



**CITY OF BURLINGTON  
BOARD OF HEALTH**

645 Pine Street  
Post Office Box 849  
Burlington, VT 05402-0849  
802-863-0442  
802-652-4221 FAX  
802-863-0450 TTY

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**BOARD OF HEALTH**

Alan R. Sousie, Chair • Fernand C. Crete • Ian C. Galbraith • Mary D. Hart • James Vos

**BOARD STAFF ASSISTANT**

Margaret Van Brunt

**HEALTH OFFICER**

Kathleen Butler

**BOARD OF HEALTH REGULAR MEETING  
WEDNESDAY, MAY 27, 2009**

The meeting was commenced at 5:30 p.m. on Wednesday, May 27, 2009 in the DPW Front Conference Room at 645 Pine Street. Present were Chair Sousie; Members Galbraith, Crete, Hart, and Vos; Staff Assistant Van Brunt; Health Officer and Interim Code Enforcement Director Eugene Bergman; Deputy Health Officer Matthew Perry; and Burlington residents Beverly Wemple, Patrick Kinner, Andrew Goodwin, Peter Hayden, Jim Schweithelm, and Jerry Manock.

1. Approval of Agenda

Chair Sousie suggested adjusting the agenda so that Item 9 (Staff Reports: Status of Investigations relating to Interval pig farm) would be part of Item 3 (Consideration of Investigations re: In-City Burning at 120 East Avenue). Change to agenda approved unanimously.

2. Approval of Minutes

Members reviewed the April 2009 meeting minutes and the May 4 Special Meeting minutes. April 2009 Minutes approved unanimously. Motion to accept minutes of special meeting on May 4 made by Member Hart, seconded by Member Vos. Motion passed unanimously.

3. Consideration of Investigations

a. In-City Burning at 120 East Avenue

Health Officer and Interim Code Enforcement Director Eugene Bergman introduced himself and Deputy Health Officer Matthew Perry and requested that the Board take evidence from residents who live near 120 East Avenue who were direct witnesses to the situation at that address. Health Officer Bergman stated that his and Deputy Health Officer Perry's intention was to request a health order from the Board of Health regarding the operation of a wood-fired boiler at 120 East Avenue as the Code Enforcement Office

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reached the conclusion that the nature of the burning constituted a public health risk. Deputy Health Officer Matthew Perry addressed the Board stating that he could answer any questions the Board members may have regarding the material presented to them in the packet sent to owner of 120 East Ave, Mr. Peter Hayden, pertaining to Inspector Perry's findings and the intent to seek a health order from the Board of Health. Inspector Perry noted that there had not been any incidences of burning reported since April 10, 2009. Inspector Perry summarized his interactions with Mr. Hayden, stating that he discussed possible causes with Mr. Hayden, asked that Mr. Hayden request to have the installation permit closed out by the Plumbing and Mechanical Inspector in the Department of Public Works, that the Fire Department never saw any evidence of unauthorized materials being burned in the boiler, and that a determination had not been made regarding what was causing the smoke and smell that constituted the health risk. Chair Sousie asked if the boiler had been inspected. Inspector Perry responded that it has not yet been inspected but that Mr. Hayden has been in communication with the Plumbing and Mechanical Inspector in the Department of Public Works to request the inspection. Inspector Perry added that he may order Mr. Hayden to arrange to have the inspection and request that the installation permit be closed if he does not do so himself. Member Hart inquired whether the boiler was used to heat the home. Inspector Perry confirmed that the boiler is used to heat the home and water, and also confirmed that the boiler is separate from the building. Discussion followed regarding possible causes of the smoke and smell. One suggested possible cause was the nature of the wood being burned. Inspector Perry stated Mr. Hayden had stated that some of the wood he had burned was "funky."

At this point, Chair Sousie invited members of the public affected by this health risk to address the Board. Andrew Goodwin, resident of Bilodeau Court, introduced himself and addressed the Board, stating that the neighbors' concern is centered on the noxious fumes and smoke being emitted from the wood-burning boiler, not the fact that Mr. Hayden is using a wood-burning system. Mr. Goodwin stated the incidents with the noxious fumes and smoke began last fall when the wood-fired boiler was installed (it was added that the boiler was installed in August). Mr. Goodwin stated it was difficult to be outside when the boiler was in use due to the fumes and smoke and this was when the neighbors became concerned. Mr. Goodwin stated that some neighbors told him the Mr. Hayden had offered them some wood which the neighbors thought did not appear to be in appropriate condition for burning. Mr. Goodwin acknowledged that Mr. Hayden had attempted to make some modifications to the boiler to keep the smoke pushed upwards and away from the neighboring properties but that it did not seem to have worked. Mr. Goodwin stated the kids in the neighborhood had stopped wanting to play outside because the smell was too bad and that houses' windows had to be closed to keep the smell and smoke out. Mr. Goodwin reiterated that the bottom line is that they (the neighbors) are concerned about what is being burned and whether it is safe, and that they do not have a problem with hard wood being burned in the boiler.

Beverly Wemple, resident of Case Parkway, introduced herself and addressed the Board. Ms. Wemple stated the only thing she wished to add to Mr. Goodwin's statement was that this was not a personal matter against Mr. Hayden, that they are just concerned about the health risk, about the material being burned. Ms. Wemple confirmed that she experience multiple occasions on which the noxious fumes and smoke were pervasive at her property. Mr. Goodwin added that he had spoken to Mr. Hayden about the neighbors' concerns and

again acknowledged that Mr. Hayden had attempted to modify the boiler in such a manner to prevent the production of the noxious fumes and smoke.

Patrick Kinner, resident of Case Parkway, introduced himself and addressed the Board. Mr. Kinner stated there had been four instances in which the smoke had been very problematic, very thick and dark, with a very strong smell. Mr. Kinner stated that each time he and his family were forced to leave their yard and go inside. Mr. Kinner stated that his two year old son has asthma and that he very strongly believes that the smoke caused his son's coughing to become so severe that he required his asthma medicine. Mr. Kinner stated his son was not sick from anything else at the time, there was nothing else that could have prompted it. His son had been exposed to the smoke from the boiler. Mr. Kinner stated there was one instance in which he was walking home on East Avenue where he witnessed cars on East Avenue having to slow down due to the dark smoke. Mr. Kinner stated that all he had called the Fire Department for three of the incidents and the Police Department for one of the incidents. Member Crete inquired whether Mr. Kinner's child has any other conditions that he is aware of such as allergies to pollen. Mr. Kinner stated that his child does not have any other conditions such as allergies of which he is aware. Brief discussion followed involving the Board members and testifying residents.

Chair Sousie invited the owner of 120 East Avenue, Mr. Peter Hayden, to address the Board. Mr. Hayden introduced himself and addressed the Board. Mr. Hayden stated he had installed a wood-fired hot water boiler that was piped into the house at 120 East Avenue and that he had been burning wood that he'd been given for free, some of which he stated was of dubious quality, partly rotted. Mr. Hayden explained some of the adjustments he made on the boiler and stated that he does not understand the chemical smell that is issuing from the boiler because he is just burning wood. Mr. Hayden stated that prior to the communication he received from the Code Enforcement Office of the intent to seek a health order from the Board of Health, only one neighbor had mentioned the issue to him. Mr. Hayden stated he was somewhat unaware of the degree to which the noxious fumes and smoke were affecting people in the neighborhood. Discussion followed between the Board members and Mr. Hayden. Member Crete inquired whether Mr. Hayden had considered buying and using more reputable wood to see if the quality of the wood is the source of the problem. Mr. Hayden stated he had run out of wood and was not currently using the boiler but that he had thought of trying that. Brief discussion followed of whether extending the "stack" on the boiler would allow the wind to carry the smoke away from the neighborhoods. Member Vos inquired whether Mr. Hayden had asked the previous owner of the boiler if there had been any problems. Mr. Hayden stated that he had taken the boiler out of a house and made some adjustments, but he had not asked if there were any problems. Mr. Hayden stated he believed the boiler was used previous for coal, then oil, and then gas. Chair Sousie noted that in light of this information, it was very possible that there is a build up of residue in the boiler from the pervious fuel sources that may be causing the noxious fumes and smoke. Mr. Hayden stated he had brushed the boiler out when he acquired it but that he had not gotten it "shiny." Chair Sousie stated he would firmly support Member Crete's suggestion of testing reputable wood. Member Galbraith also suggested having a professional look at the boiler to see if there was any residue.

At this point, Mr. Goodwin of Bilodeau Court addressed the Board, stating that if Mr. Hayden was willing to try using more reputable wood as a fuel source, he and Ms. Wemple would like to pay for the wood. Chair Sousie acknowledged the generosity of this offer.

Health Officer Bergman addressed the Board and stated that if the Board does issue a health order per the Code Enforcement Office's request that the order be amended to add that the DPW Plumbing and Mechanical Inspector inspect the boiler and close the permit, that the wood source be changed and tested, and that if the problem persists that the use of the boiler be discontinued, that the boiler be cleaned, retested, and replaced if the problem continues to persist. Bergman also requested that a provision be included in the health order that the test be done at a time which is the least problematic for the neighborhood. Chair Sousie stated that the health order will also include a provision that the Code Enforcement Office be notified of the date and time the boiler will be tested, adding that the boiler is not to be tested or used in any manner until the Plumbing and Mechanical Inspector has inspected the unit and closed the permit. Chair Sousie also stated that the Board will expect that the testing be completed and the problem resolved by the end of the summer. Health Officer Bergman requested that the health order indicate that there was testimony from witnesses. Chair Sousie requested the Staff Assistant Van Brunt and Health Officer Bergman make the necessary adjustments to the health order document.

b. Status of Investigations relating to Interval pig farm

Code Enforcement Case Manager Deborah Dalton introduced herself and addressed the Board. Dalton stated the Code Enforcement Office has been working with the Vermont Department of Agriculture since the problem at the pig farm arose. Dalton stated that up until a couple days ago, it was the Code Enforcement Office's belief that the farm was being handled appropriately as a result of our investigations and of the Vermont Department of Agriculture's assessment that the farmer was using accepted agricultural practices. Dalton noted that the seagulls appear to have been initially attracted to the farm by the food the farmer kept uncovered in a ravine, but that since that time the farmer has been keeping the food covered up. Dalton stated the Code Enforcement Office was drafting a communication to the affected citizens to inform them that the situation has been taken care of at this point, when two new complaints were received stating that the bird activity had increased. Code Enforcement Inspector Ita Meno went out to the area in response to the new complaints and found that the farmer had moved the pigs to a new area and that the seagulls were flocking to the area where the pigs had been and that the seagulls were feasting on remains left in that area. Dalton stated that Meno reported that the seagull activity was quite dramatic. Health Officer Bergman stated that based on this change in the situation, the Code Enforcement Office would like to seek a health order from the Board of Health. Discussion followed between the Board members, Bergman, and Dalton regarding the situation and arranging a special meeting to deal with the request for a health order. It was agreed that members of the community as well as the farmer should have an opportunity to come before the Board and explain what they have seen and experienced. The Board agreed to schedule a Special Meeting for Friday, June 5 at 5:30 p.m. to address the request for a health order. Brief discussion followed regarding the content of the health order to be drafted by the Code Enforcement Office.

#### 4. Public Forum

Chair Sousie opened the public forum. Jerry Manock, Burlington resident, introduced himself and addressed the Board. Mr. Manock stated that Jean Markey-Duncan had informed he and his wife of the Board's efforts to educate the public on pesticides and stated that he and his wife highly support this effort. Mr. Manock stated his wife has volunteered to be on the task force. Mr. Manock suggested that the Board might consider expanding its educational efforts to include information on the proper disposal of prescription medicines, citing a personal experience in which it was unclear to he and his wife, despite consulting with the appropriate government associations, how they were to properly dispose of excess prescription medications. Mr. Manock also stated that it may be beneficial to have some kind of tracking of the educational process to determine whether it was successful. Mr. Manock also inquired about a longtime sewer problem near Perkin's Peer. Mr. Manock stated the wind often carries a smell from the sewage treatment facility to that area and that the smell is unbearable. Mr. Manock suggested a change from aerobic to anaerobic at the treatment facility, which seems to have helped the situation in other cities. Mr. Manock also stated that the treatment facility had mentioned that they have a lot of vandalism, that people throw things over into the facility which can cause it to halt. Mr. Manock stated he is also concerned this could constitute a health risk for the community. Mr. Manock concluded by thanking the Board for their hard work.

Chair Sousie read a letter aloud to the Board from a Burlington resident who was unable to attend the meeting. The letter was from Donna Waldron. Ms. Waldron stated that she was pleased to see the publication in the North Avenue News about the pesticide ordinance. Ms. Waldron urged the Board and the Code Enforcement Office to commit to this mission. Ms. Waldron stated that she would like to go on the record as a concerned citizen.

Jean Markey-Duncan, Burlington resident, introduced herself and addressed the Board. Ms. Markey-Duncan brought up the educational task force, suggesting that they look for people to join the task force who may help to offer rival alternatives to pesticides. Ms. Markey-Duncan stated she has contacted someone at the University of Vermont who is supposed to call her back. Ms. Markey-Duncan also stated it would be great to get some people who have advertising/marketing skills. Ms. Markey-Duncan then summarized a situation that had recently occurred in which she had called the Code Enforcement Office when she believed TruGreen was spraying at a property in her neighborhood. Ms. Markey-Duncan stated she had called because they did not have the chemicals listed on the back of the signs as required by the ordinance. Ms. Markey-Duncan stated it turned out to not be TruGreen, but a small business. Ms. Markey-Duncan suggested that the Board look into finding a way to identify all such businesses that may operate in the City of Burlington and making sure to extend education to each business. Ms. Markey-Duncan also suggested that the Code Enforcement Office adjust their complaint response process because she had not heard anything about how this was resolved.

Bob Duncan introduced himself and addressed the Board. Mr. Duncan stated he would like to applaud the Board of Health for setting up the task force and for wanting to educate the public. Mr. Duncan suggested that the map printed in the North Avenue News be enlarged and made easier to read and decipher. Mr. Duncan then suggested that these

maps be posted in places where pesticide materials are sold. Member Crete stated that he has spoken with owners of some stores where pesticide materials are sold and received a lot of positive feedback regarding the possibility of posting signs in these establishments. Another suggestion was to include a flyer in electric or water bills envelopes. Ms. Markey-Duncan stated that she had been told by Jay Appleton that he could generate a list of all the properties in the 500 foot buffer zone in two weeks if requested.

Jim Schweithelm, Burlington resident, introduced himself and addressed the Board. Mr. Schweithelm stated Member Vos had asked him to attend the meeting to address the educational task force. Mr. Schweithelm stated he is interested and willing to be involved in the educational task force, adding that he currently sits on the Board of the Lake Champlain Committee. Mr. Schweithelm also stated that the Board of the Lake Champlain Committee is interested in the task force and that the executive director asked him to tell the Board of Health that the Lake Champlain Committee is willing to do whatever they can to help with this initiative. Chair Sousie stated that the relationship between the educational task force and the Lake Champlain Committee would be strengthened by Mr. Schweithelm's presence on the task force. Brief discussion followed.

Chair Sousie closed the Public Forum seeing that all members of the public had addressed the Board as desired.

#### 5. Final Approval of Hookah Smoking Rule as revised

Chair Sousie reviewed the suggestions made by the Health Commissioner's Office for changes to the proposed Hookah Smoking Rule. All approved of the suggestions. Chair Sousie summarized that the Board was approving the language suggested by the Health Commissioner's Office and that the Board will agree to use some of the language used in the Athens, Ohio hookah smoking rule as well as to add reference to the State Clean Indoor Air Act and language about the prohibition of the sale of tobacco to minors. Chair Sousie asked Staff Assistant Van Brunt to confer with Health Officer Bergman to make changes to the Hookah Smoking Rule, with the intent to forward it back to the Health Commissioner's Office once the final document has been reviewed by the Board.

#### 6. Formation/Approval: BOH Pesticide Ordinance Public Information Task Force

Chair Sousie asked the Board members to review the outline he provided regarding the Public Information Task Force. Members reviewed the document. Chair Sousie explained one of his intentions when creating this document was to indicate that he wants both opponents and proponents of pesticide use represented on this task force with the purpose of keeping the task force as open to discussion of topics as possible. Brief discussion followed. The Board members decided that fifteen members would be too many and agreed to change the number of members on the task force from fifteen to eleven, included the two chairmen (Members Vos and Crete). Discussion followed regarding who should be pursued as possible members of the task force. The Board concluded membership should not be restricted to Burlington residents only as non-

residents may have special skills (ex: advertising, marketing, environmental knowledge) that would be extremely beneficial to the task force. The Board continued to review the language of the document. Chair Sousie thanked Jean Markey-Duncan for her help in putting the task force together. Chair Sousie suggested that the document reflect that the Board of Health expects the task force to complete its work and report to the Board by March 1, 2010. All members agreed to this deadline. Member Vos motioned to accept the document with amendments. Member Galbraith seconded the motion. Motion passed unanimously.

## 7. Chairman's Report

### a. BOH member appointment by City Council

Chair Sousie stated he believed his reappointment as a member to the Board of Health was approved.

### b. Update: Board and Staff Transitions

Chair Sousie stated he will be stepping down as the Chairman of the Board. Chair Sousie stated that Staff Assistant Van Brunt will be leaving eventually, that another administrator had recently left the Code Enforcement Office. Chair Sousie also noted that the search for a Code Enforcement Director had been extended, ultimately pointing out that there is a lot of transition going on in the Code Office.

### c. Update: Swine Flu Pandemic Status

Chair Sousie recommended that the Board members read a Time Magazine article from the May 18 issue which addressed how to prepare for a pandemic. Chair Sousie stated his belief that the Swine Flu has not gone away and may very well return as a significant concern this coming fall and winter. Chair Sousie stated he intends to obtain copies of the City of Burlington's Emergency Preparedness Plan for the Board to review. Chair Sousie stated he had been informed that the plan does not include much, if any, mention of procedures to be followed in case of a flu pandemic. Chair Sousie stated he believes this is something the Board of Health needs to address. Brief discussion followed. Chair Sousie requested that Staff Assistant Van Brunt obtain a full copy of the Emergency Preparedness Plan from Chief O'Neil. Further discussion followed of the status of the flu pandemic.

### d. Discussion: Does the BOH have a responsibility in finding a solution for a long term sewer system problem in North Burlington?

Chair Sousie posed this question to the Board members and asked for their thoughts. Chair Sousie proceeded to give the members a summary of the situation, explaining that there has been an issue with a backup of sewer systems on certain streets when there is a significant amount of rainfall. Discussion followed regarding the possibility that the responsibility in this situation lay with the Department of Public Works.

Chair Sousie asked Member Galbraith to contact the Department of Public Works to inquire about this situation and to report at the next Board meeting.

- e. Update: City Attorney's review of Oregon correspondence

Chair Sousie stated he had not heard back from the City Attorney regarding the Oregon correspondence but that he will continue to follow up on this.

- f. Update: Board's Resolution for Preventive Discontinuation of Fluoridation

Chair Sousie stated he did not have any new information on this subject, that he had not spoken with anyone on the Ordinance Committee but that he will continue to follow up on this as well.

## 8. Member Reports

- a. Burlington Board of Health Youth Membership

Chair Sousie stated that Member Hart had found a youth volunteer and suggested that Hart invite the youth to the next meeting. Member Hart stated she has not heard anything else about a second volunteer.

- b. Ward 4/7 NPA BOH presentation

Member Vos stated that the presentation about water fluoridation went well, with significant citizen involvement. Chair Sousie stated citizens engaged in some debate about it and noted that a tape of the meeting will be aired on Channel 17.

## 9. Adjournment

Chair Sousie briefly noted that the Board needs to think about whether they are going to support an application the Board received from a company that wrote to the Board about their intention to apply acetic acid on the Fletcher Allen Health Care property. Chair Sousie noted that the company does not need the Board's permission but that they were hoping for the Board's support. Chair Sousie asked the members if there were any objections to supporting this. There were no objections. Chair Sousie stated the Board will support the company's use of acetic acid.

Chair Sousie adjourned the meeting. All approved.