

Manchester Board of Health
Meeting Minutes of May 25, 2023
Town Hall, Room #7 at 8:30 a.m.
In person & virtual by Zoom platform

Members present:

Paula Filias, Peter Colarusso, Martin Hahn, Leah Peavey

Members absent:

Joan Cottler

At 8:30 a.m. Mr. Colarusso called the meeting to order

Mr. Colarusso said that the new member had already been welcomed by the other members.

Appointments

8:30 a.m. Antique Table

Mr. Colarusso noted that the restaurant has had nine violations that they have not corrected. They were asked to come to today's meeting to discuss a plan for how they would correct the violations.

Ms. Hansbury reviewed the recent letter to the establishment. Including stating that there have been repeat violations that have occurred over and over, even prior to the past four months.

She said that a letter was sent asking for attendance today and to address issues ahead of today's meeting. If they show up, everyone will discuss correcting the violations and they can have a second chance. Ms. Colarusso asked that Ms. Hansbury review the Board's options.

From most severe to least, Ms. Hansbury provided the following:

- 1.) Shut down immediately
- 2.) Board visits the establishment
- 3.) Due to the holiday weekend, the best would be (too qualifying a comment) to send a letter saying that they must attend the June 8 meeting and comply with the current letter (which required attendance today Dr. Hahn corrected). The Board could tell them to come to the next meeting and at that meeting tell them that they would have to comply with the requests.
- 4.) Most common in a smaller Town, send another letter giving a second chance, having the establishment work with a consultant on training.

Dr. Hahn said there was history, and that the restaurant has already had several chances.

Ms. Hansbury said that it was through the agents that the chances were given not the Board. Also, the Board had a contractor prior to November who found similar issues. That she started their inspections in January, and consistently followed each month since. Violations items include not having a ServSafe person on shift (although in their work force). She reported they have made an effort to clean the facility, but still have problems with the gaskets on the refrigerator. And that they have NOT CORRECTED THE VIOLATIONS AND do the minimum amount it appears.

But do they - said Dr. Hahn? He noted that they have not done the minimum, which could include contacting the Board to show response to the Board's last letter. He was irritated that the establishment has not reacted to the letter. He asked, does the Board have teeth or not, should the Board give them UNTIL June 8th. His concern was that the establishment may not feel that they had to respond to the June 8th letter and did not take things seriously enough. He noted that they were not expected to comply with all issues RIGHT AWAY – JUST SHOWING A GOOD PLAN TO RESOLVE THEM SOON. Ms. Hansbury said normally the establishment would have a second chance before the Board. But she understands that as this is a long-term issue, having a stronger reaction may be appropriate.

Mr. Colarusso is concerned they have not addressed the issue and that he would prefer that the Board had been able to meet with them and tell them this is it. Ms. Filias agreed with what the consensus of the Board is on what should be done. She added that the Board has given them the opportunity to succeed. But at some point, the Board is responsible for them not doing what they are supposed to do.

Mr. Colarusso said some of the issues can affect or jeopardize health. Dr. Hahn agreed, concerned if there was a health outbreak and the Board did not enforce the protocols enough. He said he believes in second chances, but there has not been compliance and a long history of ignoring.

Ms. Peavey asked what about the February 15 meeting? Ms. Hansbury said the establishment pretty much blew her off. Further, that it took a while for them to sit down with Ms. Hansbury. The manager of the facility made an agreement with Ms. Hansbury (who noted original signatures on same), to address issues both large and small. Also, noting the following was not provided: list of ServSafe for each shift, the outside education, and the cleaning schedule. Adding that the certification for Brian Lopes was also not submitted until three weeks later.

Mr. Colarusso noted that at a prior inspection that he shadowed Ms. Cody on, that the in place ServSafe person was not present. At that time, the manager said he could be there in ten minutes. Ms. Hansbury said that person is supposed to be providing training to the rest of the staff. If everyone was trained, Dr. Hahn said he would feel differently. However, he noted they are not complying even on the lowest level. Ms. Hansbury said that if the staff was demonstrating compliance on some level, she would be less inclined to mark the violation (example of food handler not on site but arriving during the inspection).

Mr. Colarusso noted that if the staff is not trained, they are not aware they are not in compliance.

He added that someone needs to be on site and have the authority to direct changes.

Ms. Hansbury said not to lean into sensationalism, but on her first inspection there no one knew what a thermometer was. She noted that was since corrected.

Ms. Peavey asked if there were issues with this owner's restaurant in Salem. Ms. Hansbury said there are issues over there as well. Mr. Colarusso asked how to move forward. Mr. Colarusso asked if they should be shut down until they are in compliance. Dr. Hahn says the Board has been agreeable up until recently. However, with zero reaction, ignoring the Board's step up shows that the leadership there is not functioning, and he thinks the Board needs to stop that.

Ms. Filias read the last paragraph of the recent letter, which included "failure to comply with this order will result in the Board of Health taking further action to ensure the safety of the public health"

Dr. Hahn said we have to ensure safety and we do not want to be on the hook or laissez fair about it.

Dr. Hahn made the following motion:

As a result of their leadership ignoring the Board's order, the Board revokes their license to operate their food establishment and all operations until all staff and facility are able to demonstrate and maintain the minimum standards of food safety and comply with items in the last letter. As well as passing another inspection.

Ms. Filias second the motion.

Members, by roll call vote were unanimous to approve the motion:

Dr. Hahn, in favor

Ms. Peavey, in favor

Mr. Colarusso, in favor

Ms. Filias, in favor

Mr. Colarusso asked if Mr. Federspiel needed to be notified.

Ms. Hansbury asked how they wanted to do the closure. She noted they have not been compliant.

She asked the Board if they want the establishment to post their own closure.

Members asked what if they do not?

Ms. Hansbury asked the Board if they had issued orders by Constable or Sherriff's Office to serve as constable. She said that the Board was serving the letter asking for compliance. She noted this would be escalating it, in a gray area as we had asked them to come to one board meeting, and we are now shutting them down, with no advance notification as they were not at the meeting. She repeated that

they have not had advance warning as they are not here at the meeting. Ms. Filias said the constable can deliver. Ms. Hansbury said the Sheriff's Office or constable can deliver. Ms. Hansbury reminded members that the Board had only given them one warning and they have only been to one Board meeting.

Mr. Colarusso said someone other than BOH should deliver the order.

Ms. Hansbury said she would never serve a letter without law enforcement, a third party to see it occur. She agreed to arrange for an officer to have that happen.

Mr. Colarusso asked that she please send the Board a short email to say that the closure letter had been safely delivered.

Ms. Hansbury replied that you can identify a hearing date to put in the letter, instead of writing that the owner has to contact the establishment to request a hearing.

Mr. Colarusso asked why the June 8th hearing is needed if the establishment does come into compliance by that time. Ms. Hansbury said it would give them a chance to discuss that compliance.

Dr. Hahn noted that the Board can write the letter to say if there is no compliance, we can have a June 8 meeting. Further, if they are compliant and can reopen, the food inspector can reopen the establishment, can reissue the license.

Mr. Colarusso informed Ms. Hansbury that if they demonstrate to you that they are in compliance, she can reissue the license and the hearing is not necessary. Dr. Hahn followed that if they are not in compliance and want a hearing, they can put in June 8th as an option as long as it is in time for the agenda to be filed.

Ms. Filias, stating that the Board is doing more work on their behalf, suggests having the establishment owner figure out that meeting request.

Ms. Filias and Ms. Peavy asked if there needed to be a hearing to reopen.

Dr. Hahn suggested giving Ms. Hansbury the power to reopen the establishment.

Ms. Hansbury stated that the Board is giving them the letter, which includes additional things like staff compliance with the food code, reheating, and temperatures.

Mr. Colarusso informed Ms. Hansbury that she is the one to make the determination that they are in compliance.

Ms. Hansbury noted that the way the Board functioned previously, if they get this letter, post themselves, got most items in to compliance, and most things were compliant, she will want something from the contractor before allowing a soft opening, followed by coming to the next Board meeting and explaining to the Board how you have come into compliance. In the meantime, members agreed that Ms. Hansbury has the permission to reopen the establishment and they could still then come to the next Board meeting.

Ms. Hansbury asked the Board if they wanted her to call the restaurant owners, the members replied no.

Mr. Colarusso said that the owners need to know that the Board is serious.

Ms. Filias said with letter delivery and people showing up today, things will happen quickly.

Ms. Hansbury said there is no way to achieve compliance within a week.

Volunteers

Mr. Colarusso said that two Board member volunteers are needed for a well regulation subcommittee.

MS. Hansbury said she received well information from Dr. Hahn. Dr. Hahn informed the new member that there are old regulations that the Board needs to look at. Mr. Colarusso said the Massachusetts well regulations are very good. Dr. Hahn said there are not a huge amount of changes. But that private wells for drinking water, agriculture and geothermal need to be reviewed and changed as the Board sees fit, including coordination with other Town Boards. Ms. Hansbury said the Board would continue to not have difference between drinking, agricultural, or irrigation well requirements including for testing.

Dr. Hahn said the new member will learn a lot about water.

Mr. Colarusso advised members that the Water Resource Committee will end soon.

Also, the BOS is interested in water rate changes, with lowering of rates over three years for low end users by 50% (estimated and 5% of community) and dramatic increases for high end users.

Dr. Hahn asked if the new rates were stepped. Mr. Colarusso said yes, there would be four steps.

Mr. Colarusso guessed that at that time, there may be an increase in well permit applications.

Mr. Colarusso said the Town will soon pay for new meters for everyone for free, with usage sent to the cloud monthly. Also, there is discussion regarding free meters for private wells.

Dr. Hahns said he has a problem with such well meters in his second home, many issues.

Ms. Hansbury said Topsfield has installed new meters.

Mr. Colarusso said two companies have given the Town presentations on new meters and the Town will be looking for volunteer residents to test the meters.

Mr. Colarusso said last night's meeting was the first time that water conservation was identified.

He said there are concerns about funds lost with conservation.

Ms. Hansbury said those are high level resident considerations, that the Board functions independently at the consumer level (function, user, maintenance). That the Board of Health has regulations that oversee that, following notification to the Board of Health if there are issues. And that that is what the Director does, including talking to the DEP, who she talks to to stay on the same page. Further that the Board's challenges are private water supplies, with metering being complicated and expensive. Further, when the Board talks about enforcement and regulations, about how to talk about issues and concerns, they look at what is the public health impact. She noted that the Board can look at aquifer issues.

Ms. Hansbury said it is a long winding road we don't necessarily go down. She said that the Board is considering working with the State and the Water Department to review drought issues – including that private wells must now comply with State drinking water regulations. That this is not current level, but at some point, because it is overarching it would have to go to Town meeting.

Mr. Colarusso said the water resource protection zones may be increased as a lot of aquifers, including those feeding the Lincoln Street well, were not included in the water zones – but were excluded.

He said that private property owners may have an increase in well installations.

Ms. Hansbury said that of the experts she has spoken to, even though stating there are many aquifers, they say we are all one aquifer. Also, some are upper-level pockets including at the shallower Lincoln Street well. Ms. Hansbury said the Board wanted to be careful about splitting hairs related to this matter. Mr. Colarusso and Dr. Hahn agree to work on private well regulations.

Ms. Hansbury asked if the members wanted to set well regulation deadlines or present a draft?

Ms. Filias said to let the subcommittee meet before making that decision.

Health Director Report

Vacation Time

Ms. Hansbury said she made the Board aware of staff vacation time. She said that Ms. Lufkin has more vacation time. Also, as a staff member, she wants to make sure that employees have vacation time. She added that because the Board hasn't had a director prior, she tries to work with staff so that all get to take the vacation that they have earned. Mr. Colarusso said members are all for that as long as the office is staffed and open. Ms. Hansbury also noted that appointments are encouraged, as off-site inspections are sometimes conducted.

Board Meeting Schedule

Ms. Hansbury reviewed the scheduling of the Board summer meetings.

Mr. Colarusso shared that he does not want to make septic people wait for the Board meetings. That he does not want the Board to give angst to the homeowners if they have to wait for a meeting. He suggested that the Board consider cancelling summer meetings only if there are no septic plans waiting.

Ms. Hansbury said that Mr. Colarusso said the Board signs every single septic plan. She suggested the Board consider repairs not have to come to the Board for approval and signature if the plan is variance free. Ms. Filias said this is transition, but noting the Board has had their hands in it for so long, they need to both be weaned off it or at least be notified by the director of plan approvals.

Ms. Hansbury asked about board member tutorials or training for septic system plans. Noting Ms. Filias has experience with reviewing plans, she asked if any other members were interested. Ms. Filias said she thought it was a good idea.

Board Goals

Mr. Colarusso reminded members that in March they agreed to complete online classes. Ms. Hansbury was requested to forward the training information again to the Board. Ms. Hansbury said at their March 2nd meeting, the Board agreed to set goals. And also agreed that when Nurse Crehan was present, also reviewing the nurse goals. She noted that goal #1 was being put on the back burner.

Ms. Hansbury reviewed her written administrative report. She asked members what correspondence they would like to receive. Ms. Filias said she does not want to receive all correspondence. Ms. Hansbury said she is on a two-week schedule sending the information. Ms. Filias wants to read what is important but knows what is important vs. something that is educational. Ms. Hansbury said she would send out two separate emails, one required reading and the other as educational general information.

Food Inspections

Ms. Hansbury reported most are done, some reinspection's are needed, and she has some seasonal inspections this afternoon.

Camp Licensing

Ms. Hansbury reported that she is working with Nurse Crehan on the summer camp applications.

Title 5

Some installers are giving advance lead time. Trying to accommodate others.

For the summer, may not allow inspections from 10:00 a.m. – 3:00 p.m., due to parking issues.

Interpretation of Title 5

Pickleball court over septic system plan will be coming forth, has already been to Planning Board.

Not allowed, but some feel it is not an issue.

New restaurants:

35 Beach Street plan review ongoing.

Beach Testing

Started this week, all remain open

Related to same, Ms. Hansbury asked members to please funnel all questions regarding septic systems and beach water testing to the office, to Wendy and Ellen

She noted that there may be a beach testing discussion in the future.

Mr. Colarusso asked if that would be published.

Ms. Hansbury said she wants the Board to form the questions first and sit at a meeting and plan the next steps. But certainly, the public or certain people could attend.

Mr. Colarusso Chairperson Reporting

Mr. Colarusso reported that he is now on the North Shore Health Department Chairpersons Group, which includes Peabody, Beverly, Salem, Marblehead, and Swampscott. He just went to his second meeting and reported there is nothing relative to Manchester yet. He said the following issues were discussed at the meeting:

- 1.) He said in Swampscott there are issues with artificial cannabis being sold in local stores. That the State has been asked to help, but without response the Towns are working on passing local regulations in the fall to allow them to go into the stores and stop those sales.
- 2.) The second discussion item was on rodents, which Mr. Colarusso said is not a problem for Manchester. Towns are working on regulations being drawn up for that rodent issue.
- 3.) Food Dessert

Problems with people not being able to get to food, including having to get on route 128 to walk from Apple Village to supermarkets. Ms. Hansbury said a food dessert is lack of access to food, other than convenience stores. Dr. Hahn disagrees that route 62 is a major highway. Mr. Colarusso said that Manchester has Crosby's, although that is the only supermarket in town. Also, that the Council on Aging has buses to transport Manchester residents to supermarkets.

Minutes

Dr. Hahn said that one word needed to be inserted on page 4, "shared services present", add the word services. Ms. Hansbury said that she had to be honest, that some of the outlines don't say what she was trying to say. She asked did anyone else read though it and see it as something other than what she was trying to say at the time. Members had no issues.

Dr. Hahn made a motion to approve the minutes as presented, with the addition of the word "services" on page 4 as noted above.

Ms. Filias seconded the motion.

Members, by roll call vote, approved the motion to approve the plan:

Dr. Hahn, in favor

Ms. Filias, in favor

Mr. Colarusso, in favor

New member, abstain

Ms. Hansbury asked that complaint information be directed to the office.

Ms. Filias reminded that all members be made aware of all information going out of the office.

At 9:31 a.m., Dr. Han made a motion to adjourn the meeting.

Ms. Peavy seconded the motion

Members, by roll call vote, approved the motion to adjourn the meeting:

Dr. Hahn, in favor

Ms. Filias, in favor

Mr. Colarusso, in favor

Ms. Peavy, in favor

As submitted,

Ellen D. Lufkin

Administrative Assistant