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APPROVED

**BOARD OF HEALTH
PUBLIC HEARING MINUTES
MAY 6, 2020**

CALL TO ORDER: Chairman Peter Hoyt called the meeting to order at 4:00 PM. He stated that according to Governor Baker's March 12 and March 15, 2020 order suspending Open Meeting Laws and proposing strict limitations of attendees that are allowed to gather in one place, the Board of Health meeting would be conducted remotely with their participants.

MEMBERS PRESENT: Chairman Peter Hoyt, Vice-Chairman David Rhoads and Member Laura Grandchamp

OTHERS PRESENT: Code Enforcement, Mark Blaisdell; Building Commissioner, Gerald Garner; Cathy Foster; Daniel Chao; Brian Henley; Matthew Mozian and Jack Guerino, iBerkshires

NOTICE OF RECORDING: Chairman Hoyt announced that the meeting was being recorded.

APPROVAL OF MINUTES: Vice-Chairman David Rhoads made a motion to approve the minutes of March 4, 2020, seconded by Member Laura Grandchamp. A roll call vote was taken with Vice-Chairman David Rhoads and Member Laura Grandchamp voting yes. Chairman Peter Hoyt abstained from voting.

PUBLIC COMMENT:

Join Zoom meeting by video

- <https://zoom.us/j/97105355268?pwd=SXlwOCt4Ly85TGpwRVpnUUFMMzU2dz09>
- Meeting ID: 971 0535 5268
- Password: BOH0506

Join Zoom meeting by phone, dial by your location

- 1 929 436 2866 US (New York)
- Meeting ID: 971 0535 5268
- Password: 818275

PUBLIC HEARING:

- 10-C Murray Ave
- 40 Richmond Lane, Unit 1

CODE ENFORCEMENT OFFICER REPORT:

Code Enforcement Officer Mark Blaisdell began by stating that on February 24, 2020, he issued a "no occupancy order" on an apartment at 10-C Murray Avenue, property owned by Cathy Foster. He stated it was based on a pre-tenancy that he completed on February 12, 2020. He stated that Ms. Foster had missed her 7 day appeal deadline so he explained to them that he offered her an extension of time to appeal his decision. He further noted that he had cited Ms. Foster for "no secondary exit" in the apartment, noting also that all other apartments had no unit numbers to designate their addresses, as well as the bathroom had no electrical outlet. Mr.

Blaisdell stated that he commented on lead paint hazards being present and requirements to notify occupying tenants. He explained that Ms. Foster challenged the order that was submitted to her. He told them that he had obtained an order from the Western MA Housing Court stating that Ms. Foster was required to have a secondary exit being a door and not a window.

Mr. Blaisdell turned the meeting over to Ms. Foster.

Ms. Foster stated to the board members that she was not prepared for the current meeting. She asked why the meeting was being continued from the March 4, 2020 meeting. Chairman Hoyt stated that he was not present at that time but obtained the information that the meeting had been continued to an alternate date. Vice-Chairman Rhoads added that Mr. Blaisdell and Mr. Garner had to attend a budget meeting with the Board of Selectmen which had delayed the proposed date to continue to March 11, 2020. He stated that by doing so, it would provide Ms. Foster an opportunity to communicate with the MA Department of Housing to attempt to acquire a waiver for her appeal. Ms. Foster stated that she had emailed Town Administrator, Jay Green a position letter from the MA Department of Public Health stating that they believed she would not be required to have a second door. Code Enforcement Blaisdell objected to her statement as hearsay. He continued to state that this document she claimed she possessed was not available to the board members at this time. Chairman Hoyt stated that they had not been presented with these documents mentioned by Ms. Foster. She stated that Mr. Blaisdell had not sent her any documents either. Chairman Hoyt stated that he understood that she had received all documentation necessary. Ms. Foster stated that she understood that the board stated that they were planning to communicate with Attorney Edmund St. John after their meeting but had not had that opportunity as of yet.

Vice-Chairman Rhoads stated that they had mentioned that they would confer with town counsel regarding the boards authority as a board of health to waive or postpone compliance of the housing code issue. Ms. Foster stated that there was some confusion with codes that were mentioned during this process. Vice-Chairman Rhoads suggested that they should hold another meeting with all documentation listed necessary to include in the next meeting.

Chairman Hoyt asked Ms. Foster for clarification on the Variance she was to be seeking through the building code of appeals. Chairman Hoyt wanted her to let the board know if she had attempted to move forward on this process. Ms. Foster stated that she had finally communicated with Mr. Halfmann after she failed to utilize the links to the website given to her by Mr. Blaisdell. Vice-Chairman Rhoads stated that he was going to attempt to find the correct link to provide to her.

Board members set their next meeting for May 20, 2020 at 4:00 P.M. Ms. Foster agreed that she could appear at this meeting.

- **40 Richmond Lane, Unit 1**

Chairman Hoyt stated that the owner of the property, Stacey Healey could not attend the meeting due to her work schedule. He stated that Ms. Healey requested that her husband represent her at the meeting. Chairman Hoyt checked the rules of protocol to this request and explained that this was not possible and only an attorney or appointed representative was acceptable. Chairman Hoyt was concerned about any

immediate threats to the tenant. He stated that the tenant claimed that the residence was not being properly sanitized. Mr. Healey disagreed with this statement.

Member Grandchamp stated that she had understood that during the second inspection that the immediate danger had been addressed. Vice-Chairman Rhoads suggested that in the future there should be a continued documentation of contractors coming to the residence wearing adequate protective gear and that the sanitation was adequate.

Mr. Blaisdell stated that they should hear the appeal as significant time was given to Ms. Healey to make arrangements to attend the meeting. Chairman Hoyt suggested that they could wait until the owner of the property was present.

Mr. Healey stated that they were told by Mr. Blaisdell that they had not completed a pre-inspection prior to allowing the tenant occupancy but they had a certificate of occupancy from the former inspector. He further noted that they were told by Mr. Blaisdell that they had not notified the tenant about lead information, adding that they had submitted this to the tenant. He told them that they have complied with the orders to fix certain issues such as sanitizing areas on a daily basis.

Chairman Hoyt asked if the board members were going to move forward with the meeting or choose to continue.

Mr. Healey let the board members know that his wife was now present. The board members moved forward with their meeting regarding the property at 40 Richmond Lane.

Mr. Blaisdell began by stating that Ms. Healey had the apartment inspected prior to the tenant moving in during December 2018. He further noted that she provided a rental occupancy certificate dated November, 2017 which clearly showed the dwelling was not properly inspected by town code prior to Mr. Chao's occupancy. He stated that she also provided a copy of rental property regulations citing that these regulations should not apply to the unit that the building inspector issued a Certificate of Occupancy for within the past five years. He noted that a Certificate of Compliance from a health inspector versus a Certificate of Occupancy from the building inspector are two different certifications. Mr. Blaisdell stated that this should not be confused with rental property regulations. He continued to let them know that Ms. Healey provided documentation that stated that the tenant was given proper lead disclosure and provided a signed lead paint disclosure form which was not in compliance, adding that he provided the proper forms to her, as well as offering to be an intermediary to her and her tenant. In closing, Mr. Blaisdell stated that it was difficult for him to determine if proper sanitation had been completed.

Chairman Hoyt opened the hearing to Ms. Healey at this time.

Mr. Healey required clarification regarding the Certificate of Inspection issued to them by former Health Inspector, Thomas Romaniak, adding that they had submitted this to Mr. Blaisdell for his review. Chairman Hoyt stated that the certificate they were referring to was dated November 12, 2017. Mr. Blaisdell stated to the property owners that a Certificate of Occupancy and Certificate of Inspection are completely different from one another. Ms. Healey told him that in the years past, she received an email from the Board of Health Office with two documents, one a rental regulation inspection with occupancy allowed, dated November 12, 2017 and a Certificate of Compliance dated November 6, 2017. She told them she requested this certificate of occupancy and Mr. Romaniak had completed the rental inspection at the time. She stated that she was not told anything else was required of her.

Building Commissioner, Gerald Garner addressed Ms. Healey to explain to her the procedure involved with the Certificate of Occupancy vs. Certificate of Inspection. He told her that multi-family properties are

inspected by the building inspector every five years. Mr. Garner emphasized to her that the health inspector completes a safe and sanitary housing code enforcement for the Board of Health which was totally different from his inspection. He further explained that when he performs his multi-family inspections it allows the property owner to continue to do what they are doing for the five year span of time and then issues a Certificate of Occupancy to the owner. Mr. Garner stated that the health inspector issues permits for those "entering or leaving an apartment." He stated that these certificates issued by both the building inspector and health inspector are completely different entities. Ms. Healey stated to Mr. Garner that the certificate that was issued to them by former Health Inspector, Thomas Romaniak was for a Certificate of Occupancy. Mr. Garner asked to see the document in question.

Mr. Blaisdell requested that the board members review documents in Exhibit 1 for further clarification. He wanted to assure that they understood that the Certificate of Occupancy from the building inspector and Certificate of Compliance from the health inspector are completely different. He stated that there was no Certificate of Compliance issued to them from the former health inspector to allow Mr. Chao to occupy the apartment. Ms. Healey stated that she was curious to know why the certificate that was issued to them did not have an expiration date on their form. Mr. Healey asked why they were not provided with the rental regulation laws.

Ms. Healey told Mr. Blaisdell that Administrative Assistant, Pam Gerry had emailed her a rental inspection form to fill out as she requested in 2017 from the Board of Health Office. Mr. Blaisdell asked the board members if they had received the rental regulations from 2005. He told them that they should have communicated with Health Inspector Romaniak at the time to acquire the current regulations. He stated there was no pre-tenancy inspection completed for Mr. Chao's apartment. She told them that there was no expiration date to her property rental form and they had no information otherwise which was very vague to them.

Chairman Hoyt asked the members if they had any further questions.

Vice-Chairman Rhoads asked if Mr. Blaisdell could complete an inspection at the property to determine their compliance issues.

Ms. Healey stated that they have attempted to comply to all requests made of them as rental property owners but they still have some concern about understanding the board of health regulations regarding their violation.

Chairman Hoyt moved the meeting to further discussion.

Mr. Blaisdell continued to discuss the lead paint disclosure issues with the owners. He asked them if they understood that the state had lead paint disclosures. Ms. Healey did not know this information. She told Mr. Blaisdell that he emailed her the proper form but had not directed her to do anything with it.

Mr. Chao, tenant of 40 Richmond Lane Unit 1 joined the meeting.

He stated to the board members that he was told that there was a proper lead paint attachment in the email to the Healeys and that Mr. Blaisdell had offered to be an intermediary and facilitate an inspection. In response, Ms. Healey told him that these instructions were not included in her email of April 21, 2020 but only the lead paint form.

Chairman Hoyt asked the board members if they had any further questions. There were none.

Chairman Hoyt asked Mr. Morian, representative of the owner if he had any further questions. He addressed

Mr. Blaisdell asking him if the cross metering had been fixed in the dwelling. He responded by stating that it was fixed on the tenants behalf and the circuits of the tenants are currently on the landlords.

Chairman Hoyt addressed Mr. Chao to ask him if he had any further questions. He had none.

Chairman Hoyt stated that at this time the board members were required to make a recommendation. Chairman Hoyt stated that the owners needed to complete the proper forms requested of them and submit them to the Board of Health Office. He mentioned that the apartment inspection is due to be completed on May 18, 2020. Mr. Hoyt addressed Ms. Healey to ask her if she would be prepared for an inspection on that date. Ms. Healey stated that they were waiting for the lead inspector and wanted to let them know that their electrician should have his work completed in time.

A motion made by Member Grandchamp, seconded by Vice-Chairman Rhoads to uphold Code Enforcement Blaisdell's findings, passed unanimously. A roll call vote was taken with Chairman Hoyt, Vice-Chairman Rhoads and Member Grandchamp voting yes.

Mr. Blaisdell emphasized that the owner needed to address their lead paint disclosure on the proper form which had no relation to the pandemic at hand. He told them that he has granted extensions to the Healey's. He stated that there were only two concerns that he had with the final aspects of the case which he stated was the completion of the rental inspection performed according to town code, informing the board members that she had not done this, as well, the owner give proper lead paint disclosure information to the tenant according to MA state general law regulations. In conclusion of his summary, Mr. Blaisdell requested that the board members affirm the correction order as written.

Ms. Healey addressed Mr. Blaisdell asking him if she completed the lead paint disclosure form signed by the tenant would that satisfy the issue regarding this required form. Ms. Healey wanted them to know that the tenant refused to have contact with her and asked if Mr. Blaisdell could assist her in acquiring this signature from the tenant. He agreed. Ms. Healey wanted the board members to know that she made every effort to comply with her rental inspection with the paperwork that was provided to her. She showed frustration that they were not given the proper forms or information to move forward on the correct protocol for their inspection request. Mr. Blaisdell apologized to her for the misinformation given to her from the former code enforcement officer.

A motion made by Member Grandchamp, seconded by Vice-Chairman Rhoads to uphold the findings of Code Enforcement Officer, Mark Blaisdell, passed unanimously. A roll call vote was taken. Member Grandchamp, Vice-Chairman Rhoads and Chairman Hoyt voted yes.

Chairman Hoyt thanked all parties for their participation this evening.

OLD BUSINESS:

- **Hauler regulations**

Chairman Hoyt was curious to know if the Board of Health Office had received any emails from the waste haulers. Vice-Chairman Rhoads stated that they had received several emails. He stated that the meeting was scheduled for the haulers to give them the opportunity to address the Board of Health with their concerns, adding that the Coronavirus pandemic caused them to postpone the public hearing.

Vice-Chairman Rhoads stated that he would attempt to gather some material for review so they can take action on re-instating the regulations. Chairman Hoyt looked for further clarification as

to the main issues with the haulers. Vice-Chairman Rhoads responded by stating that they were enlisting the haulers in compliance with recycling. He stated that they are attempting to track how they are doing with their attempts in the recycling process. Mr. Rhoads stated that he would reach out to Linda Cernik, Director of Northern Berkshire Solid Waste, as well.

Chairman Hoyt stated that they will continue this discussion at their next meeting being held on May 20, 2020.

- **Capping tobacco permits – draft regulation**

Chairman Hoyt stated that they had received information from town counsel with questions the Board of Health members had submitted to him. He stated that they should have received the February and May, 2020 drafts. He stated that town counsel was satisfied with the draft.

Chairman Hoyt began their review of the various sections of capping tobacco permits draft regulations with members. Discussion regarding the draft continued as members reviewed proposed changes.

Chairman Hoyt announced to the members that he would make the various changes that they had discussed for their review at the board's next meeting.

NEW BUSINESS:

- **COVID-19 update**

Chairman Hoyt stated that the number of cases have been on the decrease.

Vice-Chairman Rhoads commented that the "CARES" funding has not been made available at this time for the town but he was keeping up on that information.

LOCAL & COUNTY UPDATES:

- **Community Tracing Collaborative**

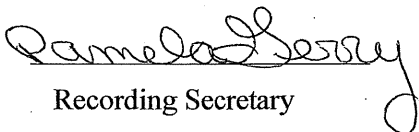
FOR THE GOOD OF THE ORDER:

MAIL REVIEW: MAIL WAS PROVIDED FOR THE BOARD MEMBERS' REVIEW

UPCOMING EVENTS:

SCHEDULE NEXT MEETING: BOARD MEMBERS SCHEDULED THEIR NEXT MEETING FOR JUNE 3, 2020.

ADJOURN: THE BOARD MEMBERS ADJOURNED THE MEETING.


Recording Secretary