

CATTARAUGUS COUNTY BOARD OF HEALTH

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Joseph Bohan, MD, President

Joseph Eade, Vice-President

Giles Hamlin, MD
Zahid Chohan, MD
Sondra Fox, RN
Richard Haberer
James Lapey
Georgina Paul, FNP
James Snyder

MINUTES

September 4, 2013

The 818th meeting of the Cattaraugus County Board of Health was held at St. Bonaventure Clubhouse Restaurant, Route 417, Allegany, New York on September 4, 2013.

The following members were present:

Joseph Bohan, MD

James Lapey

Zahid Chohan, MD

James Snyder

Giles Hamlin, MD

Richard Haberer

Sondra Fox, RN

Also present were:

Kevin D. Watkins, MD, MPH, Public Health Director

Kathleen Ellis, Administrative Officer

Thomas Brady, County Attorney

Linda Edstrom, County Legislator

Paula Stockman, County Legislator

Donna Vickman, County Legislator

Howard VanRensselaer, County Legislator

Karen Manners, Secretary to Public Health Director

Eric Wohlers, Environmental Health Director

Raymond Jordan, Sr. Public Health Sanitarian

Susan Andrews, Director of Patient Services

Gilbert Witte, MD, Medical Director

Henry Storch, MD, Clinic Physician

David Porter, Hearing Officer

Laurie Adams, Tri-County Tobacco Free Program

Lindsay Ball, Tri-County Tobacco Free Program

Jon Chaffee, Reality Check

Katelyn Main, Olean High School student, Reality Check youth member

Erica Sebastian, Cessation Centers

Mike Porpiglia, American Cancer Society

Yvonne Thorne, Contract Manager, Tri-County Tobacco Free Program

Vic Vena, Pharmacy Owner

The meeting was called to order by Dr. Bohan. The roll was called and a quorum declared.

Dr. Bohan stated that Mr. Thomas Thrasher passed away on August 1, 2013. He was a member of the Board of Health from February 1994 until October 2010. He retired from National Fuel Gas after 39 years of service, was the Town Supervisor for the Town of Persia for 30 years, was a member of the Gowanda Village Board for 5 years and also was a World War II Veteran. Condolences go out to his wife Mary of 62 years, and to his two children, Mary Jo and Dr. James Thrasher. Tom was a dedicated public servant who rarely missed a meeting despite the long drive to Olean in all kinds of weather. Dr. Bohan went on to say that we will miss his dedicated service and insight. Mr. Snyder said that Tom was a super guy and suggested writing a letter to his wife in appreciation of his service to the Board and to express their condolences to her and the family. Dr. Watkins stated that he will get the letter out to Mr. Thrasher's wife.

Dr. Bohan welcomed Dr. Chohan as a member of the Board of Health. Everyone introduced themselves. Dr. Chohan stated that he has been in Olean since 1981 and has had the pleasure of working with Dr. Hamlin, Dr. Bohan, Dr. Storch and Dr. Witte. Presently he is the Chief of Surgery at the Olean General Hospital and still practicing.

Mr. Haberer made a motion to approve the minutes of the July 3, 2013 meeting. It was seconded by Mrs. Fox and unanimously approved. Mrs. Fox made a motion to approve the Professional Advisory minutes from the October 17, 2012, January 16, 2013 and April 17, 2013 meetings. It was seconded by Mr. Haberer and unanimously approved.

Director's Report: Dr. Watkins also extended his sympathies to the Thrasher family and informed the Board that a card was sent on behalf of the Board. The Health Department dedicated the month of August to both Mr. Thrasher and Dr. Klaczynski. Their pictures were posted in honor and memory of them and our appreciation for their services to the Health Department and Board of Health.

Dr. Watkins also welcomed Dr. Chohan to his first Board of Health meeting and invited him to visit the Health Department to review our various programs.

Dr. Watkins commended the Family Planning Program for being recognized by the New York State Center of Family Planning and Reproductive Health Services for having one of the best contraceptive utilization rates, which measures the percent of unduplicated female patients leaving the clinic with an effective method of contraception. Out of 50 family planning clinics, Cattaraugus County ranked number two.

Dr. Watkins read a letter from a patient praising the Health Department and Home Care nurses for the excellent care that was received and professionalism that each nurse conveyed. He also read a letter from an individual that praised Debbie Nichols, Public Health Educator, for her presentation in May's Leadership Cattaraugus program. Congratulations to the Health Department staff for a job well done.

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Dr. Watkins stated that after the last Board of Health meeting, because of the increase in larvae activity a decision was made to conduct aerial larvicide spraying. A number of events have occurred since that larvicide spraying. On July 30, 2013, a lethargic looking crow was found in Portville that eventually died. It was sent for testing and tested positive for West Nile Virus (WNV). On August 12, 2013, we were notified by Chautauqua County Health Department that 5 mosquito pools in the southern part of the county tested positive for Eastern Equine Encephalitis (EEE). August 16, 2013, a Declaration of an Imminent Threat to Public Health for Mosquito-Borne Diseases was declared for Chautauqua County based upon these findings. During that week, 5 more mosquito pools tested positive for EEE in Chautauqua County along with several mosquito pools that tested positive for WNV.

Dr. Gall, State Entomologist from the Buffalo Regional Office, visited Chautauqua County and Cattaraugus County on 8/20/13. Environmental Health staff set adult mosquito traps to collect specimens to submit for testing for EEE and WNV and results are pending. Both EEE and WNV are very serious diseases that are transmitted to people through the bite of a mosquito. They are different diseases caused by different viruses and are often transmitted by different mosquito species. The EEE is spread to horses and humans by an infected mosquito and is among the most serious of a group of mosquito borne arboviruses that can affect the central nervous system. These mosquitoes feed on infected birds first and then they become carriers of the disease and then feed on humans, horses and other mammals. Symptoms may range from none at all to mild, flu like symptoms, to fever, headache and sore throat but more serious, the central nervous system can be impaired. Half of the people that contract EEE will die from the disease, those that survive may suffer permanent brain damage and require lifetime institutional care. There is no specific treatment, no anti-viral or vaccine for EEE, however, there is a vaccine available for horses. Last year in New York there were 107 human cases of WNV with 9 fatalities. In New York there have been 5 human cases of EEE, one in 1979, 1983, 2009, 2010 and 2011; all 5 cases were fatal.

Because the positive mosquito pools were very close to the Cattaraugus County border and because the crow that was found in Portville was positive for West Nile Virus, we will again try to add the program aides to the 2014 Environmental Health division budget for mosquito surveillance. After discussion, Mrs. Fox made a motion to recommend to the Legislature that they reinstate funding for the mosquito surveillance program. It was seconded by Mr. Haberer and unanimously approved. Mr. Wohlers commented that finding EEE positive mosquitoes in Western New York is historic; they are usually found in central New York. Since the mosquitoes were found so close to our border, we can assume that there are also mosquitoes carrying the virus in Cattaraugus County.

Dr. Watkins stated that flu clinics will begin next week. It is recommended that older individuals receive the flu vaccine every six months. Depending on the type of vaccine available, 2013-2014 vaccines will protect against either three or four different influenza strains this year. Children age 6 months to 8 years of age who have never received the seasonal flu vaccine will need two doses of vaccine, approximately 4 weeks apart. Certain people are at high risk of serious complications from seasonal influenza, which includes individuals 65 years of age and older, children younger than 5 years old, pregnant women and people of any age with certain chronic medical conditions and persons who have immuno-supressions. Traditionally the flu vaccine covers three different strains of flu viruses, usually two Influenza A strains and one Influenza B strain, known as a trivalent vaccine. Starting this year there will be a quadravalent vaccine available to the public; two strains for

Influenza A and two for Influenza B. It is reported that the quadravalent vaccine adds about 33% more protection against the influenza virus. The Health Department will order both the trivalent and quadravalent vaccines. The Centers for Disease Control (CDC) has not made a recommendation as to which vaccine is best for the public. Dr. Witte stated that he will have both vaccines available and he recommends that anyone over the age of 65 receives the higher potency trivalent vaccine.

Mrs. Vickman commented on the new State regulation that requires all medical personnel to have a flu vaccine this year and if anyone does not wish to receive the flu vaccine, they will have to wear a mask while working with patients. Dr. Watkins agreed and added that the State is also requiring a report of all vaccinated medical personnel. Dr. Watkins has discussed this with Human Resources and they will make the vaccine available to staff if they are not able to attend the flu POD's that we will schedule for County employees.

Dr. Watkins reported that the Early Intervention Program continues to struggle because the State is not paying providers in a reasonable time frame and the frustration among our providers continues to grow. The client load in the program continues to increase, referrals are coming in and individuals are qualifying for the program at a pace that indicates that there is a need for more service coordination.

Dr. Watkins reiterated the fact that county administration would like us to add no more than 2% to the 2014 budget than what was adopted in the 2013 budget. We will do our best to make this happen, but it will be difficult knowing that we need new equipment and maybe additional personnel. The budget is due to be submitted to county administration by September 16, 2013.

Dr. Watkins stated that the Clean Indoor Air Act waivers were granted by the Board of Health to establishments that designated separate rooms with special ventilation systems to control second hand smoke exposure to non-smokers that entered the establishment. There are four (4) establishments that have waivers in Cattaraugus County; they are the Ischua Fire Department, Off-Track Betting, Rough Kutts and the Little Valley V.F.W. Last year there was a lot of information requested by the Board and several meetings with questions pertaining to the waivers. Dr. Bohan stated that the Board is not happy that the waivers were issued years ago, but these organizations spent considerable amounts of money to assure that non-smokers were not exposed to second hand smoke and the Board is not offering any new waivers to any establishment. As long as the facilities are inspected and approved by the Health Department staff and submit their fee for renewal, Dr. Bohan feels that the waivers should be renewed. Mr. Snyder made a motion to renew the smoking waivers for these four establishments for another year. It was seconded by Mr. Haberer. Mr. Lapey stated that he is opposed to renewing the waivers because the Board of Health should be promoting the health of the residents in Cattaraugus County. Mrs. Fox agreed with Mr Lapey. Dr. Bohan, Dr. Chohan, Dr. Hamlin, Mr. Snyder and Mr. Haberer voted yes to renew the waivers for another year; Mr. Lapey and Mrs. Fox voted no. Waivers were granted for another year.

Nursing Division Report: Mrs. Andrews reported the number of communicable disease cases for last month which were: Chlamydia-22; Cryptosporidiosis-1; Gonorrhea-1; 4 potential HCV infections; 2 confirmed and 2 suspect Lyme disease cases – 3 out of the 4 were in the southern part of the county; 1 Pertussis and a Salmonella case in a 5 month old, which apparently was cat related. There were 3 Invasive Group B Streptococcal diseases, with one death.

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As Dr. Watkins mentioned, flu clinics will begin next week, earlier than last year as recommended by the CDC. The price of the flu vaccination just covers our costs, so more people can be vaccinated. We will offer the interdermal, high dose, quadravalent, trivalent and the nasal vaccines. The State Health Department would like private providers to stock their own vaccine, so the Health Department may be administering less and working more with the providers. Mrs. Andrews stated that if providers of services to children are not stocking the required vaccines, it appears that they are going to start being reported to private insurers.

There have been 24 post exposure rabies treatments administered so far this year (14 bats, 5 cats, 2 raccoons, 2 dogs and 1 fox); four were related to positive rabies tests from a fox, a cat and 2 raccoons.

Also as Dr. Watkins mentioned, the Family Planning Program was recognized by the New York State Center of Family Planning and Reproductive Health Services for having one of the best contraceptive utilization rates, unfortunately for this quarter we are ranked #5 out of 50 so we will try to get that back up to #2.

The lead grant has been submitted to the State. For the month of August there were two new confirmed elevated lead cases, both were in Olean at 13ug/dl (normal is 0-9ug/dl).

There has been a decrease in Home Care referrals as compared to last year, not sure if that is related to Visiting Nursing Association (VNA) being in our county or not. The discharge planning departments at various hospitals have been contacted because we have heard from patients that when the discharge planner talks with them and asks if they want a visiting nurse and the patient says yes, that translates to VNA and not other entities on the list. All of the hospitals have a list of providers available to patients appropriate for wherever they live, but it is hard to know exactly what happens when they are discharged. Also, the Health Department paid for advertisement in the Home Care Association publication that is sent to all discharge planners in the State.

Mrs. Laurie Adams from the Tri-County Tobacco Free Program introduced the individuals with her to talk about tobacco free pharmacies. Mr. Vic Vena spoke to the Board stating that he does not sell cigarettes in his pharmacy because pharmacists are health professionals who dedicate their lives to positive health outcomes. He pointed out that our county has high Medicaid costs and most of those costs are due to smoking related issues. He feels that the Health Department should make a recommendation that cigarettes not be sold in pharmacy establishments. Mr. Vena thanked the Board for their time.

Mr. Jon Chaffee spoke to the Board stating that pharmacies build trust and respect in the community for their role in providing health care to residents. A pharmacy that sells tobacco products conveys the message that it is acceptable and is not a dangerous product, even though we know that over 400,000 people in the United States and over 25,000 in New York die from tobacco related illnesses. Tobacco cessation products are sometimes sold next to tobacco products which make it harder for people to quit. Pharmacies that sell tobacco products also sell medicine to treat asthma, emphysema, lung cancer, and heart disease, which sends the wrong message to individuals.

Mr. Chaffee went on to say that in Cattaraugus County 15% of all cancer patients are lung and bronchial cancer and they represent 31% of all cancer deaths. Adult and youth smoking rates rank much higher in Cattaraugus County than in New York State (NYS). Cattaraugus County is higher than the state average in the percentage of adults with Asthma, the number of adults who have died from premature heart disease which includes coronary, cardio-vascular heart disease and congestive heart failure.

Mr. Chaffee offered some statistical information to the Board: nine (9) pharmacies in Cattaraugus County do not sell tobacco products and are all independently owned; all of the pharmacies that do sell tobacco products eight (8) are chain stores. CVS, Rite Aid and Walgreens 2012 financial reports showed that 60% of their sales came from prescription drugs so they shouldn't have to sell tobacco products. In 2008, Wegmans, which has a pharmacy, went tobacco free and offered cessation programs to their employees. In 2008, the City of San Francisco passed the tobacco free pharmacy law that covered big and small pharmacies and in 2012 over 6 municipalities in Massachusetts passed tobacco free pharmacy ordinances.

Ms. Katelyn Main pointed out pictures in the presentation of tobacco products that are on display right next to smoking cessation products. She also commented on how difficult it was for her stepfather to quit smoking but he did finally quit.

Mr. Porpiglia stated that a pharmacy is trying to improve health and selling tobacco products does not send that message. He referenced a sample policy that the Board members can refer to and thanked the Board for allowing the group to present their information today.

Mrs. Adams stated that there has been no litigation overturned upon any municipal board when a policy has been enacted. Also, there are no counties currently in NYS who have enacted a tobacco free pharmacy policy, but reminded Board members of the progressive actions that were taken previously by the Board regarding the Clean Indoor Air Act and E-cigarette law. She thanked the Board for their time in allowing them to provide them with educational materials on tobacco free pharmacies.

Dr. Watkins asked Mrs. Adams how the Board could support their cause. She stated that the American Cancer Society would support the Board of Health passing a resolution to stop the sale of tobacco products in pharmacies. Dr. Bohan suggested that the Board send a letter to the pharmacies that do not sell tobacco products thanking them for not selling tobacco products and send another letter to those pharmacies selling tobacco products asking them not to do it and if they insist on selling them, that they not put the tobacco products in the pharmacy section of their store. Mr. Brady stated that he would need to have a discussion with the Board before they consider passing a resolution to stop the sale of tobacco products in pharmacies. NYS law permits retailers, including pharmacies that wish to sell tobacco products to register and if they register then they may sell tobacco products. Essentially, if the Board were to adopt this policy it would nullify the registration that occurred at the State level and there would be a question of whether state law has preempted this, thereby preventing local boards or county legislature from adopting such a policy. Mr. Lapey made a motion to send letters to the pharmacies that do not sell tobacco products to thank them and also send a letter to the pharmacies and chains that do sell tobacco products requesting that they do not. It was seconded by Dr. Hamlin. It was unanimously approved.

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Mr. Wohlers stated that there are 8 pharmacies that sell tobacco products and yes, it is contradictory for an establishment that is selling cessation products to sell tobacco products on the same shelf, but there are still plenty of places in this County to buy cigarettes; smoke shops on the reservation, convenience stores and as of last year, Dollar General stores also began selling tobacco products.

Environmental Health Division: Mr. Wohlers reported that the first fall rabies clinic was held last night at Markhams and two more are scheduled; in Franklinville and Allegany. In July and August we submitted a lot of bat specimens for rabies testing. We encourage people to call to determine exposure if they find a bat in their house. We were notified by the State that they are reducing the grant that we get for the rabies program by approximately \$1,800 for the remaining four years. It will be harder to conduct the clinics at the same level of service if the funding keeps getting reduced. We are co-hosting a water operator training with the NYS American Waterworks Association chapter. It will be held next week in Springville for over 30 engineers and water operators.

Mr. Wohlers commented on the positive EEE specimen from Chautauqua County. Dr. Gall, State Entomologist, was very supportive of us doing some limited trapping. We were able to set mosquito traps two nights a week in five locations; two in the Conewango swamp areas north of Randolph, and traps were also placed in Napoli, Carrollton, and Portville. Dr. Gall agreed to do the identification and will ship them to the State Lab for virus testing. If West Nile Virus or EEE virus is found in our County, we may have to do an adulticide aerial spraying for mosquitoes, but would receive reimbursement from the State because it would be a public health threat. Dr. Gall stated that they may set up the resting box traps in our county next year and hopefully we will be able to do better surveillance.

Mr. Wohlers also reported that Dr. Gall stated that they also are conducting limited tick surveillance, and submitting them for testing to the State Lab. Every year the rate of infected deer ticks is steadily increasing so we should keep up our campaign to educate county residents about checking for ticks and how to avoid tick bites.

It has been almost a year since the draft amendments to the County Sanitary Code were submitted to the State Health Department and we still have not received comments from them. We will draft a letter asking that they please provide a more timely response.

Mr. Wohlers said that they are investigating a number of cockroach infestations and gave some public water system updates. The Town of Randolph Board has taken the legal steps necessary to complete their environmental quality review, and is moving forward to close on funding for a three to four million dollar water project to upgrade their system.

One of the wells in the Village of Cattaraugus tested positive for methylene chloride last fall. DEC is still trying to identify the source. In the meantime, they have spent several hundred thousand dollars hiring consultants to design a special treatment system so even when their spring production declines they can use the treated water from this contaminated well and they won't be without water.

The State Environmental Facilities Corporation's loan committee will be meeting to decide on the funding for the Crystal Water Company, which is the private water system in West Valley that needs to be completely reconstructed.

Mr. Porter reported the following enforcement case for Board action:

DOCKET 13-023

RICHARD & MARY JO LESINSKI, 1111 (a/k/a/1129) Abbott Road, Lyndon

Violations: CCSC, Article II, Section 16.6.1 On August 13, 2010, a sewage discharge was documented by the Cattaraugus County Health Department. The violation has not been corrected to date. Notice of Hearing with no stipulation/civil compromise offered on 7/16/13. It was received and signed for by Rick Lesinski on 7/18/13.

Administrative Hearing:

Public Health Sanitarian: Rhonda Kelley appeared for CCHD and was sworn.

Respondents: Failed to appear at hearing.

Enf. 1 was read and affirmed to be correct by Ms. Kelley and identified as People's Exhibit #1. The following testimony was given:

P. Ex. #2 – Complaint investigation report dated 5/24/10. Septic system leaking onto the ground. Dumping raw sewage outside. Excessive garbage present. When Ms. Kelley contacted Mr. Lesinksi on 6/3/10, he stated that there was a clog in the drain prior to the septic tank that needed to be repaired.

Ms. Kelley documented contacts (P. Exhibits 2 & 3) with Respondent (21 different dates between 7/14/10 and 5/24/13) in an attempt to resolve this issue.

P. Ex. #4 – Copy of a letter to Respondent dated 6/8/10 indicating a follow up inspection after 7/12/10. Ms. Kelley returned to property on 8/5/10 and documented that the sewage disposal system had failed. She supplied Mr. Lesinski with Neighbor Works information.

P. Ex. #5 – After several unsuccessful attempts to get voluntary compliance, a letter was sent 9/12/11 giving a compliance date of 10/11/11.

P. Ex. #6 – Again, after several unsuccessful attempts at voluntary compliance, a letter was sent 5/31/13 explaining that the sewage problem has not been fixed and Respondent was given the option of scheduling a dye test of the sewage disposal system or submitting a small sewage disposal system application along with the \$125 fee for the design of a small sewage disposal system on or before 7/1/13 to avoid enforcement action.

No response was received. Enforcement hearing was scheduled.

Hearing Officer Finding:

Respondent is in violation of CCSC, Article II, Section 16.6.1 –

untreated sewage discharge.

Recommendation:

That the Respondent pays a \$150.00 fine and allows CCHD to perform a dye test by 9/30/13. Based on the results of the dye test an appropriate action plan would be developed and committed to be carried out by Respondent.

-OR-

The Respondent admits to the sewage discharge and applies for a permit to construct a small sewage disposal system along with the \$125 application fee by 9/30/13 with a \$10 per diem fine for every day not in compliance after that date.

Mr. Lapey made a motion to accept the Hearing Officer's recommendation. It was seconded by Mr. Haberer and unanimously approved.

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DOCKET 13-023 (continued)

Board Ordered:

That the Respondent pays a \$150.00 fine and allows CCHD to perform a dye test by 9/30/13. Based on the results of the dye test an appropriate action plan would be developed and committed to be carried out by Respondent.

-OR-

The Respondent admits to the sewage discharge and applies for a permit to construct a small sewage disposal system along with the \$125 application fee by 9/30/13 with a \$10 per diem fine for every day not in compliance after that date.

DOCKET 13-029

BARTLETT COUNTRY CLUB, INC., BARTLETT COUNTRY CLUB, 32 Euclid Ave, Olean Violations: 10NYCRR, Section 6-1.4(b)(2) Respondent failed to maintain the minimum required level of disinfectant residual in the swimming pool water as listed in Section 6-1.11(c)(1). Section 6-1.4(b)(3) During the course of an inspection, interview with lifeguard personnel revealed chlorinator is not operated in a continuous manner. Previous docket #11-033 & #11-037. Notice of Hearing with no stipulation offer was mailed. It was received and signed for by Michelle McConnaughey on 7/24/13.

Administrative Hearing:

<u>Public Health Sanitarian</u>: Elisha Rust and Raymond Jordan, Sr. Public Health Sanitarian, appeared for CCHD and were sworn.

Respondents: Mr. Sean McNamee appeared at hearing for Respondent and was sworn in. Enf. 1 was read and affirmed to be correct by Mr. Rust and identified as People's Exhibit #1. P. Ex. #2 – Swimming pool inspection report dated 7/22/13 indicated 2 red violations and 5 blue violations. One of the red violations was that the chlorine level was below the recommended levels and was fixed during the inspection. The second red violation was that the chlorinator was turned off at the end of swimming every day. This device has to be left on to maintain the proper chlorine level. Mr. Rust reported that the levels of chlorine have been satisfactory during visits since 7/22/13.

Mr. McNamee gave the following testimony:

- He is in charge of the St. Bonaventure swim program and understands the importance of proper disinfectant levels.
- Mr. McNamee will undertake the responsibility of keeping the chlorinator operating with proper chemicals to insure adherence to CCHD guidelines.

Mr. Rust made an observation about the improvement at Bartlett Country Club since Mr. McNamee has taken over. Mr. Jordan complimented Bartlett Country Club on the improvement in communication and adherence to Health Department guidelines.

Hearing Officer Finding: Respondent was in violation of 10NYCRR, Section 6-1.4(b)(2) & 6-

1.4(b)(3) Failure to maintain the minimum required level of

disinfectant residual in the swimming pool on 7/22/13.

Recommendation: Allow Respondent to put corrective actions in place to insure the

proper level of disinfectant residual and correct the five blue violations observed on the 7/22/13 inspection before the next

swimming pool inspection in 2014.

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DOCKET 13-029 (continued)

Mrs. Fox made a motion to accept the Hearing Officer's recommendation. It was seconded by Mr. Lapey and unanimously approved.

Board Ordered:

To allow Respondent to put corrective actions in place to insure the proper level of disinfectant residual and correct the five blue violations observed on the 7/22/13 inspection before the next swimming pool inspection in 2014.

There being no further business to discuss, Mr. Lapey made a motion to adjourn. It was seconded by Mrs. Fox and carried to adjourn.

Respectfully submitted,

Kevin D. Watkins, M.D., M.P.H.

Secretary

KDW/km