

**Clermont County General Health District  
Board of Health Meeting – Special Session**

A special session of the Clermont County Board of Health was held on April 29, 2009, at 9:00 a.m. The purpose of the special session was to conduct a Smoke-free Workplace Administrative Review for House of Billiards, 624 Ohio Pike, Cincinnati, Ohio, 45245.

James Hansbauer, President, called the meeting to order at 9:00 a.m.

Roll call:        James Hansbauer, present                    Dr. William Miller, present  
                      Dr. Janet Rickabaugh, present                Andrew Crum, present  
                      Larry Cadwallader, present

Others present included: Marty Lambert, Health Commissioner; Elizabeth Mason, Assistant Prosecuting Attorney for Clermont County; Rob Perry, Director of Environmental Health; Linda Walsh, Registered Sanitarian, Megan DeLane and Sarah Pounder, Sanitarians-in-Training, staff from the Environmental Health Division; Donna Hart, Administrative Assistant; Julie Patrick, court reporter; James Fernella, owner of House of Billiards; and Terrell Snyder, Attorney representing Mr. Fernella.

**Smoke-free Workplace Administrative Review**

**House of Billiards** - On behalf of the Clermont County Board of Health, Marty Lambert, Health Commissioner, called to order the Administrative Review of the Clermont County General Health District's Notice of Proposed Civil Fine in the amount of \$5,000 issued to House of Billiards, 624 Ohio Pike, Cincinnati, Ohio. It was noted that the Health District was represented by Elizabeth Mason, Assistant Prosecuting Attorney for Clermont County and House of Billiards was represented by Attorney Terrell Snyder.

Ms. Lambert stated the purpose of the Administrative Review and presented an overview of the administrative review procedures which would be followed.

Ms. Mason presented a summary of the Smoke-Free Workplace inspection history for House of Billiards, including complaint # 7472 which was made on January 16, 2009, and the resulting \$5,000 fine.

Megan DeLane was sworn in and gave testimony regarding her investigation on January 22, 2009, of the smoking complaint made against House of Billiards, 624 Ohio Pike, Cincinnati, Ohio. It was stated that the amount of the fine, \$5,000, was based on 4 prior violations issued against the establishment and on her observations during the inspection which indicated the management was intentionally violating the Smoke-Free Workplace regulations. Ms. DeLane stated she observed 4 patrons smoking, with ashtrays available, all within view of the management person on duty.

Linda Walsh was sworn in and gave testimony regarding a previous inspection she had conducted at the House of Billiards, 624 Ohio Pike, on August 26, 2008. Ms. Snyder noted that although the hearing was only to consider the inspection on January 22, 2009, and resulting \$5,000 fine, she felt it was necessary to address the August 26, 2008 inspection since the \$5,000 doubled fine was in part based on the results of the previous inspection.

A short recess was called in order to make copies of documents relating to the previous inspection completed on August 26, 2008.

James Fernella, owner of House of Billiards, 624 Ohio Pike, was sworn in and gave testimony in defense of House of Billiards regarding the complaints against the facility and the Health District staff's investigation of the complaints. Mr. Fernella testified that regardless of past action by himself or his employees with regard to smoking in his establishment, he has now emphatically instructed his employees that they are to strictly enforce the no-smoking law in his establishment and if an employee violates this directive, they will be terminated. Mr. Fernella requested the Board's consideration in mitigating the \$5,000 Smoke-free Workplace civil fine levied against his business.

Following the presentation of summaries by Ms. Mason and Ms. Snyder, Ms. Lambert related that the Board of Health would deliberate the matter involving House of Billiards in Executive Session. She stated that a copy of their final decision would be mailed to Mr. Fernella and his legal counsel, Ms. Snyder, within 30 days of the next Board of Health meeting scheduled for May 13, 2009, at which time the minutes of today's special meeting will be approved. Ms. Lambert informed Mr. Fernella that if he wanted to wait until the Board returned to Regular Session, he would be told their decision today, with formal notification to follow after the May 13, 2009 Board of Health meeting.

The hearing was closed at 10:30 a.m.

Prior to convening Executive Session, Ms. Lambert updated the Board on the Health District's activities relating to the H1N1 Swine Flu epidemic. She related that conference calls were being held by local Health Commissioners on a daily basis and the Health District was receiving daily updates from ODH and CDC. In addition, the Health District has established a Joint Information Center (JIC) and the website and hotline were being updated daily.

Ms. Lambert noted that the Health District staff had been planning and training for the past 3 years on its response to a pandemic flu event. She stated that while most of the confirmed flu illnesses seem to be relatively mild at the present time, the next two weeks will show to what extent the flu will spread and if the virus will change in such a way as to cause more serious flu illnesses. Ms. Lambert related that there is currently no vaccine against the H1N1 flu and it typically takes 4 to 6 months to develop a new vaccine.

Ms. Lambert related that anti-virals were being distributed from the CDC Strategic National Stockpile to all states. The anti-virals will then be distributed by the states to locals as soon as they are needed. The anti-virals received for Clermont County will be stored at a secure location in the county. She noted that since the Health District's Point of Dispensing (POD) plans were targeted for dispensing vaccines to well individuals, distribution plans were being developed to get the anti-virals to ill people. Ms. Lambert stated that due to the need to keep ill individuals away from well individuals the POD plans could not be used and several scenarios were being discussed as ways to get the anti-virals to persons where were ill.

Ms. Lambert assured the Board that the staff was watching the situation very carefully and was working diligently to be prepared for any local response which may be needed. She informed the Board that she would keep them updated on the situation.

At 10:35 a.m. Mr. Crum made a motion to go into Executive Session to discuss legal issues. The motion was seconded by Dr. Rickabaugh. The vote was all aye, motion carried.

At 10:50 a.m. Mr. Crum made a motion to return to Regular Session. The motion was seconded by Dr. Rickabaugh. The vote was all aye, motion carried.

Mr. Crum made a motion to reduce the amount of the Clermont County General Health District's Notice of Proposed Civil Fine levied against House of Billiards, 640 Ohio Pike, Cincinnati, Ohio, from \$5,000 to \$2,500. The motion was seconded by Dr. Rickabaugh. The vote was as follows: Mr. Hansbauer, aye; Mr. Crum, aye; Mr. Cadwallader, aye; Dr. Rickabaugh, aye; Dr. Miller, nay. The vote was 4 aye, 1 nay, motion carried.

Ms. Lambert informed Mr. Fernella that he would be receiving an invoice from the Ohio Department of Health reflecting the reduction in the fine and a total of fines outstanding.

Mr. Fernella thanked the Board for their action in mitigating the \$5,000 fine for his business.

#### **ADJOURNMENT**

Mr. Crum made a motion to adjourn the meeting at 10:55 a.m. The motion was seconded by Dr. Miller. The vote was all aye, motion carried.

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JAMES HANSBAUER, PRESIDENT

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ANDREW CRUM, V-PRESIDENT

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DR. WILLIAM MILLER

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LARRY CADWALLADER

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DR. JANET RICKABAUGH

Respectfully Submitted

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