

CITY OF RUTLAND, VERMONT
Board of Aldermen
Acting as Board of Health Minutes
Tuesday, October 15, 2019

Members present; President Davis, Aldermen Reveal, Humphrey, Ryan, Tommola, Mattis, Clifford and DePoy. Also present, Mayor Allaire, Attorney Bloomer, Attorney Charles Romeo, Health Officer Mike Brookman, Building Inspector Robert Pelletier, DPW Commissioner Wennberg, Richard Mailhoit and City Clerk Heck. Aldermen Gillam and DePoy were absent.

President Davis called the meeting to order at 5:37 PM.

President Davis noted brief introductions and told Richard Mailhoit (the Respondent) to the emergency health order, that Attorney Bloomer would be representing Mike Brookman, Health Officer (H.O.) and that Charles Romeo would be representing the Board. Chair Davis also noted the request for the special meeting and sought two additions to the agenda, including an executive session and the adoption of the Board of Health (BOH) rules. That request was so moved and seconded (Ettori, Reveal). **Motion passed.**

Chair Davis then sought a motion finding confidential attorney client communications for the purpose of providing professional legal services to the public body and that premature general public knowledge regarding the services would clearly place the public body at a substantial disadvantage. Alderman Ettori so moved and Alderwoman Ryan seconded. **Motion passed.**

Attorney Romeo noted language to enter into executive session, to discuss legal services as allowed under Title 1, Section 313 a(1)(F). Alderman Ettori so moved and Alderwoman Mattis seconded. **Motion passed.**

At 5:39 PM the BOH entered into executive session.

At 5:47 PM a motion was made and seconded (Ettori, Mattis) to come out of executive session. **Motion passed.**

Chair Davis noted a motion adopting the Board of Health (BOH) rules would be in order. That request was so moved and seconded (Clifford, Tommola). **Motion passed.**

Chair Davis then asked the Board to allow Mr. Mailhoit (the Respondent) to review those rules and procedures just adopted by the BOH. The Board recessed for approximately 5 minutes.

Chair Davis noted the reason for the BOH gathering, stating an emergency health order by the City Health Officer, Mike Brookman was requested. Chair Davis then asked if there were any ex-parte communications amongst the Board. Alderman Humphrey, Ryan, Ettori, Tommola, Mattis, Clifford, DePoy and Chair Davis noted various emails from neighbors, several members had made inquiries to the Health Officer or Mayor in regards to the property owned by Mr. Mailhoit at 107 Library Avenue.

Chair Davis then asked Mr. Mailhoit if he had any questions about the process or rules adopted by the BOH. Mr. Mailhoit answered no, he had no questions. Chair Davis reviewed how the hearing would proceed and asked Clerk Heck to swear in Health Officer (H.O.) Mike Brookman.

Clerk Heck swore in H.O. Brookman, who presented the Clerk with a packet of evidence, including the Emergency Public Health Order, with 26 individual notes, timeline. The "ORDER" to cease and desist from September 13, 2019, a copy of STATEMENT OF PROCEDURAL RIGHTS, Pursuant to 18 V.S.A. § § 126 & 127 and exhibits A-H, that included photos, letters of communication to Mr. Mailhoit, a Invoice from A-1 Sewer & Drain, a letter from Bill Loshen Plumbing & Heating a letter from Agency of Natural Resources and a letter from the Rutland Regional Medical Center (RRMC). Clerk Heck distributed that packet of evidence to the BOH, Mr. Mailhoit, Mayor Allaire and Gordon Dritschilo, (Reporter Rutland Herald)

H.O. Brookman then reviewed the Emergency Public Health Order and Cease and Desist Order line by line. Upon his reading, Chair Davis asked if the Board had any questions. There were several questions from the Board. All were answered by H.O. Brookman or forwarded on to others present who had better insight to the question.

A question did arise for DPW Commissioner Wennberg. Prior to his swearing in, Chair Davis asked Mr. Mailhoit if he had any questions of H.O. Brookman. Mr. Mailhoit noted, not at that time. DPW Commissioner Wennberg was asked to be sworn in. Clerk Heck swore in Commissioner Wennberg, who was asked to answer the question, who's responsible for what pipes. Commissioner Wennberg noted that the property owner was responsible for sewage pipes from the owner's property to the city

main. Commissioner Wennberg then answered several more questions from the Board including questions about the sewer separation project within the neighborhood back in 2014. Commissioner Wennberg noted correspondence prior to the sewer separation project from Mr. Mailhoit and his plumber, in regards to draining/back up issues from that property.

Mr. Mailhoit then spoke on Commissioner Wennberg's statement and asked a question about his plumbing and the project. Mr. Mailhoit spoke about his request to DPW for help and never receiving any. Chair Davis asked if there was any other question of the Commissioner or H.O. Brookman. Seeing none, Chair Davis asked Mr. Mailhoit to present his case and noted that he was to direct questions to her.

Mr. Mailhoit was sworn in by Clerk Heck and stated that no matter what the Board of Health decides his fate had been sealed. Mr. Mailhoit noted his attempts to get help from the City fell on deaf ears. Mr. Mailhoit stated that for years he would open his drain in the basement and water would go away, there was never an issue. Mr. Mailhoit blamed H.O. Brookman and Building Inspector (B.I.) Pelletier for the continued problems. Mr. Mailhoit described the event with A-1 Sewer and stated that they could not get the camera around a corner. Mr. Mailhoit also noted that the 36 feet discussed earlier by H.O. Brookman was actually 36 inches. The Board had numerous questions for Mr. Mailhoit. At the end of the Q & A with the Board and Mr. Mailhoit, Chair Davis noted a request from H.O. Brookman to have B.I. Pelletier speak on the 36 foot pipe issue.

Clerk Heck swore in B.I. Pelletier. B.I. Pelletier noted that the floor drain that Mr. Mailhoit was talking about, was actually the cleanout for the sewer drain. B.I. Pelletier also noted that when A-1 came to inspect the pipe, they were unable to and had to enter through a fernco, where the old sewer pipe and PVC pipe had been connected. Where A-1 entered that sewer pipe and based on that location to the blockage, it was determined by A-1 to be 36 feet. There was brief discussion from the Board with B.I. Pelletier. At this point Mr. Mailhoit became very irritated and got up and started to leave. He stated it is all lies and he was going to lose his home. Mr. Mailhoit was so loud and disruptive, Chair Davis gaveled him and asked him to stop. Mr. Mailhoit did seem to calm down a bit and left the hearing at 7:15 PM. The Board continued to ask question until a motion was made and seconded (DePoy, Mattis) to move into deliberative session. **Motion passed.**

At 7:24 PM the Board of Health moved into deliberative session.

Respectfully submitted,

Henry A Heck
Rutland City Clerk