

Geauga County General Health District
Board of Health Meeting Minutes
July 21, 2014, 7:00 p.m.
Geauga County Health District Office
470 Center Street, Bldg. 8, Chardon, OH 44024

I. Call to Order

Christina Livers, Pro-Tempore, called the monthly meeting of the Geauga County Board of Health to order at 7:00 p.m.

Board members present: Mrs. Christina Livers, Pro-Tempore, Mr. David Gragg and Dr. Janet O'Hara were present. Mr. Timothy Goergen and Mr. J. David Benenati were not present.

Staff members present: Robert Weisdack, Health Commissioner and Dan Mix, Personal Health Services Director.

Others present: Andrew Smith.

II. Pledge of Allegiance

Mrs. Livers asked everyone to stand and recite the Pledge of Allegiance.

III. Approval of Minutes

Mr. Gragg moved to approve the minutes for the June 16, 2014 Board of Health meeting. Dr. O'Hara seconded the motion. Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.

IV. Current Expenses/Financial Report

Mr. Gragg moved to approve the Current Expenses and Financial Reports, June 12, 2014 to July 17, 2014. Dr. O'Hara seconded the motion. Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.

V. Variances

a. Andrew Smith

Andrew Smith was present and sworn in by Mrs. Livers. Mr. Weisdack was also sworn in by Mrs. Livers and stated his experience.

Mr. Weisdack stated that this was a variance request by Andrew Smith for the properties located at 16476 & 16486 Mayfield Rd., Huntsburg Twp. The request involves section 3701-29-02 (C) of the Geauga County Household Sewage Disposal System regulations, which states: "Each household sewage disposal system shall serve one dwelling on an individual lot and shall be properly maintained and operated by the owner. All the sewage from the dwelling shall discharge into the system." (Written background information was provided to the Board for consideration in this case.) Discussion followed.

Mr. Gragg moved to approve the variance request by Andrew Smith for the properties located at 16476 & 16486 Mayfield Rd., Huntsburg Twp. This request involves section 3701-29-02 (C) of the Geauga County Household Sewage Disposal System regulations, which pertains to two homes on one lot. Dr. O'Hara seconded the motion. Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.

VI. Administrative Hearings

a. Shizuka & Ren Ochiai

Shizuka & Ren Ochiai were not present. Mr. Weisdack was sworn in again by Mrs. Livers and stated his experience.

Mr. Weisdack stated that this is an alleged code violation to the property owned by Shizuka & Ren Ochiai, 8472 Music St., Russell Twp. This case is based on following sections of the Geauga County Household Sewage Disposal System Regulations:

3701-29-02 (D) states: “No household sewage disposal system or part thereof shall create a nuisance.”

3701-29-02 (E) states: “3701-29-02(E) states: “No person shall discharge, or permit to cause to be discharged, treated or untreated sewage, the overflow drainage or contents of a sewage tank, or other putrescible, impure, or offensive wastes into an abandoned water supply, well, spring, or cistern or into a natural or artificial well, sink hole, crevice, or other opening extending into limestone, sandstone, shale or other rock formation, or normal ground water table.”

3701-29-02(G) states: “Sewage effluent quality as measured at the point of discharge in the system shall comply with current effluent standards established by the Director of the Ohio Environmental Protection Agency.

In the event there are no applicable standards established by the Director of the Ohio Environmental Protection agency, the following standards shall apply:

- (a) Biochemical oxygen demand (five-day) – the arithmetic mean of two or more effluent samples taken at intervals of not less than twenty-four hours shall not exceed twenty milligrams per liter.**
- (c) Fecal coliform- Water samples exceeding 5,000 fecal coliform counts per 100 milliliters in 2 or more samples shall be considered creating public health nuisance.**

This case also pertains to Section 3718.011 of the Ohio Revised Code-Conditions under which a sewage treatment system causes a public health nuisance:

- 3718.011 (A) For purposes of this chapter, a sewage treatment system is causing a public health nuisance if any of the following situations occurs and, after notice by a board of health to the applicable property owner, timely repairs are not made to that system to eliminate the situation:**
- (A) (3) An inspection conducted by, or under the supervision of the environmental protection agency or a sanitarian registered under Chapter 4736 of the Revised Code documents that there is ponding of liquid or bleeding of liquid onto the surface of the ground or into surface water and the liquid has a distinct sewage odor, a black or gray coloration, or the presence of organic matter and any of the following:**
 - (A) (3)(b) The presence of fecal coliform at a level that is equal to or greater than five thousand colonies per one hundred milliliters of liquid as determined in two or more samples of the liquid when five or fewer samples are collected or in more than twenty percent of the samples when more than five samples of the liquid were collected.**

Mr. Weisdack stated that this case is based on a nuisance complaint. In January 2008, samples were taken and the system was found to be failing. The home was foreclosed upon and remained vacant until June 2012. The new owners received approval from OEPA for a discharging system in October 2012 but have never obtained an installation permit from this office and installed the new system. Discussion followed.

Mr. Gragg moved that a code violation exists on the property owned by Shizuka & Ren Ochiai, 8472 Music St., RussellTwp. The case is based on sections 3701-29-22(D), 3701-29-02(E) and 3701-29-02(G) of the Geauga County Household Sewage Disposal System Regulations and section 3718.011 (A) of

the Ohio Revised Code. Dr. O'Hara seconded the motion. Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.

Mr. Gragg moved that Shizuka & Ren Ochiai, 8472 Music St., Russell Twp. be required to obtain the necessary permits and install a new sewage disposal system within 30 days of receipt of Board order. Failure to follow this order will result in referral to the Prosecutor's office for legal action. Dr. O'Hara seconded the motion. Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.

- b. Mary Gound, Megan Biddle, David Paterniti, Richard Williams, Pamela Eberhard, and Beverly Metzger

None of the above mentioned were present. Mr. Weisdack was sworn in by Mrs. Livers and stated his experience.

Mr. Tusick stated that this is an alleged code violation to the properties owned by Mary Gound, 8995 Knotty Pine Ln., Hambden Twp., Megan Biddle, 16600 Leggett Rd., Montville Twp., David Paterniti, 12121 Maple Leaf Tr., Chester Twp., Richard Williams, 12017 Pekin Rd., Newbury Twp., Pamela Eberhard, 16329 Ravenna Rd., Auburn Twp., and Beverly Metzger, 9550 Washington St., Bainbridge Twp.

Section 3701-29-22(A) of the Geauga County Health District Household Sewage Disposal System Regulations states, "An evaluation of a residential sewage system must be completed prior to the transfer of ownership of any parcel with said system. The evaluation shall be conducted by a member of the Health District and if necessary corrective action(s) required shall be accomplished within the time period(s) directed." Discussion followed.

Mr. Gragg moved that a code violation exists on the properties owned by Mary Gound, 8995 Knotty Pine Ln., Hambden Twp., Megan Biddle, 16600 Leggett Rd., Montville Twp., David Paterniti, 12121 Maple Leaf Tr., Chester Twp., Richard Williams, 12017 Pekin Rd., Newbury Twp., Pamela Eberhard, 16329 Ravenna Rd., Auburn Twp., and Beverly Metzger, 9550 Washington St., Bainbridge Twp. Dr. O'Hara seconded the motion. Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.

Dr. O'Hara moved that Mary Gound, 8995 Knotty Pine Ln., Hambden Twp., Megan Biddle, 16600 Leggett Rd., Montville Twp., David Paterniti, 12121 Maple Leaf Tr., Chester Twp., Richard Williams, 12017 Pekin Rd., Newbury Twp., Pamela Eberhard, 16329 Ravenna Rd., Auburn Twp., and Beverly Metzger, 9550 Washington St., Bainbridge Twp. be required to make application, pay for, schedule, and complete a For Sale of Property evaluation and/or obtain the necessary permits and install a new sewage disposal system within 30 days of receipt of Board order. Failure to follow this order will result in referral to the Prosecutor's office for legal action. Mr. Gragg seconded the motion. Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.

VII. Environmental Health Program Update

- a. Sewage Rules Update

ODH has not responded with the written verification of the items discussed at the meeting with Representative Matt Lynch last month. There does not appear to be a set date for the rules to go to JCARR. Mr. Weisdack will continue to check their agenda. Judge Grendell is still planning to provide testimony once a date has been set for JCARR.

- b. General Information

We received a copy of a letter addressed to the county commissioners regarding a neighborhood in Chardon Township being investigated by OEPA as a possible nuisance area. OEPA continues to do testing and it appears that sanitary sewers will be installed there.

In the meantime, we received information that ODH is not going to require homeowners to tie into sanitary sewers if their system is not creating a nuisance. Homeowners will only be required to tie in if their system completely fails and the only remedy is to install a new system. Repairs will be allowed if that is all the system needs. This will create a problem for the Department of Water Resources when it comes time for financing of the sanitary sewers for that nuisance area.

We have received notice that after being surveyed by OEPA we have been found in compliance for the Solid and Infectious Waste program and have been placed on the approved list.

Mr. Weisdack reviewed the number and types of sewage permits issued to date. Most of the permits were issued for replacement systems.

The Ohio Department of Health and Ohio Department of Agriculture are in the Geauga County Health District office doing our food program surveys.

We have received most of the fleet vehicles ordered. We have received the GMC pickup and five Jeep Patriots. We are still waiting on one car. Mr. Weisdack will be inspecting the vehicles weekly for cleanliness. Mrs. Livers suggested that a regular schedule be developed to replace vehicles.

VIII. Personal Health Services Update

a. Public Health Emergency Preparedness

The Public Health Emergency Preparedness began its new fiscal year on July 1, 2014. The CRI grant provided the staff with 2 tablet computers and 2 vaccination carts to be used for our PODS. The laptops will be setup with contact and emergency response plans that can be used offsite if needed.

Our department operations center has been equipped with new computers and the phones are now operational as a communication center. The hotline is up and running as well.

The staff coordinated an emergency preparedness exercise with the nursing students at KSU Geauga in June.

The Board was asked to approve a revised PHEP budget of \$105,214.00, which represents a 20% increase over anticipated funding. Most of these funds are used for personnel salary and benefits.

b. Disease Surveillance

Mr. Mix reported that there were 51 reported diseases for the month of June. Summer is the busiest season for infectious diseases. We look at foodborne, STD's, Lyme Disease and this year, pertussis. We have had several suspected cases of mumps and measles reported but no confirmed cases. Cuyahoga County has one confirmed case of mumps.

c. Nursing Services

During the month of June, the nursing staff provided two Amish Well Child Clinics, 6 children and adolescent immunization clinics, four Friday Morning Adult clinics and 4 Senior Center clinics. Included were physician visits for twenty-four children, 559 vaccinations given to 165 children, thirty-five adult immunizations, one flu vaccination, 16 TB tests and 74 blood pressure screenings. The nurses also provided 25 vision screenings that resulted in providing glasses for 21 children. There were 12 newborn and 4 BCMH home visits. Fifty communicable disease investigations were conducted.

The staff participated in the Kent State Geauga Health Fair and the UH Geauga Medical Centers' Health Fair.

d. WIC

The WIC caseload for June was 743. This is a 3% increase since May.

Gauga WIC is participating in Farmer's Market again this year. This program promotes local farmers and provides fresh produce to families.

The Board was asked to approve a revised WIC budget not to exceed \$193,302.00. This is a reallocation of how we are spending the funds. We are moving funds from equipment and other expenses to salary and benefits.

e. Administration

We have been notified by ODH that it is revising how grant funds will be distributed. In the past, funds were typically delivered 25% per quarter. This was reduced in 2014 to 20% with the final 20% being held until the final budget report was submitted. This year, the formula will be 15% per quarter, with 40% being held back.

ODH states that this is to comply with federal rules and regulations under the Cash Management Improvement Act, which states that ODH must continue with the 100% reimbursement policy or sub grantees must spend all money within 72 hours of receipt. There are some health departments in Ohio that this will adversely affect. The Geauga County Health District will have to support the programs until the grant money is received. At this time, we have the funds available to do so.

f. Accreditation

The Strategic Planning Committee has created an implementation plan.

IX. Old Business

a. Strategic Priorities

Mr. Mix distributed the draft plan to the Board. The Board was asked to adopt the Geauga County Health District Strategic Plan.

Mr. Gragg moved 7.14-a to approve the Geauga County Health District 2014-2017 Strategic Plan as presented. Dr. O'Hara seconded the motion. Mr. Mix stated that in the plan, the mission, the vision and organizational values of the department have been revised. One of the tools used was a survey of the staff. Staff has been assigned to different committees. Mr. Mix provided more information about the plan to the Board. Mrs. Livers stated that the plan should be adopted and if revisions, amendments, etc. need done, then at that time they be addressed and voted on. The rest of the Board agreed. **Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.**

b. Open Meetings/Sunshine Law.

The Board discussed the five areas of improvement identified at the June 2014 meeting.

1. Mr. Mix developed a public participation policy. However, the prosecutor's office suggests that we not have public participation at meetings and simply have a set of participation rules for those parts of the meeting when the public participate, such as during variances and administrative hearings. The law does not require that we have public participation or provide time on the agenda for public input. Mrs. Livers asked for the printed response from the prosecutor's office be attached to these minutes. Mrs. Livers stated that she feels that the Board should take it under advisement.
2. The digital recording of the Board meetings are public record. The prosecutor's office stated that the recording is a temporary record that falls under our record retention policy. We can destroy the recording per our retention policy after the minutes are approved (using the proper records disposal procedure and forms). This has been confirmed with the county archivist.
3. Draft minutes are also considered public records until they are approved by the Board of Health. They also can be destroyed after approval (using the proper records disposal procedure and forms).
4. The prosecutor's office has advised that the appropriate legal counsel should be present at Executive Sessions when discussing legal issues. Updates can be done in open session.
5. The Board will use more specific motions when entering Executive Session, e.g. can no longer say, "move to go into executive session to discuss personnel matters." Rather something like, "It is moved by _____ and seconded by _____ to go into executive session to consider the dismissal of a public employee." Mrs. Livers stated that perhaps when the time comes that Executive Session is needed, the wording could be provided to the Chair to aid in this matter.

X. Executive Session

There was no need for Executive Session.

XI. New Business

Mr. Gragg moved 7.14-b to approve the PHEP FY 2015 budget revision not to exceed \$105,214.00. Dr. O'Hara seconded the motion. Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.

Mr. Gragg moved 7.14-c to approve the WIC 2014 budge revision not to exceed \$194,302.00. Dr. O'Hara seconded the motion. Motion carried with a roll call vote. Mrs. Livers, yes; Dr. O'Hara, yes; and Mr. Gragg, yes.

XII. Other Business

There was no other business.

XIII. Meetings

Regular Board of Health Meeting, August 18, 2014, 2014 at 7:00 pm in the meeting room at 470 Center St., Bldg. 8, Chardon, Ohio.

XIV. Adjournment

As there was no further business to come before the Board, **Mr. Gragg moved to adjourn the meeting at 8:10 p.m. Dr. O'Hara seconded the motion. Motion carried.**

Respectfully submitted,

Robert K. Weisdack, R.S., M.A., M.P.H.
Secretary of the Board

a

Alta Wendell

From: Dan Mix <dmix@geaugacountyhealth.org>
Sent: Tuesday, July 29, 2014 8:25 AM
To: 'Alta Wendell'
Subject: FW: BOH Participation Policy
Attachments: 20140624130633202.pdf

Alta

Here is Susan's reply to the public participation policy and the attachment she referred to in suggesting that the public doesn't necessarily have the right to be heard. The Board wanted some note attached to the minutes to reflect Susan's remarks

The article insinuates opening yourself up to future problems.

In reality, we only need some guidelines for those called on to address the Board during variances and hearings.

Dan

-----Original Message-----

From: Wieland, Susan [<mailto:SWieland@CO.GEAUGA.OH.US>]
Sent: Tuesday, June 24, 2014 1:21 PM
To: MIX, DANIEL M.
Cc: WEISDACK, ROBERT K.
Subject: BOH Participation Policy

Hello Dan,

Attached is an article from the Ohio Township Association's quarterly publication regarding open meetings and public participation. While this particular article is written about township boards of trustees, it is applicable to all public boards. I suggest reviewing the attached and perhaps sharing it with the BOH, as well. Generally speaking, members of the public have the right to attend public meetings, but they don't necessarily have the right to be heard. The policy you sent for my review is lawful; just be mindful that the policy must be one that can be enforced, and most importantly, that it is impartially enforced. If you have any further questions, please let me know.

Thanks,

Susan T. Wieland
Assistant Prosecuting Attorney
Geauga County Prosecutor's Office
231 Main Street, Suite 3A
Chardon, Ohio 44024

Office: (440)279-2109
Cell: (440) 313-4971
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susan.wieland@gcpao.com

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Public Forum: An Opportunity for Citizen Comment at Trustee Meetings

By: Margaret Comey, Squire Sanders LLP

Making certain that citizens have access to government is an underlying tenet of the Ohio Open Meetings Act, contained in Ohio Revised Code Section 121.22 and also known as the Sunshine Law. While there has been ample discourse on what constitutes a public meeting, when and how notice of a public meeting is given and how official action may be taken, there has been less discussion of when and how to provide an opportunity for public comment at those meetings. Including time for public forum on the trustees' agenda at regular

meetings is one way to amplify community input at public meetings, receive innovative ideas and effectively communicate with constituencies. The Ohio Open Meetings Act does not require that constituents be given the right to be heard at public meetings; it requires only that notice of the time and place of public meetings be given, and that persons are extended the right to attend and observe the proceedings at those meetings. So while trustees are not *required* to permit public comment at public meetings, if that opportunity is extended,

there are several key points to keep in mind when preparing for the meeting and during the public forum itself.

To insure that each voice is heard, design rules for public forum and adopt those rules at the trustees' annual organizational meeting. Include a statement on your printed agenda for each meeting that reiterates those rules. One township includes the following language on each public meeting agenda: *"Individuals wishing to address the Board should make non-repetitive points as clearly*

and concisely as possible, limiting their comments to a maximum of five minutes." In this way, each member of the audience wishing to comment will have an opportunity to do so. It is important to apply your rules consistently. Uninterrupted, prescribed time allotments are helpful in that regard.

What if there are so many potential speakers that the board would be unable to complete its business in a timely fashion if all speakers spoke, even if only for five minutes? In such instances, the board might consider moving the public forum to the end of the meeting agenda to allow for the prior completion of the business items, and/or adjourning the meeting to another time and place (with proper notice) to permit the continuance of the public forum to its conclusion.

Must the trustees respond to each speaker? No. In fact, the speaker is entitled, in the case of the forum rules noted above, to his or her full five, uninterrupted minutes. If the presiding officer permits, trustees might respond at the conclusion of the remarks. It may be prudent for the presiding officer to express appreciation to the speaker and refer the matter to staff for investigation.

May the board regulate the content of the speaker's remarks? If the agenda permits public comment, as a general rule, the First and Fourteenth Amendments to the U.S. Constitution prevail. The Ohio Attorney General and Ohio Auditor of State appear to

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agree. See, *Ohio Sunshine Laws, An Open Government Resource Manual (2011)*, which can be found at www.auditor.state.oh.us, at pages 91-92. Ohio courts have addressed this issue and found that, "Ohio Revised Code Section 121.22 does not require that a public body provide the public with an opportunity to comment at its meetings... If the public body does, however, choose to allow public participation, such participation is subject to the protection of the First and Fourteenth Amendments to the Constitution." *Black v. Mecca Twp. Bd. of Tr. (11th Dist. 1993)*, 91 Ohio App. 3d 351, 356, citing *Forman v. Blaser* (3rd Dist. Aug. 8, 1988), 1988 Ohio App. LEXIS 3405; 1992 Ohio Atty.Gen.Ops. No. 92-32; and *Jones v. Heyman* (C.A. 11 1989), 888 F.2d 1328. The content of the speech cannot be regulated.

Does this mean that political speech must be accommodated? In a word, yes.

What if speakers become disorderly or use profanity? A person who behaves in a "disorderly manner" can inadvertently waive his or her right to speak. The Seneca County Court of Appeals determined that, "When an audience becomes so uncontrollable that the public body cannot deliberate, it would seem that the audience waives its right to, or is estopped from claiming a right under the Sunshine Law to continue to observe the proceedings." *Forman v. Blaser*, 1988 Ohio App. LEXIS 3405 at 3.

Further, Ohio Revised Code Section 505.09 provides authority for a board of township trustees to cause a "disorderly person" to be removed from a township meeting. "A disruptive person waives his/her right to observe the meeting and may be removed, without violating the 1st and 14th Amendments." *Jones*, 888 F.2d at 1333.

Public forum enhances the conversation among community stakeholders to the benefit of the community, but to maximize that benefit, consider designing and formally adopting public forum rules for trustee meetings. ☺

Margaret W. Comey is a public finance lawyer with Squire Sanders (US) LLP, in Cincinnati, Ohio, serving as bond counsel, underwriter's counsel and borrower's counsel in public finance transactions. She also serves as the Law Director for Anderson Township (Hamilton County). She may be reached at margaret.comey@squiresanders.com.

GREENFIELD TOWNSHIP FAIRFIELD COUNTY

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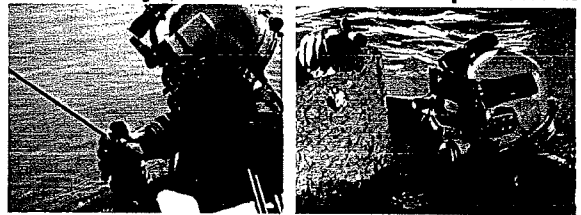
1984 Blaw Knox PF-180 H Paver; 10" screed; 18' extendable; Detroit Diesel 4-53 engine; 3698 hours showing; very good mechanical condition; lots of new parts; Hydrostatic Drive; Serial #0916-016.



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