



Town of Fairhaven

Board of Health

Town Hall · 40 Center Street · Fairhaven, MA 02719
Telephone: (508) 979-4023 ext. 125 · Fax: (508) 979-4079

March 15th 2023

PRESENT: Heidi Hacking, Kevin Gallagher, David Flaherty
Absent: Michael Ristuccia

1. Call to Order

- a. Chairman Kevin Gallagher called the meeting to order at 5:00pm. Chairman Gallagher welcomed everyone.

2. Pledge of Allegiance

3. Welcome and Media Notification

- a. Chairman Gallagher read the media and recording notifications, and welcomed the public to speak on items.

4. Minutes of the Meeting:

- a. Chairman Gallaher made the motion to accept the minutes of the meeting of February 15, 2023. Vice Chair, Heidi Hacking in agreement and motion accepted.

5. Health Agent Report

- a. Health Agent Flaherty reports statewide hospitalizations for COVID: 152 down from 189, ICU Admittances is 53 with eight Intubated cases. Other statistics have been included in order to educate the public. The 14-day Positivity rate for Fairhaven is 16.7 %. Case counts for the last two weeks are 15. Since reporting began in 2020 Fairhaven has had 5353 cases.
- b. Covid Test Kits are available and the public can pick up a kit at the Board of Health office or Council on Aging.
- c. The Community Health Nurse will be offering homebound vaccinations for Covid & Flu shots for homebound residents, please call 833-983-0485.
- d. Medication disposal bags are available in the Health Office, Library, COA, Recreation Center and the Fire and Police Department.
- e. Go to South Coast Health Care Website for vaccine clinic information at southcoast.org/covid-19-vaccination

f. Blood Pressure Wellness Clinic held at Council on Aging weekly on Wednesdays Between 1:00 p.m. & 3:00 p.m. No Perc tests and three Title 5 System inspections performed.

h. Follow up on various chapter two housing inspections with focus on complaints.

i .Rabies Clinic Information- Held at New England Animal Hospital and Capeway Veterinary on March 26th, 2023. \$15.00 Cash only Please check town website for specific date and time.

j. Governor will be ending the State of Emergency for Covid on May 11, 2023. Additional information will be provided.

k.. Rodent Complaints-No rodent complaints at this time received in the last two weeks.

6) Discuss and Review Frozen Dessert Permit Festiva Buffet-Agent Flaherty explains anyone who has a frozen dessert machine or soft serve ice cream machine requires to have a special permit from the Board of Health in order to keep track of certain monthly testing that is done. They must meet a certain criteria to meet a low rate of bacteriological incidents. They usually test for coliform. If there is excessive bacteria it can affect the vulnerable population, the old the young and immune compromised. At this time, there are 4-5 frozen dessert permits in town. Festiva Buffet has a chronic problem with their frozen dessert machine, which exceeded the maximum allowance. They would break the machine down, clean the machine and then have the machine retested and it would then test fine. The following month this would then reoccur. Thomas Hemingway the health inspector has been working closely with Festiva. Unfortunately, in the past month it has exceeded once again. Agent Flaherty explains that the applicant needs to understand this is very important. He also states he would like to work with the applicant and avoid revoking the permit, or requesting that they test more frequently. Chairman Gallagher confirms there are three facilities operating in town that have had some minimal issues in the past that have been addressed. Chairman Gallagher questions how long has this issue been going on at Festiva Buffet and how long have you been working with them to rectify this? Health Inspector Hemingway states for about one year, and states it has gotten to a point where it needs to be reviewed and speak to the owner. Chairman Gallagher also questions how often is the testing happening. Inspector Hemingway states once a month. Chairman Gallagher requests Suet Chung Lau the representative for Festiva Buffet to speak at the podium. He states the ice cream machine is washed every week and he is not sure if the machine is old and that could be why this issue continues to reoccur. Chairman Gallagher questions who purchases the tests. Agent Flaherty explains the applicant pays for the testing. Testing costs \$80.00 a month and is done by Morrell Associates. The results are submitted to the Board of Health. Mr. Lau explains he has bought a new freezer and they will

no longer be serving soft serve ice cream. Chairman Gallagher confirms Mr. Lau has removed the machine and will now serve hard ice cream. Agent Flaherty confirms you do Chairman Gallagher also suggests that Mr. Lau perform additional research on E-coli. Vice Chair Heidi confirms questions Mr. Lau if he intends to use that machine once again. Mr. responds and states no. Agent Flaherty explains Festiva Buffet Frozen Dessert permit does not expire until December 31, 2023 and he can keep the permit if he would be willing to train employees or make adjustments. However if he does want to eliminate the machine entirely he can voluntarily give up the permit. Mr. Lau agrees to surrender the permit by 5:00 p.m. Friday March 17th, 2023. Agent Flaherty did mention on past inspections the kitchen is very clean and they do a good job working with temperature-controlled food. Vice Chair Hacking states, this is a known problem and is aware of other organizations who have the same problem.

7) Discuss and Review Status of Burger King- Agent Flaherty explains there have been multiple issues in the past year where the HVAC system does not work. Currently have electric heaters. Plumbing issues with the bathroom such as a sewer smell. He believes they are aware of these issues however, he does not believe they get much of a response from the higher ups. Health inspector Hemingway states it is an old building that needs repair and should be looked at structurally. Chairman Gallagher questions how long have these issues been happening? Health Inspector Hemingway states he has been working on this issue since 2015-2018. Chairman Gallagher is concerned about the health and the safety. Rhonda Arruda the district leader and Nancy Charrette a manager represent Burger King. Mrs. Arruda confirms they are two units that do provide heating and air conditioning. She also states in 2020 JSC Management purchased Burger King Franchises and all of the problems that came along with these locations. She explains at this time she has documents that show the HVAC units that are required are currently being manufactured. She explains JSC Management purchased 30 locations in total and they are repairing items as they go. She also explains there is a maintenance system that on site locations have to enter information into if something is broken or not working. She explains they recently switched over to new maintenance system and are working on items from prior to December. She explains repairs were done to tiles, and exhaust fans in bathrooms. She also states they have not been afraid to spend money on items that location need such as new fryolators and new freezers. She states they rented portal air conditioner units last summer and placed them in the kitchen and dining room. Chairman Gallagher questions if it is an absolute coincidence that the plumbing issues were addressed the day that you were called before the Board of Health. Mrs. Arruda replies that they were working on the issues. She stated in 2018 that pipes were dug up in the floor and a drain and trap was replaced. She states she requested a professional to examine the issues sooner and the professional was able to determine a screw was placed incorrectly into a flange, which caused a majority of the problem. Vice Chair Hacking questions what are the plans for the future? Mrs. Arruda explains there have been discussions on if they would like to scrape and rebuild or remodel. She states the property is leased and they are many people who are included on making this type of decision such as the owners, the town standards, Burger King Standards. Her personal decision would be to rebuild. Vice Chair Hacking agrees that there should not be

electric heaters in the kitchen. Rhonda explains it was 72 degrees in the kitchen without the electrical heaters. She states there was a cold snap, and there is no insulation on the top of the building. She explains that she placed two heaters on each side of the building. She explains that she has put them away before and that the staff will plug it in and stand in front of the heaters. Chairman Gallagher states this is a concern. Vice Chair Hacking questions what is the current condition of the building with only two unit functioning? Rhonda replies and states she has no problem with anyone entering the building to look around. She states the building is older and harder to clean and maintain. She states architects have looked at the building and it is structurally sound however it is ugly. Chairman Gallagher questions how the AC affects the employees. The manager at Burger King States the employees are fine do not complain to her. She states with the AC unit that was added in the summertime that did make a difference. Chairman Gallagher states there is definitely a safety concern regarding the electric heaters. Agent Flaherty also explains that if its gets to hot with the exhaust fans with the Ansul systems may be triggered and that is the last thing that you want. Chairman Gallagher what do you envision as the short term and long term plan? Long term would be all of the tickets that are sent up, less come down, maintenance descends upon them, everything is fixed, and that is the ideal. How do you think we get there? Rhonda states that she can control what the manager is inputting into the system and see what needs to be done? Rhonda also states there has been a master cleaning calendar, which will instill what will need to be cleaned on a daily basis. She will also request pictures to be taken of what has been cleaned and what has been done in order for her to address these issues. Agent Flaherty states the communication has been very good with them. Chairman Gallagher state that he is heartened that Mrs. Arruda lives in town. Rhonda states yes she does. She explains that she has eight locations and will make a commitment to be there every week. Chairman Gallagher also states he would like town representative Thomas Hemingway present as well. Agent Flaherty states this was not done vindictively; his hopes were that the beam counters would be made aware that the town is looking at this and this would somehow help. Mrs. Arruda states they are aware these things needs to be done however there are other locations at this time that have been a priority due to their poor condition. She states they have been working on the locations that are in the worse conditions. Vice Chair Hacking stated, she would like an update as to when the compressors will arrive and the progress that is being made. Vice Chair Hacking would like this to be monitored and not wait an additional 6 months to be updated. Mrs. Arruda explains that those items were expedited and should be arriving in May. Mrs. Arruda also provided her business card to the Board members in order for them to contact her.

8) Continued Business Review and Discuss Disposal System Construction Permit Lot 1 Island View Road Map 43 Portion of Lot 201- Agent Flaherty explains this was continued from the last meeting. He had concerns because they has used an engineer's work who has now retired. Agent Flaherty explains he was concerned with the timing because this was originally done in 2018 and now it is 2023. Something might have changed in regards to groundwater. Agent Flaherty requested a test to determine where the groundwater is now. If the test shows typical of what is shown on the plan he states we can move forward with the plan. Agent Flaherty visited the site two weeks ago and it was the same. Farland Corp did

send in a letter that states a test hole was done to establish that groundwater had not changed. Agent Flaherty states they may have some issue with Conservation in terms of wetland delineation if that is the case we will need revised plans however, at this time we can go ahead and accept the design plan application for Lot 1. Chairman Gallagher questions if this is Agent Flaherty recommendation. Agent Flaherty states yes. Vice Chair Hacking makes the motion to accept the recommendation all in favor. All in agreement and motion is approved.

9) Continued Business Review and Discuss Disposal System Construction Permit Lot 2 Island View Road Map 43 Portion of Lot 201- Agent Flaherty explains that the lots have to be treated separately. He states that this lot was treated exactly the same as Lot 1. His recommendation is to accept this plan. Vice Chair Hacking makes the motion to accept the recommendation. All in agreement and motion is approved.

10) Update on reportable issues or concerns with Wind Turbines- No comments or concerns at this time.

11) Public Comment

Joseph Arruda- Mr. Arruda understands that the Board of Health is asking when Burger King Building will be remodeled however he states there are many buildings in town that are in the same condition. He states he went to the local Ninety Nine Restaurant and there were picture frames hanging, emergency lights not in place, and problems with the ceiling tiles. Health Inspector Hemingway questions Mr. Arruda if he has any affiliation with Burger King. Mr. Arruda's response is No. Chairman Gallagher explains to Mr. Arruda that he was present for the discussion and that it was a productive discussion. Chairman Gallagher states the Board is agreeable and has chosen to allow the corporation to address and fix these problems prior to the Board gets involved. Mr. Arruda states he understands however due to the Board stating the building is falling apart there are multiple buildings falling apart in town and they should speak to whomever owns the property vs. who is leasing. Chairman Gallagher explains that Board will begin with the local people first and it is then sent up to the feed of command. Chairman Gallagher explains they would like to resolve this at the local level with local oversight with input from the supplier and this will be monitored. Chairman Gallagher thanks Mr. Arruda for his time.

12) Invoices, Correspondence & Other Business

- a. Invoices reviewed and approved.

13) Next Meeting Date: April 12, 2023 at 5:00pm

14) Future Agenda items

- a. Reorganization of the Board of Health
- b. Update on reestablishing ability to report issues or concerns on wind turbines