

**Trumbull County Board of Health  
Regular Meeting – March 23, 2016 – 1:30 P.M.  
176 Chestnut Ave. NE – Warren, Ohio**

**BOARD MEMBERS PRESENT:** Marisha Agana, M.D.  
Thomas Borocz  
Greg Dubos  
John “Jack” Simon, Jr.  
Kathy Salapata, R.N.  
John Messersmith, President Pro Tempore  
Robert Biery, Jr. President

**STAFF:** Frank Migliozi, MPH, REHS/RS  
Sandra Swann, R.N., Director of Nursing  
Jenna Amerine, MPH, CHES, Health Educator/Planner  
Natalie Markusic, REHS/RS, Accreditation Coordinator  
Rodney Hedge, RS, Public Health Sanitarian  
Johnna Ben, Administrative Secretary

**OTHERS:** Robert Kokor, Legal Counsel

**MINUTES**

- I. The meeting was called to order and the Pledge of Allegiance was said.**
- II. Adoption of Agenda:** Mr. Messersmith requested that the agenda be amended to include an executive session for discussion of personnel.

**MOTION: 16-27** made by Mr. Borocz, second by Dr. Agana, to adopt the agenda with the amendment of an executive session.

At this time, Atty. Kokor questioned as to whether the executive session was being requested for discussion of an issue that was taken to the prosecutor’s office for an opinion regarding an IRS issue. Mr. Messersmith stated that it was not.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

**III. Election of Board of Health Officers: *MOTION: 16-28*** made by Mr. Messersmith, second by Mrs. Salapata, to have Mr. Biery remain as President.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

***MOTION: 16-29*** made by Mr. Simon, second by Mr. Borocz, to have Mr. Messersmith remain as President Pro Tempore.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

**IV. Approval of Minutes: *MOTION: 16-30*** made by Mr. Messersmith, second by Mrs. Salapata, to approve the minutes of the February 24, 2016, regular meeting, as presented.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Abstain  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

**V. Health Commissioner Report: *MOTION: 16-31*** made by Mr. Borocz, second by Mr. Messersmith, to accept the Health Commissioner's report as presented.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

- VI. Director of Nursing Report: *MOTION: 16-32*** made by Mrs. Salapata, second by Dr. Agana, to accept the Director of Nursing Report as presented.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

- VII. Director of Environmental Health Report: *MOTION: 16-33*** made by Mr. Simon, second by Dr. Agana, to accept the Director of Environmental Health Report as presented.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

- VIII. Health Educator Report: *MOTION: 16-34*** made by Mr. Messersmith, second by Mrs. Salapata to accept the Health Educator Report as presented.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes

Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

- IX. Accreditation Coordinator Report: *MOTION: 16-35*** made by Dr. Agana, second by Mr. Borocz to accept the Accreditation Coordinator Report as presented.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

- X. Board Report:** Dr. Agana reported that the American Academy of Pediatrics Foundation in coordination with the Trumbull County Combined Health District is sponsoring a gun safety program wherein gun safety locks will be provided through Cabela's and Kiwanis Clubs. This event will be held the last week in September. The Trumbull County Combined Health District is the first public health department to participate in this type of initiative, and Dr. Agana thanked Mrs. Swann and Mr. Migliozi for their cooperation with this program. No health department funds will be outlaid for this program, all funding will be from the American Academy of Pediatrics Foundation.

Mr. Messersmith stated that last October or November, he was asked to investigate the possibility of the health department relocating. Mr. Messersmith stated that he had spoken with the county commissioners, who referred him to Atty. Jim Misoky. Two (2) places were discussed with regard to relocating, but it would require the department to split, and Mr. Migliozi did not feel that that was a good idea for the department.

Mr. Biery introduced Mr. Dubos as the Board new member, and welcomed him to the Board. Mr. Biery also recognized Mr. Appis, who was in attendance at the meeting, and thanked and recognized him for his many years of service on the Board.

- XI. Old Business:** A. Passage of the Trumbull County Combined Health District Fee Schedule .09 Nursing – Addition of “S. Pregnancy Testing” – 2<sup>nd</sup> Reading

***MOTION: 16-36*** made by Dr. Agana, second by Mr. Dubos to approve the second reading of the passage of the Trumbull County Combined Health District Fee Schedule .09 Nursing – Addition of “S. Pregnancy Testing”.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

B. Update – Declaration of Unfit for Human Habitation – 6501 St. Rt. 87, Kinsman Twp. – Peter Fedak, Owner – At the December 16, 2015, Board of Health meeting, this property was brought before the Board. At that time, the Board tabled the matter to allow Mr. Fedak time to work out a compliance schedule with the health department to remediate the issues on the property. Mr. Hedge stated that he conducted a re-inspection on March 7, 2016. Mr. Fedak has cleaned the site and made some structure repairs. At this time, the structure, in its current state, does not meeting the standards to be declared unfit. A notice was sent to the Kinsman Township Zoning Inspector notifying him of the findings.

Mr. Messersmith stated that he had concerns over variances being brought to the Board. In particular, for a sewage system on a Custer Orangeville property on last month's agenda was brought before the Board for variance, for a sewage system that had already been installed, but the write up stated that a variance was required prior to a permit being issued. Further stating that he felt that the Board was being used when someone is asking for a variance for a the system that has already been installed, and that he was against these types of matters being handled internally. Mr. Miglioizzi responded stating that the variance write up was written up incorrectly, and it should have said before the system could be finalled it needed a variance from the Board. At times, as an installer runs into problems when installing the system, which requires a variance before the inspector can give a final approval on the installation. Mr. Miglioizzi made it clear that variances are not being handled internally, administrative hearings are the only matters that were being brought before the Board that are now being handled internally.

**XII. New Business:** A. Passage of Revision of the Trumbull County Combined Health District Fee Schedule - .12 Tattoo Establishments – 1<sup>st</sup> Reading – The environmental division conducted a cost analysis of the tattoo program. Currently the tattoo establishment registration fee is \$150.00, based upon the cost methodology; the new fee will be \$276.20.

**MOTION:** 16-37 made by Dr. Agana, second by Mr. Borocz to approve the 1<sup>st</sup> reading of the revision of the Trumbull County Combined Health District Fee Schedule - .12 Tattoo Establishments.

**Roll Call Vote:**

Dr. Agana – Yes

Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

B. Trumbull County Combined Health District Board of Health By-Laws – The by-laws committee met regarding establishing a set of by-laws for the Board of Health. Based upon the committee’s suggestions, legal counsel’s advice and review of other boards of health by-laws, a set of by-laws was established. Mr. Migliozi stated that Portage and Mahoning counties were used a template for establishing the Board’s by-laws. Most boards of health do have public comment, but there are restrictions such as the use of sign in sheets five (5) days advance notice if the person wishes to speak regarding a particular property and amount of time allotted for speaking.

In the by-laws, it specified an employee welfare committee whose duty it would be to approve leave for the Health Commissioner. Instead, it was suggested that the Board Chair and Vice-Chair be authorized to approve leave for the Health Commissioner.

**MOTION: 16-38** made by Dr. Agana, second by Mr. Simon to authorize the Board President and President Pro Tempore to approve leave requests for the Health Commissioner.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

**MOTION: 16-39** made by Dr. Agana, second by Mr. Dubos to approve the 1<sup>st</sup> reading of the Trumbull County Combined Health District Board of Health By-Laws.

**Roll Call Vote:**

Dr. Agana – yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – yes  
Mr. Simon – Yes

Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

C. Authorization to Contract for Professional Engineering Services – Buckeye Civil Design, LLC recently submitted information for the proposed Trans Rail America CD&D Facility in Hubbard Township. The health department respectfully requests a motion authorizing the Health Commissioner to enter into a contract with Lynn, Kittinger & Noble Inc. for professional engineering services, to review this material. Per an opinion from the Trumbull County Prosecutor’s office, this does not need to go out for bid.

**MOTION: 16-40** made by Dr. Agana, second by Mr. Borocz to authorize the Health Commissioner to enter into a contract with Lynn, Kittinger & Noble Inc. for professional engineering services, the amount not to exceed \$8,000.00.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

D. Administrative Hearing – Food Service Operation License & Retail Food Establishment License Non-Renewal and/or Non-Payment of Late Fee – There are nine (9) businesses who have not reviewed their licenses and/or paid the proper penalty fees and are currently operating without a valid license.

**MOTION: 16-41** made by Mr. Messersmith, second by Dr. Agana to order the referenced locations to make application and submit the required fee and/or penalty to renew their food service operation license or retail food establishment license by Friday, March 25, 2016, by 3:00 P.M. If they are not submitted, the Board of Health hereby authorizes the Health Commissioner to close the facilities beginning Friday, March 25, 2016, until all licenses are obtained and fees are paid.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes

Mr. Biery – Abstain

Motion carried.

E. Variance Request – Dan Clonch – Mr. Clonch is requesting a variance from OAC 3701-29-03(C)(5) for 2016, which states “...beginning with registration years starting on January 1, 2016, proof of completion of at least six continuing education hours during the previous calendar year through educational programs approved by the department of health or demonstration of competency obtained...” Due to several medical issues in 2016, Mr. Clonch was unable to obtain and complete his required six (6) continuing education hours. Mr. Clonch has signed up to take the health department’s wastewater operation class on March 30, 2016, and is aware that he will need to obtain an additional six (6) hours before the end of 2016 for his 2017 registration.

**MOTION: 16-42** made by Dr. Agana, second by Mr. Dubos to grant a variance for Dan Clonch from OAC 3701-29-03(C)(5) for 2016, provided that Mr. Clonch completes the six (6) credit hours for 2016, and completes an additional six (6) credit hours for 2017.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

F. Recently IRS Decision Declaring Board of Health Members Employees – A letter was recently received from the Trumbull County Auditor stating that Board of Health Members are considered employees, and would need to pay federal and state taxes, and possibly PERS. This IRS ruling directly affects one of our current Board Members, who is a PERS retiree, and puts their health insurance coverage in jeopardy. It is the health department’s position that the definition of public employees, exempts board of health members, and therefore board of health members would not be PERS eligible. The Trumbull County Prosecutor’s office was contacted, and it is their opinion that this is a private matter, and the health department cannot use health department funds to investigate this matter. The Association of Ohio Health Commissioners has agreed to pay an attorney, who has researched this matter, to fight this issue for our Board Member. Mr. Biery questioned what happens in the meantime while this is being sorted out. Mrs. Salapata replied that she still have insurance coverage, but is paying more for it, and she lost the reimbursement she was receiving for her spouse. It is hoped that this matter will not be drawn out, and it will be remedied soon. Mr. Biery asked if the Board should send a letter of support. Atty. Kokor advised that the Board wait, until the attorney addresses the matter first. Mrs.



Salapata stated that PERS knows the law is in place, but their answer has been "...yes, but..."

**XIII. Executive Session: MOTION: 16-43** made by Mr. Messersmith, second by Dr. Agana, to closed for executive session for discussion of personnel.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

**MOTION: 16-44** made by Mr. Messersmith, second by Mrs. Salapata, to reopen to public session.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried. (Closed 3:14 P.M. – Reopened 3:45 P.M.)

**XIV. Approval of Payment of Bills: MOTION: 16-45** made by Mr. Messersmith, second by Dr. Agana, to approve the payment of bills as presented.

**Roll Call Vote:**

Dr. Agana – Yes  
Mr. Borocz – Yes  
Mr. Dubos – Yes  
Mrs. Salapata – Yes  
Mr. Simon – Yes  
Mr. Messersmith – Yes  
Mr. Biery – Yes

Motion carried.

**XV. Date of Next Regular Meeting: April 27, 2016**

**XVI. Adjournment: MOTION: 16-46** made by Mrs. Messersmith, second by Dr. Agana, to adjourn.

**Roll Call Vote:**

- Dr. Agana – Yes
- Mr. Borocz – Yes
- Mr. Dubos – Yes
- Mrs. Salapata – Yes
- Mr. Simon – Yes
- Mr. Messersmith – Yes
- Mr. Biery – Yes

Motion carried. (Adjournment 3:47 P.M.)

**RECORDED BY:**

**ATTESTED BY:**

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**Johnna Ben**  
**Administrative Secretary**  
**Trumbull County Combined Health District**

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**Robert Biery, Jr.**  
**Board President**  
**Trumbull County Board of Health**

**For**

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**Frank Migliozi, MPH, REHS/RS**  
**Secretary & Health Commissioner**  
**Trumbull County Board of Health**