



TOWN OF BURLINGTON, MA  
BOARD OF HEALTH  
MINUTES  
TOWN HALL MAIN MEETING ROOM

TUESDAY, SEPTEMBER 12, 2023

**Board Members Present:** Ed Weiner, PhD, Chairman; Gayle DaMore  
Andrea Sheehan; and Maribeth Welch

**Board Members Absent:** David McSweeney, Vice Chairman

**Staff Members Present:** Susan Lumenello, REHS/RS, CHMM, Director of  
Public Health; Michael Greene, Associate Health Director; and Marlene  
Johnson, Health Agent

**I. Open Meeting/Pledge of Allegiance**

Dr. Weiner called the Board of Health meeting to order at 7:00 PM.

The Pledge of Allegiance was recited.

**II. Approval of Minutes:**

**MOTION:** Ms. DaMore made a motion to postpone the approval of the Board of Health minutes of July 25, 2023. The motion was seconded by Ms. Sheehan and voted 4-0-0.

**MOTION:** Ms. Sheehan made a motion to approve the Board of Health minutes of March 28, 2023. The motion was seconded by Ms. Welch and voted 3-0-1 with Ms. DaMore abstained.

**III. Citizen's Time:**

There were no citizen's coming forward.

**IV. Chairman's Report:**

Chairman Dr. Weiner spoke about how flu season is upon us. He discussed how the flu is a substantial burden to Americans each year and the CDC estimates that between the years of 2010 and 2020, the flu has resulted in 9 million to 41 million illnesses. The flu causes 700-10,000 hospitalizations and between 12,000-52,000 deaths each year. Dr. Weiner discussed how the Board of Health will be holding flu shot clinics or any pharmacy has the flu shot available. He stated the flu immunization is optional and can save your life and save you from getting seriously sick. He stated residents should call the Board of Health to get more information on the flu shot.



TOWN OF BURLINGTON  
BOARD OF HEALTH MINUTES  
SEPTEMBER 12, 2023

V. **Subcommittee Reports:**

There was nothing to report.

VI. **Hearings:**

***Notice to suspend permit for BOH Regulations Governing Food Service Establishments – Cold Stone Creamery, 2 Wayside Road.***

Bryant Poag, Cold Stone Creamery Regional Supervisor, appeared before the Board.

**MOTION:** Ms. Sheehan made a motion to open a hearing on this matter. The motion was seconded by Ms. Welch and voted 3-0-0. The hearing is opened.

Cold Stone Creamery Representative Regional Supervisor, Bryant Poag, is present. Health Agent Ms. Johnson is present and presents that the Cold Stone Creamery establishment is in violation of the certified food protection manager regulation known as the Burlington Board of Health regulations governing food service establishments which states in part; “at least one such person in charge shall be on duty and present at the establishment at all times that the establishment is open to the public and operation and that being a certified food protection tech manager.”

Ms. Johnson discussed the violation history of the establishment, with the most recent being on August 2, 2023. Ms. Hardy investigated and found there was no certified food protection manager on site. An investigation previously in June 2022 also found that there was no certified food protection manager on site. Ms. Johnson stated that management had registered 6 employees and 5 were present in the ServSafe class instructed by Ms. Johnson. She states all 5 were present for instruction and the exam. Mr. Poag found out the results that 2 employees passed the exam but 3 did not. Ms. Johnson pointed out that although the 3 employees did not pass the exam, they had received the education. She explained how ServSafe states a person who failed the exam cannot re-take it for at least 60 days.

Mr. Poag presented that he is a Regional Supervisor and supervises 5 Cold Stone Creameries including this one in Burlington. His plan is to take over management of the store until he finds enough people to cover all aspects of the store. He discussed how there is a shortage of finding people to work but he has no problem with being in the store 24/7. Mr. Poag spoke about how the supervisors at the other 4 stores he supervises have also agreed to help out. Mr. Poag is up for the challenge and there is a job posting on Indeed.com. Mr. Poag explained how he was told if someone resigned or were terminated he needed to let the Board of Health know which is what happened in this situation. He explained he has only been here for 9 months and a lot of what happened in this situation is new to him. He said he is facing everything one by one and has faith he will hire people.



TOWN OF BURLINGTON  
BOARD OF HEALTH MINUTES  
SEPTEMBER 12, 2023

He is trying to build Special opps in Massachusetts where he spoke to the corporate office to come help out when needed and they agreed that is a great idea. Mr. Poag explained it is hard to find people they want to invest in hiring. He is planning on offering incentives such as paying for the ServSafe exam and making sure employees are certified and eligible. Mr. Poag stated health is the number 1 priority.

Ms. Welch asked how many people are employed and how many PICs there are. Mr. Poag responded with answering there are 5 active employees including Mr. Poag and 3 employees are PIC certified. Ms. Johnson replied she would give leniency to the 3 employees that did not pass the exam and stated they have the education and knowledge to stand in as a PIC. The establishment will not be penalized if one of those people is the PIC. Mr. Poag said the employees who failed are going to take the test again. Mr. Poag stated Cold Stone Creamery is open 7 days a week with the hours being Sunday - Thursday 11 am - 9 pm and Friday - Saturday 11 am – 10 pm. He discussed how he has full time employees mostly. To make it more appealing as a full time position, he is going to try to boost pay and give other incentives. He is looking to cut hours to 11 am – 8 pm if necessary in order to make covering shifts more manageable.

Dr. Weiner replied and thanked Ms. Johnson for running the ServSafe class and giving the exam. Dr. Weiner said Mr. Poag is eloquent, very dedicated, and acknowledged him for being very professional and devoted to his job. Dr. Weiner asked Ms. Johnson if she is looking for a written plan from Mr. Poag. Ms. Johnson provided Mr. Poag with a list of food consultants and recommended to him to look at a couple of them and look at some local classes to get new employees enrolled in a local class. Dr. Weiner told Mr. Poag that they could have suspended his permit to operate but he came up with a good plan and suspending his license is not something the Board wants to do. Dr. Weiner ordered Mr. Poag to come up with a 1 written page plan within the next 5 business days of how he will cover the shifts with PICs. Dr. Weiner discussed it is an international community in Burlington, people come from all over the world, and that staff members need to understand safe food management.

Ms. Johnson stated the Board of Health must take action to either A) take no action if determined by the Board of Health that the food service establishment is in compliance with the Burlington Board of Health regulations governing food service establishments or B) suspend the establishments food permit with notice in accordance of 105 CMR 590.014BG if determined by the Board of Health that the food service establishment is not in compliance with the Burlington Board of Health regulations governing food service establishments until such time that the Board of Health determines that the food service establishment is in compliance with Burlington Board of Health regulations.

Ms. Welch asked the Board of Health if it must be documented that there is a grace period being given allowing people that did not pass the exam to be person in charge for the 60 days. Ms. Lumenello replied how it up to the inspector's discretion and in this case the inspector is aware. Ms. Lumenello stated the Board is here to decide if are they are in compliance or are they not, and if an employee failed the test but does have the education are they considered a PIC. Ms. Johnson replied they are just looking for a certified food protection manager not the 3 people specifically who failed the test. If an inspector goes in there again and



TOWN OF BURLINGTON  
BOARD OF HEALTH MINUTES  
SEPTEMBER 12, 2023

there is not a certified food protection manager present, then a citation will be issued again. Ms. Johnson told Mr. Poag he must provide copies of employees passing the course after 60 days. If these employees do not pass, then he needs to hire, move people around, or do whatever he needs to do. Dr. Weiner discussed looking at 120 days maximum for those 3 people to retake the exam.

**MOTION:** Dr. Weiner brings a model motion to A) take no action if determined by the BOH that the food service establishment is in compliance with the Burlington BOH regulations governing food service establishments with the following conditions; so long as the 3 people receive the certification within 120 days which Mr. Poag is to provide copies of certification or they get transferred, leave, or terminated then he needs to let the Board know that too. Mr. Poag must also write the 1-page plan within the next 5 business days. The motion is moved by Ms. Welch. The motion is seconded by Ms. DaMore and voted 4-0-0.

**VII. Staff Reports:**

***Health Agent***

Ms. Johnson is on this report. She discussed how all of the pools were finished up at the end of August. Ms. DaMore asked if someone was interested in opening a tobacco store. Ms. Johnson responded by saying she did speak to someone but they haven't applied. There is a cap of how many tobacco establishments the Town of Burlington can have and the cap is full. Dr. Weiner asks about Just Salads opening. Ms. Johnson responded how they will have to go through a process of planning and will have to apply for a special permit.

**MOTION:** Ms. Sheehan made a motion to approve the Health Agent's report. The motion is seconded by Ms. DaMore and voted 4-0-0.

***Associate Health Director***

Mr. Greene discussed a training tomorrow on September 13th from 5 pm - 8:30 pm on Understanding LBGTQ+ Identities. A link to Zoom will be going out. He also discussed an upcoming training on Trauma Inclusion on October 25th from 5 pm - 7 pm. There will be more information to follow. The Board has no questions on the report.

**MOTION:** Ms. Welch made a move to approve the report of the Associate Director of Public Health. The motion is seconded by Ms. Sheehan and voted 4-0-0.

***Director of Public Health***

This report includes the Environmental Engineer and the Associate Health Inspector investigations as well.

***Associate Health Inspector***



TOWN OF BURLINGTON  
BOARD OF HEALTH MINUTES  
SEPTEMBER 12, 2023

The Dollar Tree received a complaint about mice. Ms. Lumenello stated there was an investigation done by Ms. Hardy and the store needed to be fixed in areas, use pesticide, and do other work. Ms. Lumenello stated all of this was done and the store is now in compliance. The case is closed.

*Environmental Engineer*

Ms. Lumenello spoke about the Household Hazardous Waste Collection from 8:30 am – 12 pm at Fox Hill Elementary on Sept 23rd. Ms. Mathis is keeping a schedule on hazard material storage permit inspection. She has been doing those on regular basis throughout the year and is on a good track.

Dr. Weiner asks what not to bring to Household Hazardous Waste Collection. Ms. Lumenello replied by saying construction materials, latex paint, asbestos shingles, flares, and medical waste should not be brought to the collection. She discussed how the Board of Health gives out small containers for sharps and there is a kiosk at the Fire Department. The Police Station will no longer be having a sharps kiosk or prescription collection. They will soon be getting rid of it. The Town of Burlington is going to need to find alternatives. Lahey Medical Center has a kiosk and there is a website where kiosks are located. Dr. Weiner expressed looking into this matter of finding kiosks and collections to the Board.

Dr. Weiner spoke about how the Town Meeting will be held on September 27th and the Board of Health has a warrant article. He spoke about upcoming events including the Household Hazardous Waste Collection, Town Meeting, Recruitment events, MRC doing a first aid tent on September 17th at Truck Day, volunteers to do recruitment at the Diwali Festival, and a tentative October 14th flu vaccine date for the public at Grandview.

**MOTION:** Ms. Welch made a motion to approve the report of the Director of Public Health. The motion is seconded by Ms. Sheehan and voted 4-0-0.

**X. Adjourn:**

Dr. Weiner wishes a Happy Diwali to the Asian/Indian community of Burlington. The Diwali Festival will be held on the common on September 24th. Dr. Weiner also wishes all of Burlington's Jewish friends a happy and healthy New Year on behalf of the Board of Health.

**MOTION:** Ms. DaMore made a motion to adjourn the Board of Health meeting at 7:45 PM. The motion was seconded by Ms. Sheehan and voted 4-0-0.

*Respectfully Submitted by Julie Faulkingham,  
Recording Clerk*



TOWN OF BURLINGTON  
BOARD OF HEALTH MINUTES  
SEPTEMBER 12, 2023

**DOCUMENTS REVIEWED AT MEETING – TUESDAY, September 12, 2023**

**I. Open Meeting/Pledge of Allegiance/Agenda**

**II. Approval of Minutes:** March 28, 2023 & July 25, 2023 Board of Health Minutes

**III. Citizen's Time:** None

**IV. Chairman's Report:** None

**VIII. Hearing:**

*Notice to Suspend Permit for BOH Regulations Governing Food Service Establishments – Cold Stone Creamery, 2 Wayside Road*

9/12/23 M. Johnson Hearing: Cold Stone Creamery, 2 Wayside Rd.- Board of Health Regulations CFPM;

8/2/23 M. Johnson Notice to Suspend a Food Permit

**VII. Staff Reports:** Health Agent's Report, Associate Director of Public Health's Report and Director of Public Health's Report (Includes Associate Health Inspector report and Environmental Engineer report)

**VIII. Adjourn:** None