

BOARD OF HEALTH MEETING

JUNE 18, 2014

Town Council Chambers of the Town Hall

CALL TO ORDER: Dr. John Straus called the meeting to order at 7:05 PM.

PRESENT: Dr. John Straus, Dr. Barbara Beck, Richard Arnold, Kristel Bennett, Chief Environmental Health Officer, and Kari Sasportas, Health Officer.

Minutes Dr. Barbara Beck made the motion to approve the minutes of the May 21, 2014 meeting and it was voted unanimously.

164 Galen Street – Kristel Bennett reported that the occupant’s father had presented evidence that the occupant was going through the eviction process. The occupant will vacate the dwelling unit by September 30, 2014. The occupant’s father will be moving the occupant to an apartment the father owns in Cambridge. Kristel Bennett reported to the Board that the occupant’s father had hired an individual to clean and reduce materials in the dwelling unit to comply with Health Department order letter and prepare the occupant to vacate the dwelling unit.

Dr. Barbara Beck made a motion that “due to the information that we have received concerning the occupant’s eviction process, the Board table the condemnation order on 164 Galen Street #75 until the October Board of Health meeting.” It was voted unanimously.

Mixstir’s – Kristel Bennett reported that Mixstir’s was in for an Administrative Hearing for suspension of their food service operations for repeated and outstanding violations of 105 CMR 590.000. Kristel Bennett reported that on June 10, 2014, Kari Sasportas conducted a reinspection of the May 7, 2014 order letter. The reinspection revealed some corrected violations, outstanding violations, and new violations. Two outstanding violations include expired products and equipment condition. During the June 10, 2014 reinspection, expired milk dated June 6, 2014 was observed in the fridge and Kari instructed the Person In Charge to dispose of the expired milk. All other milk in the storage was set to expire on June 11, 2014. During the June 10, 2014 reinspection, the freezer that had ice build-up and loose fitting gaskets had been replaced with another freezer that had a lid that couldn’t close tightly. The new freezer had a ten pound gym weight placed on the lid to keep it closed, and it was observed that the employee must remove the weight from the freezer lid each time to access food products in the freezer during food preparation. Additional violations observed during the June 10, 2014 reinspection included the following: the second freezer was not maintaining temperature with products ranging from 16°F-32°F; and the ice scoop was found soiled and stored in contact with ice used for preparing drinks. Additional observations made during the June 1, 2014 reinspection included the following: no permit was posted for the establishment given the Health Department has been working with the establishment to achieve compliance with the Food Code to obtain their permit; no certified food protection manager certificate was posted; no food

allergen awareness certificate was posted; “coffee” mix was stored in a disposable Styrofoam container; two covers of food product in the freezer were off, leaving food products exposed to potential cross-contamination, and the employee’s personal food container lid was observed off.

Kristel Bennett reported that Mike Greenberg, co-owner of Mixstir’s Corporation, had sent an email to Kari on June 12, 2014 inquiring about the most recent inspection and Kari’s findings. On June 13, 2014, Kristel Bennett responded to Mr. Greenberg’s email and spoke to him on the phone, informing him that Mixstir’s would be required to attend the next Board of Health meeting for an administrative hearing for repeat outstanding violations. On June 15, 2014, Mr. Greenberg replied to Mrs. Bennett’s email, stating that he wanted to address the goings-on at the establishment while Mrs. Bennett was out on maternity leave. His email argued that no expired milk product was present at the establishment at the June 10, 2014 reinspection, even though he was not present for the inspection and does not work on-site at the establishment. During the reinspection a photo was taken of the expired milk products alongside other products used in preparing food for customers. Mrs. Bennett reported that she replied to Mr. Greenberg’s email on June 17, 2014 stating that that there were false statements in his email and there may be some miscommunication between him and his employees. On June 18, 2014, Mr. Greenberg replied to Mrs. Bennett’s email, and Mr. Greenberg’s email still made false and misleading statements concerning the June 10, 2014 reinspection.

Lisa Chiara, co-owner of the Mixstir’s corporation attended this hearing. Lisa Chiara reported to the Board that there was no inspection report left after the Health Officer’s reinspection and that she had corrected the violations listed in the May 7, 2014 order letter. The Board informed Lisa that an inspection report did not need to be left at the establishment, since the reinspection was ordered at the May Board of Health meeting to verify that all violations listed in the May 7, 2014 order letter were corrected as Mr. Greenberg explained that the violations were resolved at that meeting. The department does not issue reinspection reports during reinspection of order letters, as an initial inspection report and order letter detailing violations had already been issued. Kristel Bennett reported since the Mixstir’s Corporation has taken over management of the establishment the Health Department has conducted four reinspections over the past two months, and these reinspections reveal repeat violations. In addition, the management is providing the health department with false and misleading information via emails back and forth. Richard Arnold stated that there is a disrespect and disregard for the Health Department and its mission due to the nature of the repeat violations and the management’s false statements.

Richard Arnold made a motion “that Mixstir’s Food Service Operations be suspended for violations of the Food Code and Chapter X of the State Sanitary Code 105 CMR 590.000. Violations of the Food Code include providing false and misleading statements to the Health Department; expired food products; equipment conditions – freezer lid kept closed with weight; freezer not maintaining temperatures; soiled food contact utensils; food product storage; food products not covered while in storage; employee food storage; no Certified Food Protection Manager onsite and no Food Allergen trained employee onsite; and failure to pay surcharge reinspection fees for 05/07/2014 and 06/12/2014 Administrative Order letters. This suspension of the Food Service Operations shall begin immediately and remain in effect until the Health Department determines compliance is achieved with the Food Code and the June 12, 2014 Administrative Order letter; Mixstir’s has submitted a Certified Food Protection Manager

Certificate and a Food Allergen Awareness Certificate for an employee who is onsite during all hours of operation; and Mixstir's has paid the surcharge reinspection fees for the 05/07/2014 Administrative Order and the 06/12/2014 Administrative Order letters. Should further violations of the Food Code be observed at Mixstir's then the Board of Health may revoke your Permit to Operate a Food Establishment under Chapter X of the State Sanitary Code 105 CMR 590.000." It was voted unanimously.

Master Wok – Kristel Bennett and Kari Sasportas reported to the Board on the status of the May 21, 2014 Board of Health order. Master Wok has hired a food consultant, Jin Lee from Food Service Solutions. Mr. Lee has conducted an inspection and staff training at the establishment. Mr. Lee is in the process of identifying a Person In Charge who will get the ServSafe certification and be present on-site during the establishment operation hours. Mr. Lee plans to prepare a report that will be forwarded to the Health Department for the Board's review. Master Woks also conducts select audits of their establishments and the Watertown Arsenal Mall location has now been added to the company's audit list so that the establishment will receive more internal attention and review.

Dr. Barbara Beck made a motion "that Master Wok's Food Consultant must provide an update to the Board of Health on the progress of the May 21, 2014 Board of Health order at the July Board of Health meeting. Master Wok is required to maintain compliance with Chapter X of the State Sanitary Code 105 CMR 590.000, should inspection reports reveal trends in non-compliance and a high number of serious and repeated violations of 105 CMR 590.000 occur, then Master Wok's Permit to Operate a Food Establishment may be suspended or revoked before the Board of Health." It was voted unanimously.

Always & Forever Tattoo – Kristel Bennett reported to the Board that the owner of Always & Forever Tattoo had requested to perform a tattoo procedure on a minor who was dying of cancer. Kristel Bennett discussed with the Board the Watertown Body Art Establishment and Practitioner Regulations have no exemption for tattooing an individual under the age of 18 years of age. However, since tattoo regulations in Massachusetts are regulated on a local level the Board of Health can issue an exemption to the Watertown Body Art Establishment and Practitioner Regulations based on an individual request. Section 5 Restrictions (C) of the Watertown Body Art Establishment and Practitioner Regulations state "Body piercing, other than piercing the genitalia, may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such a procedure. Properly identified shall mean a valid photo identification of the adult and a birth certificate of the minor." Section 4 (A) of the Watertown Body Art Establishment and Practitioner Regulations state "Physicians licensed in accordance with M.G.L. c. 112 § 2 who perform body art procedures as part of patient treatment are exempt from these regulations."

Richard Arnold made a motion that "while the physician does not perform the actual procedure, a signed statement that the procedure is to be performed has been reviewed by the physician that is listed conditions in Section 7 Standards of Practice of the Watertown Body Art Establishment and Practitioner Regulations have been reviewed by the physician and that these conditions do not prevent this individual from receiving body art or otherwise worsen or compromise the

individual's health condition. In addition to the physician statement, this individual shall be exempt under the condition that both legal custodial parents and/or guardians and the individual receiving the tattoo give consent to the procedure." It was voted unanimously.

Discussion of Tobacco Regulations – The Board discussed amendments to the Tobacco Regulations. The Board agreed to keep the language “nicotine delivery products”. The Board also agreed to look into the definition of public place and public gathering. The Board requested that the draft be reviewed by the town council and then reviewed by other departments. The Board also discussed enforcement of this regulation.

Next Meeting: Wednesday, July 16, 2014

Adjourn: Meeting was adjourned at 9:20 PM.

Respectfully submitted by Kristel Bennett, Chief Environmental Health Officer