be sent over. After hours, he will have to call the Police Dept.

Mr. Tiffinger asked if he has a separate septic system from the other stores and Mr. George said he did. Mr. George said he has his system regularly maintained and that every once in a while a backup still happens. The reason for the problem, Mr. George said, is that everything in the building is put together wrong. Zuidema and other pumpers have told Mr. George there is a dip in the line which is the cause of the problem. This line was installed by a plumber under the previous ownership of the store and is, therefore, Mr. George's responsibility.

Inspector Caperino said a large quantity of meatballs and raw vegetables for salad were sitting out and were out of temperature. There were also hand washing issues. Mr. George said none of his employees would own up to this, so he told them if it ever happens again, they will be fired. Mr. Pignatelli explained proper hand washing procedures to Mr. George. Mr. George said his workers all know the procedures. He was working at the front counter that day. He wants to send one of his workers to take the Food Manager's Course but he is short staffed at the moment. Mr. George was told about on-line classes but it is uncertain whether they are offered in Spanish. Inspector Caperino said she would check.

Regular Meeting of the Oakland Board of Health – May 17, 2016 – Page 3

Mr. Romans questioned whether the pipe with the dip in it would be Mr. George's responsibility since it should have been inspected when installed. Mr. Romans said the backup that occurs due to the sag should not happen at and suggested that Mr. George have someone from the Building Dept. take a look at it. Mr. George said he thought it was his responsibility and will check into it.

Mr. Tiffinger told Mr. George there was another reason why he had been summoned to appear before the Board and that was because he had been issued another Conditional back in September. Mr. Tiffinger reminded Mr. George to contact the Health Department or the Police Department if a backup ever occurs again.

YUKI JAPANESE RESTAURANT HEARING PREPARATION

Mr. Tiffinger said he received an e-mail advising Yuki was made Conditional again since the last Board meeting and that the owner was yelling at Inspector Caperino. Mr. Tiffinger and Mr. Pignatelli both felt this was unacceptable.

Ms. West asked Mr. Romans to prep the Board on what they will need to know for the hearing. Mr. Romans said he will issue a notice of the hearing which will be held at 8:30 on June 21st, immediately after the Board meeting. Mr. Romans said the meeting could run for a couple of hours. A formal notice will be issued via Certified Mail to Mr. Cheng and to Mr. Cheng's attorney. Inspectors Caperino and Meeker will be called as witnesses.

As far as the procedures go, Mr. Romans said the Board has to give Mr. Cheng a fair hearing which entails allowing the owner to testify, to bring witnesses and to have an attorney present. Mr. Romans will present testimony to the Board. Mr. Romans will prosecute the case for the Board of Health, call witnesses, produce documents, have witnesses identify the documents and introduce them to evidence. The meeting will be recorded, the owner will be notified that if he wants to have an interpreter he will have to bring one. The meeting will proceed in the English language and Mr. Romans will rule on any evidentiary problems. Mr. Tiffinger will conduct the meeting and Mr. Romans will provide him with a script to follow. More or less, it will be a formal hearing based on the guidelines provided in the Administrative Code. After the Mr. Tiffinger outlines the procedures to be followed, Mr. Romans will call witnesses, primarily Inspector Caperino. Mr. Romans said it is not appropriate to ask for her opinion, rather the Board needs to make a decision. The Board has the option to do nothing, suspend the license, revoke the license or rule that the license will not be reissued. Mr. Pignatelli said the Board could suspend the license for a specified period of time and then the establishment would be inspected. If found satisfactory, the establishment would be allowed to reopen.

Inspector Caperino asked for some clarification about the summonses that will be heard in court.

Ms. West asked if any stipulations could be placed on the license suspension, such as the establishment will be closed if it is found Conditional again. Mr. Romans said the Board could set stipulations, then revoke the license. The Board may or may not decide to suspend the license in this case. Council Liaison Talamini asked if the Board could suspend the license until all of the employees take the food course. Mr. Romans said The Board could put stipulations on the license and do whatever they feel is appropriate.

Mr. Romans said Mr. Cheng's attorney may ask questions of Inspectors Caperino and Meeker, may pose objections, introduce his witnesses and make arguments. Mr. Ashkenazi asked if Mr. Romans will be making any recommendations to the Board, to which Mr. Romans said he would not. It will be the Board's decision.

Inspector Caperino said the last inspection she did where a Satisfactory was issued there was no business being conducted in the restaurant, so no food preparation was being done. Most of the other inspections were

Regular Meeting of the Oakland Board of Health – May 17, 2016 – Page 4

conducted on a Friday when it's been quite busy. The first inspection done after the last Satisfactory was done on a Friday and when Inspectors Caperino and Meeker arrived at the establishment everyone in the kitchen was standing around. There were slips for orders hanging in the kitchen, patrons waiting for take-out orders and patrons sitting at tables waiting for their food, but no one was working in the kitchen. The patrons were asking about their orders and getting up and leaving and people waiting for take-out orders were asking for their money back. Mr. Cheng told the Inspectors they are causing him to lose business. Inspector Caperino told Mr. Cheng that he must continue to operate when they are conducting an inspection and that she and Inspector Meeker did not tell his staff to stop working. Inspector Caperino said Mr. Cheng should just ignore the fact that the inspection is being conducted and operate as usual. Inspector Caperino said Mr. Cheng took out a piece of meat and threw it on the grill, then went outside because a delivery was coming in. He came back and touched raw food that he placed on the meat without washing his hands. Mr. Cheng was instructed to throw away the food he had just prepared.

A member of the public entered the meeting.

On motion of Mr. Pignatelli, seconded by Ms. West, the meeting was opened to the public.

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

Ms. Zhu Qing of 210 Fondiller Street, Rivervale, NJ introduced herself to the Board as the wife of the owner of Yuki Japanese Restaurant. Ms. Qing spoke about how clean she keeps her restaurant and that she and her husband had a restaurant in Montvale for 14 years. When they bought the restaurant, she said they asked the prior owners to stay on for a couple of months to help, but they refused. Her employees quit when they were asked to clean and her chef quit when he was asked to wear gloves. Ms. Qing began to cry and said they cannot find help and her husband is currently working alone in the restaurant. Ms. Qing said she loves Oakland which is why they are moving here.

Mr. Pignatelli said the Board has listened to what Ms. Quig had to say. However, Mr. Cheng and an attorney must come back to the hearing next month. They will get a letter from the Board's attorney saying her husband, an attorney and Ms. Qing will have to come back with someone who can speak Mandarin Chinese. Ms. Qing said that will be hard. Ms. Qing said Chinese lawyers in Chinatown cannot come to New Jersey. Mr. Pignatelli said Ms. Qing will have to find someone. Mr. Pignatelli said they will get a letter because the law in Oakland says they have to do certain things the law says they have to do. Mr. Pignatelli said the law says the Board will have to listen to Ms. Qing, the inspector and find out who is wrong because the Board has to protect the people so no one gets sick. Ms. Qing has a job at the restaurant and the Board has a job to decide what is right and what is wrong. Next month, the Board will have to decide at the hearing what needs to be done. Mr. Pignatelli told Ms. Qing that she and her husband cannot yell at the inspector or give the inspector a hard time. Ms. Qing said the inspector came in right after she had just cut up a box of vegetables and put them in the refrigerator. The inspector opened the refrigerator and took the temperature of the vegetables and threw them out because they were not the right temperature. At home Ms. Qing said she does it all of the time. Mr. Pignatelli, said there are no laws for when you cook at home but there are laws for when you cook at a restaurant.

Mr. Pignatelli reiterated what will happen at the hearing and that the Board will listen to Ms. Qing at the hearing. Ms. Ashkenazi said every restaurant in town has to follow the same rules. Ms. Qing told the Board about a time the inspector told her the beef was not cooked enough. The customer wanted it cooked medium-rare and asked how she can give the beef to the customer medium rare when the meat is cooked to the temperature the inspector wants. Inspector Caperino said there was no thermometer at the restaurant. Mr. Pignatelli asked how Ms. Qing can check the temperature of the meat without a thermometer. Ms. Qing was asked if she took the food course. Ms. Qing said she did. Mr. Pignatelli asked if she was told that

Regular Meeting of the Oakland Board of Health – May 17, 2016 – Page 5

she needed to have a thermometer. Ms. Qing said she was told to keep it on the refrigerator. She said it is in the refrigerator. Ms. Pignatelli said she also needs to have a food thermometer which is pretty basic food safety.

Mr. Romans suggested that Ms. Qing get a friend who speaks Mandarin Chinese and English who can help her. Ms. Qing was worried that her husband cannot come to the hearing because he is the only person working at the restaurant. Ms. Qing was told that her husband should come to the hearing and that it should not be too busy on a Tuesday night.

Inspector Caperino informed Ms. Qing that they need to start working on the serious violations, #1 through #21 on the inspection report, that the other violations were not as important. Mr. Tiffinger and Mr. Pignatelli said this is very important.

Ms. Qing was asked if they still have the other restaurant in Montvale and she said they did. Ms. Qing's husband had told Inspector Caperino they did not. Ms. Qing said they gave the restaurant to a cousin and that it is still there. Mr. Tiffinger and Mr. Pignatelli said they will see Ms. Qing on June 21st and they will be getting a letter.

On motion of Mr. Pignatelli, seconded by Ms. Ashkenazi, the meeting was closed to the public.

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

Ms. Ashkenazi said if they have had another restaurant for 14 years they should know what they are doing. Inspector Caperino said they opened the restaurant in Oakland without a license and Mr. Cheng told her, "I know what I am doing and I've done this before."

Ms. Ashkenazi expressed concern about the Borough's liability should anyone get sick and die as a result of eating at the establishment. It was agreed that anyone can sue for anything and the Borough could lose.

NEW BUSINESS

SUBCONTRACTING SEPTIC WORK

Mr. Len Scully, the septic contractor, who wished to discuss this subject with the Board did not show up. Mr. Pignatelli said Mr. Scully wanted to know if a licensed septic contractor could take out a construction permit and then subcontract the work to an unlicensed contractor. It was the Board's opinion that such a practice is not permissible. Mr. Romans said the person who takes out the license must do the work but an employee of the licensed contractor may do the work. Council Liaison described what is required when hiring people as a General Contractor.

AFTER-HOURS EMERGENCIES

The Board reviewed a proposed communication to be sent to Dr. Mangieri that addresses a problem that exists at the Police Department with how and under what circumstances to contact the Health Department during non-business hours. The REHS staff is contacted through the Bergen County Communications desk. The communication requests a set of written procedures be developed and sent to the Police Department. The Board approved the communication which will be sent, to Dr. Mangieri, from Mr. Tiffinger.

CROSSROADS ARTICLE

The Board reviewed H.O. Dr. Nancy Mangieri's article, entitled "Bergen Bites Back" and approved the article for publication in the Summer Edition of Crossroads.

ANY OTHER BUSINESS

Council Liaison Talamini reported the Mayor and Council had received an e-mail from an animal activist requesting the Borough of Oakland pass an ordinance to prevent any pet stores from opening and becoming puppy mills. The writer attached to her e-mail documents supporting the need for such an ordinance as well as a sample ordinance to use as a template.

Mr. Tiffinger said he would like to review the email and attachments and asked Council Liaison Talamini to forward them to him through Ms. Dubowick.

ADJOURNMENT

On motion of, Ms. Ashkanazi, seconded by Ms. West, the meeting was adjourned at 9:10 PM.

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

APPROVED:

Stephen C. Tiffinger, President

ATTEST: _____
Karin Kennedy Dubowick, Secretary

DATE: _____