

Moore County Board of Health
January 12, 2015

Members Present: Tim Boyte, DVM
Betty J. Goodridge, MHA, CMA
Michele Keel, OD
Warren Lewis
Dennis Mabe, PE
Phyllis Magnuson, RNC, MPH, Chair
Kamron Monroe, DDS, Vice Chair
Max Muse, RN, ME
Nick Picerno
Robert R. Wittmann, MPH, Secretary to the Board

Members Absent: Severt Jacobson, MD
Elise McInnis, RPh

Chair Phyllis Magnuson called the meeting to order at 6:03 p.m.

Introductions/Recognitions:

Staff present were: Teresa Forrest, Planning Manager; Bengie Hair, Management Support Supervisor; and Emily Lee, TB Nurse. Also present was Brenda White, Deputy County Attorney.

Invocation:

Robert Wittmann gave the invocation.

Conflict of Interest:

Robert Wittmann read the following statement: *Does any Board Member have a conflict of interest concerning agenda items the Board will address in this meeting?* There were no conflicts stated.

Approval of Agenda:

Tim Boyte made a motion to approve the draft agenda, seconded by Warren Lewis. All were in favor and the motion carried.

Presentation:

Emily Lee gave a presentation on tuberculosis (TB). TB is a highly contagious disease, caused by a mycobacterium. TB is spread through the air, person-to-person. There are different types of TB; including the regular strain, MDR (multi-drug resistant) TB, and XDR (extensively drug resistant) TB. The more drug resistant the strain, the more difficult it is to treat. With active cases, health care professionals must watch patients ingest the required medication. This is called DOT, or directly observed therapy. Warren Lewis asked what concerns we have regarding TB in Moore County. Emily Lee stated that the TB rate is very low in Moore County but not in surrounding counties so it's important to stay vigilant.

Public Comments:

There were no public comments.

Board of Health Education/Staff Reports:

- **Quasi Judicial Hearings:** Brenda White reviewed quasi judicial hearings with the Board. “Quasi judicial” is the term applied to an action of public administrative officers or bodies who are required to investigate facts, or ascertain the existence of certain facts, hold hearings, weigh evidence and draw conclusions from them, as a basis for their official action, and to exercise discretion that is judicial in nature. These hearings are similar to a court proceeding but are not as formal. The Board of Health would convene for this type of hearing if they were reviewing an appeal regarding a dangerous dog. An appeal was recently submitted to the County but the application was not made in the time frame required. After a notice is given to an owner that a dog is considered dangerous, the owner has 3 days to object. The Board must then hear the appeal within 10 days. The Chair would conduct the meeting. Prior decisions are not binding, although similar cases should have similar results. Decision standards are contained in North Carolina General Statute § 67-4.1. Board must make findings of fact and reach conclusions of law. The opening and closing of the public hearing should be clearly announced. The hearing may be continued to a future meeting without further advisement. Deliberation and voting must be conducted in open session. The Owner may represent his/her self or may be represented by an attorney. Anyone providing testimony (serving as a “witness”) must be sworn/affirmed. A party has the right to cross-examine witnesses. The Board of Health must provide notice of the hearing to the owner. The next level of appeal would be to the Superior Court of Moore County. The Board of Health would not re-hear an appeal. A Board member may not participate in the case if member has: a fixed opinion prior to the hearing; undisclosed ex-parte communication; a close family, business, or associational relationship; or a financial interest in the outcome. If an objection is raised and the Board member refuses to recuse self, then the rest of the Board votes on the objection. For evidence, photos, videos and affidavits can be presented. The burden is on the party appealing. Hearsay is admissible, but cannot be the sole basis for critical findings of fact. Deliberation and voting may be separate from the hearing but must be conducted in public. A motion is made to either affirm or overturn determination that a dog is a Potentially Dangerous Dog. Cases are decided by a majority of the Board. Vacant positions and disqualified members are not “members” for voting purposes. Findings of fact, which would be prepared by the County Attorney’s Office, would be designed to summarize evidence, reflect the Board’s resolution of contested facts, and tie facts to conclusions. Delivery of the written decision should be provided to the owner. The owner has 10 days from the Board’s final decision to appeal to Superior Court. Brenda White stated that, should the need for a hearing arise, there are 4 attorneys available in the County Attorney’s Office. Board of Health members can call the Office anytime with questions about the process.
- **Second Quarter Activity Report:** Robert Wittmann reviewed the reports on statistics and on the Department’s performance measures.

- FY 2015 Budget Second Quarter Report: There were no questions on the financial report.
- Health Director's Report: Robert Wittmann noted that the Board of Commissioners approved the Bad Debt Write Off that was recommended by the Board of Health at their December 9, 2014 meeting. In the nursing section of the Health Department, with 6 Registered Nurses, 1 Licensed Practical Nurse and a Nurse Practitioner, there is a total of 164 years of experience.

Approval of Consent Agenda:

The minutes for the last Board of Health meeting on December 9, 2014 were discussed. Kamron Monroe made a motion to approve the minutes. The motion was seconded by BJ Goodridge. All were in favor and the motion carried.

Old Business:

There was no old business.

New Business:

- Election of Board of Health Chair and Vice-Chair: Per Board of Health Operating Procedures, the Vice-Chair, Kamron Monroe, is automatically nominated for Chair. There were no other nominations. Nick Picerno made a motion to close nominations, selecting Kamron Monroe as Chair. Max Muse seconded the motion. All members were in favor and the motion carried. Kamron Monroe took over officiating the meeting. Tim Boyte made a motion to nominate Dennis Mabe for Vice-Chair. Max Muse seconded the motion. All were in favor and the motion carried. BJ Goodridge made a motion to close the nominations, selecting Dennis Mabe as Vice-Chair. This was seconded by Nick Picerno. The motion passed unanimously.
- Approve Board Chair Action in Dangerous Dog Appeal: There was a recent case where Animal Control declared a dog dangerous and the owner submitted an appeal to the Board of Health. The County Attorney's Office reviewed the case. However, the appeal was not submitted within the 3-day time frame required. Robert Wittmann asked for Board approval for a letter, signed by the Board Chair, denying the appeal. The Board discussed the case and discussed the feasibility of only having 3 days to file an appeal for a dangerous dog declaration. Nick Picerno stated that he would look into the matter and find out if there were options for the Board of Commissioners to change this. Robert Wittmann noted that it is the responsibility of the Animal Control Director to declare a dog dangerous and to give the owner the notice, along with a copy of their appeal rights. Max Muse made a motion to approve the Board Chair's letter. This was seconded by Warren Lewis. All were in favor and the motion carried.
- FY 2016 Budget Resolution: The Board of Health tasks the Director to prepare a budget each year for Board of Health review. Rather than form a committee to go over the information before the full Board, a resolution was presented, see attached. This resolution stated that the Board of Health will hold such meetings as they deem necessary, in keeping with the County Commissioners published Budget Schedule, to finalize a Fiscal Year 2016 Health Department Budget to recommend through the County Manager to the Moore County Commissioners for their approval. Max Muse

made a motion to approve the resolution, seconded by Phyllis Magnuson. The motion passed unanimously.

- Amendments to the Board of Health Operating Procedures: Robert Wittmann noted that an annual review is required for policies/procedures that are approved by the Board of Health. The Board's Operating Procedures are part of that. One change was proposed, on page 3. The change stated that dates and times of the Board of Health meetings would be set at the last meeting of the calendar year for the next year, rather than set at the first meeting of the calendar year. This would accommodate the County's request for a schedule of Commissioner-appointed Board meetings in December, enabling the Board of Commissioners to more efficiently assign members to committees/meetings. Nick Picerno made a motion to accept the change, seconded by Tim Boyte. All were in favor and the motion carried.
- Review Board of Health Orientation and Training Policy: No revisions were suggested to the Policy. After review, the consensus of the Board was to accept the policy as it was.
- Review Board of Health Approval of Minutes Policy: No revisions were suggested to the Policy. After review, the consensus of the Board was to accept the policy as it was.
- Review Policy on Policies: No revisions were suggested to the Policy. After review, the consensus of the Board was to accept the policy as it was.
- Review Environmental Health Fee Policy: The Board discussed the Policy. Warren Lewis asked if it would be possible to notify restaurants by email when there are changes pertinent to inspections. Robert Wittmann stated that the Department is required to inform the public of changes. These changes are posted in the Department and on the website. We don't always have email addresses for restaurants available. He will have to check with the Environmental Health Office to see if they have email addresses for restaurant owners/managers. Warren Lewis stated that, with recent changes in the food code, changes could have been processed smoother. Some restaurant owners had not seen copies of the new code. Robert Wittmann said that he will talk to Environmental Health staff and the County's Attorney and get their input. He asked that the discussion be tabled to the March meeting. In regards to the policy, Michele Keel noted that the policy addressed the setting of fees and not notification for changes. Robert Wittmann stated that he would research this to see if it needed to be added into a policy regarding legal notices. He will discuss it at the March meeting. Nick Picerno asked for a change in the policy, striking out the sentence "When available, fee schedules from surrounding counties will be used as a comparison for determining such fees." After discussion, BJ Goodridge made a motion to approve the amended policy, seconded by Dennis Mabe. All members were in favor and the motion carried.

There being no further business, Michele Keel made a motion to adjourn, seconded by Max Muse. All were in favor and the meeting adjourned at 7:12 p.m. The next scheduled Board of Health meeting is on Tuesday, March 10th, at 6:00 pm in the Boardroom at the Health Department.