

Clermont County General Health District
Board of Health Meeting

The monthly meeting of the Clermont County Board of Health was held on April 13, 2011. James Hansbauer, President, called the meeting to order at 6:30 p.m. Mr. Hansbauer led the Board members and guests in the Pledge of Allegiance.

Roll Call:	James Hansbauer, present	Dr. Joseph Khan, present
	Andrew Crum, present	Larry Cadwallader, present

Others present included: Marty Lambert, Health Commissioner; Julianne Nesbit, Assistant Health Commissioner; Robert Wildey, Director of Water and Waste; Rob Perry, Director of Environmental Health; Deena Elliott, Director of Nursing; Kevin Jester, Director of Plumbing; Melissa Jones, Administrative Assistant; Megan DeLane, Environmental Health Sanitarian and others as listed on Attachments #1 & #2.

Reorganization of Board – This item was deferred until later in the meeting.

Black Water Holding Tank Requests and Extension – Ms. Lambert reported that the homeowners listed below were requesting approval to use a blackwater holding tank until such time as the soil conditions were favorable for the completion of the septic system.

Mr. Cadwallader made a motion to grant a 1 month extension for the blackwater holding tank renewal for homeowners listed below.

- 1) Stubbe – 3517 Nordyke Road, Pierce Twp. (15-V-09)
- 2) Payne – 6555 Goshen Road, Goshen Twp. (28-V-10)
- 3) McCarty – 2863 State Route 132, Ohio Twp. (29-V-10)

The motion was seconded by Dr. Khan. The vote was all aye, motion carried. Homeowners will receive a letter indicating the terms and conditions of their variance renewal.

New Blackwater Holding Tank Request – Ms. Lambert reported the owner of the property located at 5485 Brushy Fork Road, Stonelick Township, was requesting approval to use a blackwater holding tank until such time as the soil conditions were favorable for the completion of the septic system.

Following a discussion of the request, Mr. Cadwallader made a motion to approve a blackwater holding tank variance request for the property located at 5485 Brushy Fork Road, Stonelick Township (6-V-11). The motion was seconded by Dr. Khan. The vote was all aye, motion carried. The homeowner will be given a letter indicating the terms and conditions of the approval, including a reminder that all homeowners must obtain a temporary occupancy from the Building Department before they occupy their new home. Ms. Lambert also stressed to the homeowner that from this date forward they must attend the Board of Health meeting each month until their system has been installed, inspected and has received a “yellow tag”. In addition, if they are occupying their home, they must bring a copy of the pump ticket(s) to the meeting to verify the blackwater holding tank is being pumped every month. (Attachment #3)

Approval for 2 homes on one lot – Ms. Lambert presented the variance submitted for the property located at 5731 Bucktown Road, Jackson Township. Ms. Lambert stated that the homeowner is requesting approval to allow an existing home to remain on the property for one year after a new home is constructed. Ms. Lambert further stated that only one home would be connected to the existing household

sewage treatment system at a time. The existing home will be demolished within one year of occupancy of the new home.

Following a review of the variance request and accompanying documentation, Mr. Cadwallader made a motion to approve the variance request for 5731 Bucktown Road, Stonelick Township (6-V-11) allowing a new home to be constructed on a lot with an existing home and sewage system. The motion was seconded by Dr. Khan. The vote was all aye, motion carried. (Attachment #4)

Inground Swimming Pool cover in lieu of fence – Ms. Lambert stated that this variance was tabled at the March 9, 2011 Board of Health meeting pending approval from Batavia Township. Ms. Lambert stated that Batavia Township Zoning did give approval for the inground pool cover.

Following a review of the variance and accompanying documentation, Mr. Crum made a motion to approve the request to use an inground swimming pool cover in lieu of a fence for the property located at 509 Chapel Road, Batavia Township (2-V-11). The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried.

Board of Health Hearing – Timmy’s Wok, 784 Loveland Miamiville Road, Loveland Ohio 45140

Ms. Lambert called the hearing to order and introduced the Board of Health members, Elizabeth Mason, Assistant Prosecuting Attorney; Megan DeLane, Inspecting Sanitarian; Robert Perry, Director of Environmental Health; Joshua F. DeBra, Attorney for Timmy’s Wok; and Timmy Chung, Owner.

Ms. Lambert presented a brief overview of the reason for the meeting and how the hearing would proceed.

Ms. Mason presented a violation history to Mr. Chung, Mr. DeBra and the Board of Health members. Ms. Mason stated that she has had several contacts with Mr. DeBra and they have discussed extensively the recurring violations at Timmy’s Wok and that they are both in agreement that the goal is to improve the level of food safety at the facility.

Ms. Mason stated that an administrative meeting was held in August, 2010 with Mr. Chung and upon reinspection Health District staff still found numerous critical violations.

Ms. Mason asked Ms. DeLane to describe some of the violations that are recurring at Timmy’s Wok. Ms. DeLane stated that some of the violations that are recurring are improper food storage, lack of date marking and food being left out at room temperature.

Ms. Mason stated that she had no further questions for Ms. DeLane.

Ms. Lambert asked if Mr. DeBra had questions for Ms. DeLane.

Mr. DeBra stated that Mr. Chung was not disputing the violation history that was presented. Mr. DeBra further stated that Mr. Chung has been in the United States for 17 years and has started several restaurants in the Cincinnati area. Mr. DeBra stated that Mr. Chung would like to correct the problems at the facility and maintain the facility from that point forward.

Ms. Lambert asked Mr. DeBra if he had any questions for Ms. DeLane.

Mr. DeBra stated that he had no questions for Ms. DeLane but added that Mr. Chung has purchased additional equipment to deal with the food storage issues and a new protocol has been created to deal with the food at room temperature problem.

Ms. Lambert asked the members of the Board of Health if they had questions for Ms. DeLane.

Mr. Crum asked Ms. DeLane how long she had been inspecting Timmy's Wok. Ms. DeLane stated that she had been inspecting the facility for 2 years.

Mr. Crum asked Ms. DeLane if she believed that a Mr. Chung understood the violations. Ms. DeLane stated that she does believe that Mr. Chung understands the violations.

Mr. Cadwallader asked Ms. DeLane if the facility has temperature violations. Ms. DeLane stated that temperature violations do exist in the facility.

Mr. DeBra interjected that he has discussed the violations with his client and Mr. Chung is making a concerted effort to keep items in the prep cooler.

Dr. Khan asked Ms. DeLane how long she has been inspecting Food Service Operations. Ms. DeLane stated that she has been inspecting for two and one half years.

Mr. Crum asked Ms. DeLane how often raw chicken was found sitting out. Ms. DeLane stated that at every inspection she finds large quantities of raw chicken sitting out and not being properly stored in a cooler.

Ms. Mason stated that Mr. Perry had provided her with temperature logs that she had forwarded to Mr. DeBra for use in the facility.

Mr. DeBra stated that he and Mr. Chung are not disputing the history. He further stated that Mr. Chung has implemented temperature logs for heating and cooling and has changed the marinating process for chicken. Mr. Chung also began Serv Safe training and retained SAGE Food Safety to help Mr. Chung address specific issues that cause recurring violations.

Ms. Lambert asked Mr. Chung if all employees had been trained in food safety. Mr. DeBra stated that all employees only speak Chinese. Mr. Chung is in the process of ordering CD's in Chinese for his employees.

Ms. Mason stated that she had no further questions for Ms. DeLane.

Ms. Lambert asked the Board of Health if they had any further questions for Ms. DeLane.

Mr. Crum asked Mr. Chung why so many critical violations were being found now when he has been in the food service industry for over 17 years.

Mr. Chung stated that he has always had the same chicken marinating process which involves leaving the chicken out to thaw while marinating and that no other jurisdiction has cited him for a violation.

Mr. DeBra stated that he doesn't understand why inspection standards are different between jurisdictions.

Mr. Crum asked Mr. Chung if he owned or operated additional facilities in Clermont County. Mr. Chung stated that he did not.

Mr. Crum asked Mr. Chung why he hadn't sought out assistance earlier, ie. SAGE, ServSafe, etc.

Mr. DeBra stated that Mr. Chung may not have been as diligent as he needed to be and that the idea of retaining a consultant came late in this process. Mr. DeBra further added that Mr. Chung has also begun changing and adding equipment and shelving to assist in proper food handling in the facility.

Mr. Crum asked Mr. Chung why he thought that the Board of Health could now be confident that the necessary changes would take effect.

Mr. DeBra stated the Mr. Chung, in conjunction with the consultant, is in the process of changing old habits to comply with the Food Service Operation Rules. Mr. DeBra further stated that the Board of Health would need to make a decision based on the previous statements and have faith that changes would be made.

Mr. Crum asked Mr. DeBra the time frame for making the needed changes.

Mr. DeBra requested 30 days before the next inspection to allow time to implement changes.

Mr. Crum asked Mr. Chung if he was willing to employ additional staff or alter dates and times of deliveries to the facility to eliminate the possibility that refrigerated/frozen product were not properly stored.

Mr. DeBra stated that Mr. Chung is currently working on changing the delivery schedules of his suppliers to allow proper handling of these items in a timely manner.

Mr. Cadwallader asked Mr. Chung how many employees Timmy's Wok employed. Mr. Chung stated that he had three employees including himself.

Dr. Khan asked Mr. Chung how many other restaurants he owned. Mr. DeBra stated that Mr. Chung had opened seven restaurants during his 17 years in the food service industry. He further stated that Mr. Chung had sold all of the prior restaurants and currently only owns Timmy's Wok.

Dr. Khan asked Mr. Chung to define the types of violations that prior owned restaurants had been cited with. Mr. Chung stated that he could not remember.

Mr. DeBra stated that he felt that a language barrier exists with Mr. Chung. Dr. DeBra further stated that Mr. Chung knew that problems existed but that Mr. Chung didn't realize the extent of the expectations for correction.

Ms. Mason stated that she had no further questions.

Mr. DeBra stated that he had no further questions.

Mr. Crum made a motion to go into Deliberative Session to discuss further action on this matter. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried. Deliberative Session began at 7:15 p.m.

Mr. Crum made a motion to return from Deliberative Session. The motion was seconded by Dr. Khan. The vote was all aye, motion carried. The Board came out of Deliberative Session at approximately 7:45 p.m.

Mr. Crum made a motion for Health District staff to develop a corrective action plan for Timmy's Wok that would include a HAACP plan, that the facility have no critical violations upon re-inspection, have all current and future employees trained and have more frequent inspections. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried.

Ms. Lambert adjourned the hearing and scheduled the hearing to reconvene at the next Board of Health meeting on May 11, 2011. Ms. Lambert, Mr. Perry, Ms. DeLane, Mr. Chung and Mr. DeBra will schedule a time to complete and sign the corrective action plan with an associated timeline.

Mr. DeBra explained the process to Mr. Chung and thanked the Board for their time.

The hearing was adjourned at 7:55 p.m.

NEW BUSINESS:

1) Executive Session

At 7:55 p.m. Mr. Crum made a motion to go into Executive Session to discuss employee discipline. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried.

At 8:30 p.m. Mr. Crum made a motion to return to regular session. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried. No further action taken on the employee discipline issue discussed.

2) Personnel Issues

a) **Temporary suspension of hiring WIC positions** – Ms. Lambert related that the hiring of the third WIC breastfeeding peer and replacement dietician has been halted pending additional 2012 funding information.

b) **Board of Health as employees for taxes** – Ms. Lambert stated that Cambridge-Guernsey County Health Department had received an IRS audit finding that stated members of a board of health are to be considered employees for federal tax purposes.

Ms. Lambert further stated that she had sent the opinion issued in September 2010 by the Ohio Attorney General regarding this issue to both the Prosecutor's Office and the Auditor's Office for guidance. Elizabeth Mason, Assistant Prosecuting Attorney, agrees that board of health members should now be reported as employees and that income should be reported on a W-2 instead of a 1099. Ms. Lambert stated that the Auditor's Office will implement this change effective May 1, 2011.

Mr. Hansbauer stated that he did not want to have earnings reported via W-2 and that this would be his last board of health meeting. Mr. Hansbauer stated that it was not in his best interest to receive a W-2.

Ms. Lambert asked Ms. Mason if it was possible for board of health members to continue receiving earnings via a 1099 form. Ms. Mason stated that penalties could arise from an IRS audit. Ms. Mason further stated that the statute seemed very clear on the issue that board members should be considered employees for the purpose of federal taxes.

Ms. Lambert stated that she would try to get additional information on possible options from the Auditor's office prior to the next Board of Health meeting.

Reorganization of Board – This item was tabled until May 11, 2011 Board of Health meeting.

3) Proposed Revision of Public Health Nuisance Regulation 4-10 – Ms. Lambert stated that this revision would allow for either a fence or a cover, whichever is in accordance with local zoning. In areas where no zoning exists the 48 inch fence would continue to be required. Ms. Lambert stated that if the Board agrees to this change the first of three readings would be held at the May 11, 2011 meeting.

4) Resolution for 2012 CDBG Application – Ms. Lambert reported that due to the timeline involved, an application for \$150,000 in Community Development Block Grant funds had been submitted with the formal Board of Health resolution to follow.

Mr. Crum made a motion to adopt Resolution 02-11 authorizing submittal of an application for Community Development Block Grant funds to the Board of Clermont County Commissioners. The motion was seconded by Dr. Khan. The vote was all aye, motion carried. (Attachment # 5 &6)

5) Renewal of TB Agreement with Hamilton County – Ms. Lambert presented the renewal agreement with Hamilton County for TB consultant services, noting there was no change in the rate of compensation. She related that the Health District nurses were very pleased with the TB services provided by Hamilton County during the past year. Ms. Lambert requested the Board grant her approval to sign the renewal agreement contingent on approval by the Prosecutor's Office.

Mr. Cadwallader made a motion to grant approval for the Health Commissioner to sign the renewal agreement with Hamilton County for TB services, contingent on approval by the Prosecutor's Office. The motion was seconded by Mr. Crum. The vote was all aye, motion carried. (Attachment #7)

6) Approval of Health Spaces Software Contract – Ms. Lambert presented the Health Spaces Software Contract. Ms. Lambert stated that the software will be used for management of Environmental Health Programs with an initial start-up cost of \$10,100 and an annual support/maintenance fee of \$3,920. Ms. Lambert requested approval to sign the contract.

Mr. Crum made a motion to grant approval for the Health Commissioner to sign the Health Spaces Software Contract. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried. (Attachment #8)

Mr. Crum stated that support for software programs is frequently outsourced and that the support frequently becomes a problem. He suggested that staff obtain information from the company on the future support intentions (in-house or outsourced) but he did not feel this information should hold up the contract execution.

7) Cost Allocation Plan – Ms. Lambert presented the Cost Allocation Plan which was created so that grants paid a fair portion of expenses that are shared such as vehicles, copiers and postage. Ms. Lambert requested approval of the Cost Allocation Plan to use with all grant funded programs.

Mr. Crum made a motion to approval of the Cost Allocation Plan to use with all grant funded programs. The motion was seconded by Dr. Khan. The vote was all aye, motion carried. (Attachment #9)

8) Approval to Sign OSU Training Contract for staff CQI Training – Ms. Lambert requested approval to sign the OSU Training Contract for staff CQI Training in the amount of \$2,265. This contract will provide continuous quality improvement workshops for all Health District employees.

Mr. Cadwallader made a motion to grant approval for the Health Commissioner to sign the OSU Training Contract for CQI Training. The motion was seconded by Mr. Crum. The vote was all aye, motion carried. (Attachment #10)

9) Approval to Sign Lead Poisoning Prevention Agreement with ODH – Ms. Lambert requested approval to sign the revised contract with ODH to assist with high lead level case management but would not include the healthy home portion of the agreement.

Dr. Khan made a motion to grant approval for the Health Commissioner to sign the Lead Poisoning Prevention Agreement with ODH. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried. (Attachment #11)

Approval of Minutes – Mr. Hansbauer asked if there were any additions or corrections to the minutes of the March, 9, 2011 Board of Health Meeting. There were no additions or corrections.

Mr. Crum made a motion to approve the minutes of the Marcy 9, 2011, Board of Health meeting. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried.

Payment of Bills – Ms. Lambert presented the Health District's bills for consideration. Ms. Lambert related that the bills for the month were in two separate batches due to Munis being updated. Following the Board's review, Mr. Cadwallader made a motion to pay the bills in batch one in the amount of \$33,396.44 as presented. The motion was seconded by Dr. Khan. The vote was all aye, motion carried. (Attachment #12)

Following the Board's review, Dr. Khan made a motion to pay the bills in batch two in the amount of \$6,271.30 as presented. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried. (Attachment #13)

OLD BUSINESS:

1) Public Health Nuisances/Code Violations – Ms. Lambert presented the addresses of 12 properties to be considered public health nuisances/code violations.

Following a review of the files, Dr. Khan made a motion to declare the properties listed on Attachment #14 public health nuisances/code violations and if corrections are not made within the allotted time, to refer the cases to the Health District's legal counsel for appropriate action. The motion was seconded by Mr. Crum. The vote was all aye, motion carried. (Attachment #14)

2) Sewer Connections – Ms. Lambert presented the addresses of 3 properties to be ordered to connect to public sewer.

Mr. Cadwallader made a motion to order the properties listed on Attachment #15 to tie into public sewer. The motion was seconded by Mr. Crum. The vote was all aye, motion carried.

Other Information

* Robert Perry gave an update on Hong Kong Wok. Mr. Perry stated that March, 2011 was the deadline for all structural repairs to be made and those corrections have been completed. Mr. Perry also stated that the operator is still in the process of completing a cleaning schedule.

* The Health District has been working with the County's Human Resources Department to establish a wellness program. The Clermont County Wellness Program is kicking off with Move A Measured Mile which begins April 18, 2011.

* Final acquisition of a Wholesale Distributor License from the State Pharmacy Board which would allow the Health District to move pharmaceuticals legally in a non-emergency situation is imminent. A few loose ends remain before the license will be issued.

* Health District has been scheduled to receive \$165,000 from the Water Pollution Control Loan fund proposal that was submitted jointly with the County Commissioners to replace failing septic systems. A public hearing is set for April 29th. (Attachment #16)

ADJOURNMENT

Dr. Khan made a motion to adjourn the meeting at 9:25 p.m. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried.

JAMES HANSBAUER, PRESIDENT

ANDREW CRUM, V-PRESIDENT

DR. JOSEPH KHAN

DR. JANET RICKABAUGH

LARRY CADWALLADER

Respectfully Submitted