

Clermont County General Health District  
Board of Health Meeting

The monthly meeting of the Clermont County Board of Health was held on June 9, 2010. James Hansbauer, President, called the meeting to order at 7:30 p.m. Mr. Hansbauer led the Board members and guests in the Pledge of Allegiance.

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; Julianne Nesbit, Assistant Health Commissioner; Robert Wildey, Director of Water and Waste; Rob Perry, Director of Environmental Health; Deena Elliott, Director of Nursing; Elizabeth Mason, Assistant Prosecuting Attorney; Linda Walsh, Registered Sanitarian II; Donna Hart, Fiscal Officer; Melissa Jones, Administrative Assistant; and others as listed on Attachments #1 & #2.

**Request to Vary from Connection to Public Sewers** — Ms. Lambert presented the variance submitted by the owner of the property located at 5628 Dry Run Road, Miami Township. The homeowner requested approval to vary from the requirement that the property be connected to available public sewers. Ms. Polizzi stated that she is currently living at the property with her elderly mother. She further stated that she is a widow living on Social Security and cannot afford the cost of the connection. She has contacted several banks to try to obtain a loan but does not qualify based on her circumstances.

Ms. Lambert reported that the last Basic System Assessment was done on this property in October, 2008 and Robert Wildey, Director of Water and Waste, was also at the property in April, 2010 to do a site assessment for CDBG Grant qualification purposes and at the time of these inspections the system was operating properly.

Following a discussion of the variance request and accompanying documentation, Dr. Rickabaugh made a motion to approve the variance request for the property located at 5628 Dry Run Road, Miami Township (14-V-10), granting an extension to the requirement the property be connected to the available public sewer until such time as the existing system malfunctions, ownership of the property changes or current residents no longer occupy the home regardless of ownership. If any of these situations occur, the requirement to connect to public sewer will be reinstated immediately. Approval was also contingent on the homeowner's agreement to all terms and conditions stipulated by the Health Department. The motion was seconded by Dr. Miller. The vote was all aye, motion carried.

**Board of Health Hearing — Mama's Grill — 4227 All Star Drive, Batavia Ohio 45103**

Ms. Lambert called the hearing to order and introduced the Board of Health members, Elizabeth Mason, Linda Walsh, Rob Perry, David Burgess, Attorney for Mama's Grill, Spiro Kritikos and Chris Kritikos, Representatives for Mama's Grill.

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

Ms. Mason presented a copy of the Agreed Order of Compliance signed by Mr. Kritikos in November, 2009. This document states that all critical violations would be addressed. Three subsequent inspections have been done at the facility and the situation has not improved. She would like the Board of Health to consider revoking the Food Service Operation license at this facility in the best interest of public health.

Ms. Mason asked Ms. Walsh to state her position and duties at the Health District. Ms. Walsh stated that she is a Registered Sanitarian II, and is assigned to the Batavia Township/Williamsburg area.

Ms. Mason asked Ms. Walsh to state what prompted this hearing. Ms. Walsh replied that numerous violations were consistently found at this establishment. At the time of the reinspection, items were not corrected and additional critical violations would be found.

Ms. Mason asked Ms. Walsh if a copy of the inspection listing the violations, instruction on how to correct the violation and the scheduled compliance date were given to the operator at the time of the inspection. Ms. Walsh stated yes.

Ms. Mason asked Ms. Walsh if any surprise inspections were done at this facility. Ms. Walsh replied that no surprise inspections had been done at this facility during this time period. They were all scheduled reinspections.

Ms. Mason asked Ms. Walsh if it was common to conduct Administrative Meetings with Food Service facilities. Ms. Walsh stated that it was not a common occurrence but a tool that was used in an attempt to bring facilities into compliance.

Ms. Mason asked Ms. Walsh if Mr. Kritikos was receptive to the Administrative Meeting and the conditions that had been agreed to. Ms. Walsh stated yes.

Ms. Mason asked Ms. Walsh if additional training had been offered to Mr. Kritikos. Ms. Walsh stated that she had offered to do in-house training at this facility.

Ms. Mason asked Ms. Walsh if anyone from the facility had asked her in the past 6 months to conduct this training. Ms. Walsh answered no.

Ms. Mason asked Ms. Walsh if she was aware of any training that had been taken by any employees of Mama's Grill. Ms. Walsh stated that she was not aware of any training that had been completed but that

Chris Kritikos had indicated that he had registered to take an 8 hour on-line food safety training. Ms. Mason asked Ms. Walsh if proper food handling procedures had been discussed with any employees for potentially hazardous foods. Ms. Walsh responded that there had been discussion about food handling during preparation, proper cooling and re-heating of potentially hazardous foods and proper food storage.

Ms. Mason asked Ms. Walsh if Mr. Spiro Kritikos signed the Agreed Order of Compliance from the November 10, 2009 Administrative Meeting. Ms. Walsh responded that she believed that the signature on the form was that of Mr. Kritikos.

Mr. Burgess interjected that he believed the Order to be very clear.

Ms. Mason asked Ms. Walsh if the inspection on March 30, 2010 was a routine inspection and what risk level Mama's Grill was licensed as. Ms. Walsh stated that the inspection on March 30, 2010 was a routine inspection and that Mama's Grill was licensed as a Risk 4 which requires 2 Routine Inspections and 2 Critical Control Point Inspections per license year.

Ms. Mason asked Ms. Walsh if critical violations were found during the March 30, 2010 inspection. Ms. Walsh stated that numerous reoccurring critical violations were found.

Ms. Mason asked Ms. Walsh if Mr. Kritikos had an explanation as to why these critical violations kept occurring. Ms. Walsh responded that Mr. Kritikos had stated he was having staffing problems at the facility.

Ms. Mason asked Ms. Walsh what was discussed at the May 24, 2010 meeting with Mr. Spiro Kritikos, Mr. Chris Kritikos and Mr. Burgess. Ms. Walsh stated that they discussed creating a HACCP plan for popular menu items, owners taking Sery Safe training and other management staff taking Level 1 Person-In-Charge training and creating and using temperature logs for the cooler that was having problems.

Ms. Mason asked Ms. Walsh if the violations were corrected when she conducted an inspection on June 7, 2010. Ms. Walsh stated that some of the violations had been corrected.

Ms. Mason asked Ms. Walsh if she saw any improvement in the facility. Ms. Walsh stated that she had seen some improvement with temperatures but food and chemical storage, handwashing issues and dented cans were still found.

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

Lambert asked if Mr. Burgess had questions for Ms. Walsh.

Mr. Burgess asked Ms. Walsh who had delivered the Notice of Administrative Meeting to Spiro Kritikos. Ms. Walsh stated that she had delivered it on November 4th.

Mr. Burgess stated he found no specific date for the violations to be corrected and asked Ms. Walsh that if no compliance date is listed on the Agreed Order of Compliance form how could she not consider them to be in compliance. Ms. Walsh stated that the Board of Health Hearing was a result of the facility's ongoing "failure to maintain" history and not because of a specific violation.

Mr. Burgess asked Ms. Walsh if the proprietors were given written copies of inspections with deadlines to complete corrections. Ms. Walsh stated that yes they were given a copy of the written inspection reports with the reinspection date noted.

Mr. Burgess asked Ms. Walsh if the "corrected" notation on the left margin of the inspection report meant that the proprietor corrected the problem while she was in the facility. Ms. Walsh responded yes.

Mr. Burgess asked Ms. Walsh if she has seen any improvement. Ms. Walsh stated that some things had gotten better but that there had been no improvement in other areas.

Mr. Burgess asked Ms. Walsh if there was any written documentation on the current violations and when they should be corrected. Ms. Walsh stated that the inspection report was left at the facility and the pending reinspection is scheduled for June 14<sup>th</sup>.

Mr. Burgess stated that he feels like significant progress has been made with only 2 violations remaining. He feels that these 2 violations can easily be corrected. He further stated that his clients main objective is to have no violations.

Mr. Burgess asked Ms. Walsh if she had spoken to Chris Kritikos about the last inspection. Ms. Walsh stated that she had spoken to Chris.

Mr. Burgess asked Ms. Walsh about the dented cans that were mentioned on her report and wanted to know if there was actual oozing from the can. Ms. Walsh stated that there was no leakage.

Mr. Burgess spoke on behalf of Mama's Grill to describe the ongoing problems at the facility. He indicated Mr. Chris Kritikos, the son of Spiro Kritikos, currently manages Grandma's Pizza in Williamsburg. He was asked by his father in mid May to help manage Mama's Grill. He is working to develop procedures for storing, handling and reheating potentially hazardous food and other operational issues at the facility. Mr. Burgess further stated that staffing issues have been a contributing factor to the problems that had been seen at the facility.

Ms. Mason wanted to follow up on an issue and asked Ms. Walsh if the violations that were marked "corrected" were corrected after they were pointed out. Ms. Walsh stated that they were.

Ms. Lambert asked if the Board had questions for Ms. Walsh

Dr. Miller stated that he feels like the Health District is not doing a good job for the citizens of Clermont County. He stated that he felt that these violations should not keep occurring and that the facility should lose their license.

Ms. Lambert explained the challenges associated with facilities that fail to maintain their operations in substantial compliance with the Food Safety Code. She indicated it can take a significant amount of time to establish that the same types of violations are occurring over and over since they are typically corrected after inspections and the operation slips back into unacceptable practices over time.

Mr. Crum asked Ms. Walsh if the dented cans were identified by the Ohio Department of Health as violations under the Food Safety Rules. Ms. Walsh stated yes.

Mr. Cadwallader asked Ms. Walsh if the cleaning supply storage and labeling was still a problem. Ms. Walsh responded that the violations found on the most recent inspection were corrected while she was in the facility but it is a continual problem.

Ms. Lambert gave the following overview of the timeline related to Mama's Grill:

- Administrative Meeting, November 10, 2009
- Routine Inspection, March 30, 2010
- Re-Inspection, April 9, 2010
- Board of Health Order, April, 2010
- Request to continue from May until June, 2010 Board of Health Meeting
- Meeting, May 24, 2010
- Routine Inspection, June 7, 2010

Ms. Lambert stated that she felt that there was too much time between the May and June Board of Health meetings so an interim meeting was scheduled with Mr. Spiro Kritikos, Mr. Chris Kritikos and Mr. Burgess to discuss steps that needed to be taken immediately.

Dr. Miller asked why the Health District had to do so many inspections to get compliance.

Ms. Lambert stated that it takes time to establish patterns and determine that non-compliance issues are recurring.

Ms. Lambert then asked Mr. Burgess if he would like to present any testimony.

Mr. Burgess asked Mr. Chris Kritikos to address the Board about how he had gotten involved in this process. Mr. Chris Kritikos stated that he became involved with his father's business when he was made aware of the magnitude of the issues. He stated that he is aware of the seriousness of the problems and how to get control of the employee and management issues that exist. He further stated that he has developed an operations manual and has enrolled in an on-line training course. He met with Ms. Walsh last week and identified the top hazardous foods served and he had created flow charts for several menu items. He feels that safety should come first. His goal is to have 100% compliance all of the time, not just when Ms. Walsh is due for an inspection.

Mr. Burgess asked Mr. Chris Kritikos to discuss any further steps that had been taken to bring the facility into compliance. Mr. Chris Kritikos stated that he had discussed the importance of compliance with all of the staff and that they were responsible for properly maintaining the facility. Managers will be completing the checklists that he has developed and temperature logs. A morning manager will check that this process is being done every morning and he will be at the facility every evening to verify that it is being done. He further stated that he feels that he has done everything that has been asked of him and more.

Mr. Burgess asked Mr. Chris Kritikos what had been done to correct the refrigeration problems. Mr. Chris Kritikos stated that a new refrigeration contractor had been hired and that temperatures were being monitored on a daily basis.

Mr. Burgess asked Mr. Chris Kritikos if he had an ownership in the business or if he had been hired by Spiro Kritikos in a management role. Mr. Chris Kritikos stated that he had no ownership in the business and was hired by Spiro Kritikos as a manager.

Ms. Lambert asked if Ms. Mason had questions for Mr. Chris Kritikos.

Ms. Mason asked Mr. Chris Kritikos if employees were given the information from the operation plan and if they were being trained. Mr. Chris Kritikos stated that all employees were in the process of being trained and did have access to the operation plan. He has told employees that if they don't do it right they will lose their jobs.

Ms. Mason asked Mr. Chris Kritikos what time commitment he had made to manage at Mama's Grill. Mr. Chris Kritikos stated that he would be there as long as it takes.

Ms. Lambert asked if the Board had any questions for Mr. Chris Kritikos.

Mr. Crum asked Mr. Chris Kritikos if he had attended Sery Safe Training. Chris stated that he had signed up for an on-line course.

Mr. Crum asked that the Board be given an opportunity to review the operation plan that Mr. Chris Kritikos has developed. He then gave them his notebook to review.

Ms. Lambert asked Mr. Chris Kritikos who was responsible when the morning manager or he wasn't in the facility and if that person had received Sery Safe Training. Mr. Chris Kritikos stated that Mr. Spiro Kritikos would be responsible and that he had not yet signed up for training but would be signing up.

Mr. Crum asked Mr. Chris Kritikos if he had any temperature log sheets. Mr. Chris Kritikos stated that the temperatures are written on a dry erase board and re-done every shift. Mr. Crum told Mr. Chris Kritikos that the logs needed to be a permanent record and available to the Health District upon request.

Ms. Mason asked Mr. Chris Kritikos if he understood that the Health District wanted to see no violations. Mr. Chris Kritikos stated that he did understand.

Ms. Mason stated that the Health District has been looking for that since November, 2009.

Mr. Burgess stated that they are currently in compliance and have 2 minor violations to be corrected before the reinspection on June 14<sup>th</sup>

Mr. Crum made a clarification on the reason for the hearing to Mr. Burgess and Mr. Kritikos. He stated that they were not in compliance and that the failure to maintain was the problem for this Food Service Operation. The fact that the facility improves for a short time only to fall back into non-compliance time after time is unacceptable.

Mr. Chris Kritikos stated that he is willing to do whatever it takes.

Ms. Lambert asked if anyone had further questions or comments. When there were no further questions or comments, Ms. Lambert addressed the Board members and advised them that they had four options in this matter; to do nothing, to suspend the license for a specified amount of time, to revoke the license or establish a timeline of corrections that need to be made and verify that those deadlines are met. Ms. Lambert further stated that the Health District could not determine if needed changes were implemented if the business was not operating.

Mr. Crum suggested that the Board of Health become a fixture in the establishment. If progress is noted inspections could be less frequent. He asked Ms. Lambert if it was feasible to have a Sanitarian in the facility that frequently. Ms. Lambert replied that the Health District would do whatever needed to be done.

Mr. Chris Kritikos stated that he felt that Mr. Crum's suggestion is very fair. This will allow him the opportunity to train staff on the new processes and have everything up to par in one month.

Ms. Mason asked Ms. Lambert if the Health District staff had reviewed the operation plan and if so made suggestions on things that were omitted. Ms. Lambert stated that a Health District representative

Mr. Crum made a motion to go into Deliberative Session to discuss further action on this matter. The motion was seconded by Dr. Rickabaugh. The vote was all aye, motion carried. Deliberative Session began at 8:55 p.m.

The Board came out of Deliberative Session at approximately 9:25 p.m.

Mr. Crum made a motion to appoint Ms. Lambert to oversee the progress of the facility and to table any further action until the July, 2010 Board of Health Meeting. Prior to the July, 2010 meeting a timeline for corrective actions for the facility must be made and agreed upon. If the timeline was met to the satisfaction to the Health District then no action would occur at the July meeting and the hearing would be closed. In addition, the facility must have full facility HACCP plans in place by the December, 2010 Board of Health meeting. The motion was seconded by Dr. Miller. The vote was all aye, motion carried.

Ms. Lambert, Mr. Perry, Mr. Spiro Kritikos and Mr. Chris Kritikos set a meeting for 10:00 a.m. on June 10, 2010 to complete and sign a corrective action plan with an associated timeline.

**Black Water Holding Tank Request & Extensions — (#s 1,3 & 4) —** Ms. Lambert noted that paperwork for homeowners #'s 1,3 & 4 who were requesting renewal for their blackwater holding tank variance was in order.

Dr. Miller made a motion to grant a 1 month extension for the blackwater holding tank renewals #1,3 & 4.

1. Callahan — 6897 Goshen Road, Goshen Township (31V03)
3. Burgher— 1220 Mulligan Lane, Miami Township (16V09)
4. Helton — 2231 West Road, Monroe Township (19V09)

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

**The** homeowners who were not in attendance will be contacted regarding the non-renewal of their blackwater holding tank variance.

**High Weed Abatements** — Ms. Lambert noted that the listed properties were ordered to abate the high weeds on their properties at **the** May, 12, 2010 Board of Health meeting and the high weed condition remained. They then were ordered to appear before the Board at the June 9, 2010 meeting to explain why they had not proceeded with the abatement. None of the cited homeowners were in attendance.

Mr. Miller made a motion to abate the high weeds conditions on the following properties:

1. 4063 Maple Drive, Williamsburg OH 45176

2. 4206 Edinburg Drive, Union Twp.
3. 4238 Zagar Drive, Union Twp.
4. 837 Veralois Lane, Miami Twp.
5. 11 McCarthur Drive, Batavia Twp.
6. 3915 Pebble Creek Lane, Batavia Two.

The motion was seconded by Mr. Crum. The vote was all aye, motion carried.

**NEW BUSINESS:**

**1) Mrs. Elaine Miller, 3991 After Elklick Road** — Ms. Lambert related to the Board that during a routine Basic System Assessment it was found that approximately 100 feet of the curtain drain pipe had been replaced and that Mrs. Miller felt that this was a maintenance function and not an alteration to her sewage treatment system. Mrs. Miller's son, Kevin Miller, spoke on her behalf and addressed the Board stating that he has an extensive background in sewage treatment systems and inspects his mothers system a few times a year. A problem was noted with the curtain drain this spring. He replaced a broken curtain drain pipe with a new pipe in the same location. He had done some research on the Health District website and didn't find any information other than alteration information. He didn't believe this work to be a "substantial" alteration and didn't realize a permit would be required.

Ms. Lambert pointed out that the homeowners had not been charged a penalty fee for not obtaining the permit prior to performing the work because there appeared to be legitimate confusion.

Robert Wildey, Director of Water and Waste, addressed the Miller's and stated that he was thrilled that preventative maintenance is being done on the system. He stated that the alteration permit process was established in 1997 and updated in 2005. This process was established to verify that the alteration was done correctly.

Ms. Lambert stated that the Health District may need to work on addressing the information on the website to eliminate any confusion in this area.

Mr. Miller asked the Board if they would consider refunding the permit fee since there was so much confusion over this matter.

Ms. Lambert stated that the current fee was established to cover the cost of the Health District doing the inspection to verify that the alteration was done correctly and that since the inspection had been done the Board would typically not refund any fees.

Mr. and Mrs. Miller thanked the Board for their time. The Board of Health members thanked Elaine and Kevin Miller for bringing this information to their attention.

**2) Personnel Issues** – It was the consensus of the Board to discuss personnel issues later in the meeting.

**3) Food Service Administrative Meeting Update** - Mr. Perry addressed the Board and related that two administrative meetings had been held since the May 12, 2010 Board of Health Meeting. They were:

a) Hong Kong Wok for failure to comply with cleaning issues and a cockroach infestation. A complaint was received by the City of Milford about cockroaches coming from this establishment after the strip building experienced a sewer back up. The problems at this establishment have been corrected.

b) Gold Star Chili, New Richmond, for failure to maintain. This facility was having problems with proper handling of their cooked spaghetti and equipment failure. These items have not been corrected.

**4) 2<sup>nd</sup> Reading of Resolution Establishing a Fee Pursuant to Ohio Revised Code Sections 3709.09 and 3709.21 for the provision of Plan Review For Proposed Tattoo & Body Piercing Establishments** — Ms. Lambert conducted the 2<sup>nd</sup> reading of the resolution establishing a plan review fee of \$100.00 for a Plan Review fee for proposed Tattoo & Body Piercing Establishments.

**5) 1<sup>st</sup> Reading of Resolution to Waive the Vaccine Administration Fee For Adults Receiving Low Cost or No Cost Vaccines Provided by the Ohio Department of Health When Said Individuals Represent They Have No Ability to Pay the Administration Fee** — Ms. Lambert conducted the 1<sup>st</sup> reading of the resolution waiving the administration fee for low cost or no cost vaccines when individuals represent they have no ability to pay.

**6) Procurement Card Policy and Procedures** — Ms. Lambert related to the Board current problems with using credit cards. Ms. Lambert further stated that Clermont County uses a procurement card and she would like to adopt this policy.

Mr. Cadwallader made a motion to adopt the Clermont County Procurement Card Policy and Procedures. The motion was seconded by Dr. Rickabaugh. The vote was all aye, motion carried..

(Attachment #3)

**Approval of Minutes** — Mr. Hansbauer asked if there were any additions or corrections to the minutes of the May Board of Health Meeting. There were no additions or corrections.

Mr. Crum made a motion to approve the minutes of the May 12, 2010, Board of Health meeting. The motion was seconded by Dr. Rickabaugh. The vote was all aye, motion carried.

**Payment of Bills** - Ms. Lambert presented the Health District's bills for consideration. Following the Board's review, Dr. Rickabaugh made a motion to pay the bills as presented. The motion was seconded by Mr. Crum. The vote was all aye, motion carried. (Attachment #4)

**Advancement of All Available Township & Village Monies** — Mr. Lambert requested the Board approve the request for an advancement of all available township and village monies.

Dr. Rickabaugh made a motion to approve the advancement of township and village monies. The motion was seconded by Mr. Crum. The vote was all aye, motion carried. (Attachment #5)

**OLD BUSINESS:**

**1. Public Health Nuisance/Code Violaionts** — Ms. Lambert presented the addresses of 22 properties to be considered public health nuisances/code violations.

Following a review of the files, Dr. Miller made a motion to declare the properties listed on Attachment #6 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 #6)

**2. Sewer Connections** — Ms. Lambert presented the addresses of 6 properties be ordered to connect to public sewer.

Mr. Cadwallader made a motion to order the properties listed on Attachment #7 to tie into public sewer. The motion was seconded by Dr. Rickabaugh. The vote was all aye, motion carried. (Attachment #7)

**Personnel Issues** — At 9:45 p.m. Mr. Crum made a motion to go into Executive Session to discuss personnel issues relating to proposed staff salary adjustments and promotions. The motion was seconded by **Mr.** Miller. The vote was all aye, motion carried.

At 9:50 p.m. Dr. Miller made a motion to return to regular session. The motion was seconded by Mr. Crum. The vote was all aye, motion carried.

Ms. Lambert recommended that the Board approve the promotion of David Hays to Water and Waste Technician II effective 7/1/2010.

Dr. Miller made a motion to approve the promotion with the recommended increase. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried. (Attachment #8)

Ms. Lambert recommended the Board approve staff raises as proposed.

Dr. Rickabaugh made a motion to approve staff raises as proposed. The motion was seconded by Mr. Cadwallader. The vote was all aye, motion carried. (Attachment #9)

**Other Information** — Ms. Lambert related to the Board a memo received from the Ohio Department of Health thanking Rob Perry for his compassion and understanding when assisting a Clermont County resident who called ODH to report Rob's exceptional response.

Ms. Lambert stated that congratulations were in order for Rob Perry. He will be graduating on 6/12/2010 with his Master's Degree in Public Health.

Ms. Lambert advised the Board that she will be on vacation June 21, to June 25, 2010.

**ADJOURNMENT**

Dr. Miller made a motion to adjourn the meeting at 10:00 p.m. The motion was seconded by Mr. Cadwallader. 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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DR. JANET RICKABAUGH

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LARRY CADWALLADER