



CATTARAUGUS COUNTY BOARD OF HEALTH



Public Health
Prevent. Promote. Protect.
Cattaraugus County
Health Department
Established 1923

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Joseph Bohan, MD, President

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Sondra Fox, RN, MSN, C.S.

Richard Haberer

Theresa Raftis

David L. Smith, Mayor

Kathryn Cooney Thrush, NP, MSN

MINUTES September 2, 2020

The 888th meeting of the Cattaraugus County Board of Health (BOH) was held virtually on September 2, 2020.

The following members were present:

Joseph Bohan, MD

Richard Haberer

Giles Hamlin, MD

Theresa Raftis

Legislator Kelly Andreano

Mayor David L. Smith

Sondra Fox, RN, MSN, C.S.

Kathryn Cooney-Thrush, NP, MSN

Also present were:

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

Richard Helmich, Legislator

Ashley Milliman, County Attorney

Raymond Jordan, Sr. Public Health Sanitarian

Debra Lacher, Secretary to the Public Health Director

Colette Lulay-Pound, Administrative Officer

Rick Miller, Olean Times Herald Reporter

Lynne Moore, Director of Patients Services

Dave Porter, Hearing Officer

Paul Schwach, MD, Clinical Director

Shomita Steiner Ph.D., Public Health Emergency Preparedness Director

Gilbert Witte, MD, Medical Director

Eric Wohlers, Environmental Health Director

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

Dr Bohan asked the Board for a motion to accept the August minutes that were distributed by email. Mr. Haberer made a motion to approve the minutes of the BOH meeting held August 4, 2020, the motion was seconded by Mrs. Fox and unanimously approved.

A motion was made by Dr. Hamlin to approve the Professional Advisory Minutes held July 29, 2020, the motion was seconded by Mayor Smith, and unanimously approved.

Dr. Bohan stated that the executive session listed on the agenda would not be required due to recent communication by email conducted by the Board on this matter.

He stated that it is time for the Board to review Dr. Watkins reappointment as the Public Health Director of the Health Department and per the communication of the Board by email, the Board is ready to vote in open session.

A motion was made by Mrs. Fox to recommend the reappointment of Dr. Kevin D. Watkins for another 6 year term as the Public Health Director, the motion was seconded by Legislator Andreano. A roll call vote was taken and there was 8 ayes, and 0 nays. Dr. Bohan stated he would forward this unanimous recommendation to County Administrator Jack Searles, and to County Legislature chairman, Howard VanRensselaer. Dr. Bohan thanked Dr. Watkins for his service and stated the Board is looking forward to working with him for another six years.

Dr. Watkins thanked everyone for their confidence in him and he expressed his appreciation for the chance to serve another six years, and stated that he has had an exciting, rewarding and gratifying eleven years. He also expressed his gratitude for the Health Department staff, the support of members of the Board of Health, the County Legislators, and the County Administrator who have all been encouraging and great to work with.

Dr. Watkins stated that there were several action items that needed the Board's approval, the items included (4) homecare policies, an amendment to the immunization fee schedule that was approved earlier this year, and the review of an inspection report of Lakeview Restaurant.

The first Homecare policy titled Start of Care Screening for COVID-19. It is a policy that would be enacted to screen all prospective patients for symptoms and or exposure to COVID-19 in order to minimize exposure to staff and prevent the spread of the virus within the community. The second policy titled, Pandemic Disease Plan, which is a plan for staff to follow with patients who have been identified as positive for COVID-19 and what actions should be taken by staff to limit the transmission, while adhering to guidelines. The third policy titled, COVID-19 (SARS-CoV-2) sanitation procedure, provides instruction on cleaning, and disinfecting of potentially contaminated work surfaces. The policy requires staff to clean their work station and be responsible for that act. The final policy, titled COVID-19 staff surveillance, requires the staff to monitor their daily temperature, respiratory symptoms, and the field staff to conduct self-testing for COVID-19, twice monthly. Dr. Watkins expressed his concerns that after reviewing this policy that the required self-testing for COVID-19 might create a union challenge, and he asked the Board to allow him to table the fourth policy until consultation with the County Attorney has been completed. A motion was made by Mayor Smith to approve the first (3) policies, the motion was seconded by Dr. Hamlin, and unanimously approved.

The next action item requires adding a vaccine called Kinrix to the immunization fee schedule. Kinrix which is a vaccine combination of diphtheria, pertussis, tetanus, and inactivated polio. This vaccine was approved by the FDA in November 2019, the preferred method of administration of the vaccine is injection to the upper arm. The cost of the vaccine to the department is \$41.92, the department is proposing to charge individuals with insurance \$54.60, plus the administration fee, if the person has no insurance, the department is proposing the use of the sliding fee scale and would charge the individual \$42.00 plus the administration fee. A motion was made by Mr. Haberer to accept the addition of Kinrix and the proposed fees to the immunization fee schedule, the motion was seconded by Mrs. Cooney-Thrush, and unanimously approved.

The last action item was the review of the New Lakeview Chinese Restaurant operating permit. The latest inspection report identified (1) red violation that was corrected immediately, and (4) blue violations, of which (3) are repeat violations. The Board has asked the Health Department to inspect this facility on a monthly basis and present the inspection report to the Board on a monthly basis, who will then approve the issuance of a monthly operating permit. A detailed discussion was held regarding the inspection report.

Dr. Watkins stated, it is the department's recommendation that a notice of administrative hearing be issued to the New Lakeview Chinese Restaurant for repeat violations identified in the recent inspection report and that the review consist of possible assessment of financial penalties for the repeat violations. A motion was made by Dr. Hamlin to accept this recommendation, the motion was seconded by Mrs. Fox, and unanimously approved.

DIRECTORS REPORT: Dr. Watkins stated that COVID-19 related responses continues to be a large part of the daily workload for the department.

Dr. Watkins reported that as of Monday, August 31, 2020, NYS reported a total of (435,510) confirmed cases of COVID-19 and (25,331) deaths. The number of newly confirmed cases in NYS increased, on Monday, August 31, 2020, there were (754) new cases.

The number of hospitalized COVID-19 patients continues to remain flat, on Monday, August 31st there were (432) patients in the hospital, of the (432) COVID-19 patients in the hospital, (109) were in the intensive care units, which indicates that 25% of all hospitalized COVID-19 patients in NYS, were admitted to intensive care units.

On the mortality side, the number of deaths being reported for COVID-19 remained flat, on Monday, August 31st, there were (3) deaths reported.

In Cattaraugus County, as of date, there are a grand total of (160) residents who are currently under quarantine. There are (42) under precautionary quarantine, and (118) under mandatory quarantine.

Additionally, there has been (173) confirmed COVID-19 cases in Cattaraugus County, of which, (23) are active, and (146) have recovered. This morning the department was notified of (6) more positive cases, which will raise the number of confirmed cases to (179), and the number of active cases to (29). There has been a slight increase in the number of reported cases recently, a lot of them have been contacts of direct positive cases, and many are symptomatic. The county has administered (27,737) tests, of which, (27,498) have been negative, and (179) were positive. Of all the test administered, there is a 99% negative rate, and less than a 1% positive rate. Of the (179) positive cases, (146) individuals recovered, and hence, the recovery rate is at 82%. Of the (179) positive cases, (43) have been identified as health care workers, (74) were asymptomatic, (56) were contacts of positives. Of the (179) positive cases the age range is from 4 years old to 91 years of age, there were (64) cases between the ages of 50-69, and (62) cases between the ages of 20-39.

Dr. Watkins informed the Board that the Governor has issued a caution flag for Western New York (WNY) due to a new infection rate of 1.6% in WNY. He has enacted the Public Health "SWAT team" armed with rapid COVID-19 testing machines targeting Erie, Niagara, and Chautauqua Counties.

WNY COVID-19 recent transmission rate increase is driven in part by several case clusters in WNY counties, which includes a food processing plant in Chautauqua County that has been tied to 53 cases to date. The Public Health “Swat Team” has set up (4) testing sites in Erie County, (2) in Niagara, and (2) in Chautauqua County.

As of date, on a 7-day rolling average, the transmission rate for COVID-19 for WNY counties are as follow: Allegany County (0.3%), Cattaraugus County (1.1%), Chautauqua County (2.2%), Niagara County (0.8%), and Erie County (1.7%). As of date Cattaraugus County has the third highest transmission rate amongst the five counties in the WNY region. Dr. Watkins stated that the department is concerned about all of the new positives COVID-19 cases seen in the last two weeks and added that Cattaraugus County is going in the wrong direction. Legislator Andreano asked, with all the new cases in Cattaraugus County seen in the last couple of days, is there a way to pinpoint a cause. Dr. Watkins responded that it appears the new positives cases are individuals who have been together, such as entire families and recent travelers.

Dr. Watkins discussed an article that was forwarded to Board members regarding COVID-19 reinfection. Researchers in Hong Kong have confirmed the world’s first documented case of a patient becoming re-infected with COVID-19 following recovery. The Hong Kong University research team noted that genetic sequencing showed the virus strains contracted by a patient in April and August, 142 days (20 weeks), were clearly different. Currently the Centers of Disease Control and Prevention (CDC) states that there is no known cases of reinfection with COVID-19. Data to date show that a person who has had and recovered from COVID-19 may have low levels of the virus in their bodies for up to 3 months after diagnosis.

Dr. Watkins stated that preventative measures for contracting COVID-19 include wearing a face covering, social distancing, and hand hygiene. He added that a recent study completed by Duke University tested the efficacy of (14) different face masks to identify which type of masks were most efficient. The study showed that gaiters or fleece masks had the worst efficacy compared to thirteen other face coverings. The report indicated that speaking through the neck fleece, allows the dispersion of large droplets into multiple smaller droplets, and smaller particles are airborne longer than large droplets (larger droplets sink faster), hence the use of such masks might be counterproductive. The study also described the various layers that were in the face coverings, and noted that gaiters or fleece are usually single layered, and should be multilayered if worn as a face covering to protect against spreading COVID-19.

Another study, called “visualizing droplet dispersal for face shields and masks with exhalation valves” published on line in the journal of “Physics of Fluids” which was distributed to Board members discussed the efficacy of wearing a face shield instead of a face covering. The article concluded that the face shield may initially protect a person from a direct sneeze or cough but those particles can come underneath or around the face shield and infect other individuals. The recommendation is to not use a face shield unless you are also wearing a face covering underneath. Finally, a mask equipped with an exhalation port indicates that a large number of droplets pass through the exhale valve unfiltered, which significantly reduces its effectiveness as a means of source control. In order to minimize the community spread of COVID-19, it may be preferable to use high quality cloth or surgical masks that are of a plain design, instead of face shields and masks equipped with exhale valves.

Mr. Miller, Olean Times Herald, questioned if there was a concern of increased positives in relation to the opening of schools. Dr. Watkins replied that only Saint Bonaventure has opened and a few of the pre-K to 12 schools will start sometime this week. Dr. Watkins stated that the department is working closely with Saint Bonaventure, Jamestown Community College, and the pre-K to 12 schools. The department is providing assistance to all the schools to screen, test, and identify any positives that they may have, in addition to working with them for contact tracing. This is a daily process, and we expect that there will be some positives, but at this particular time, we are working well together and no known positives have been identified.

ENFORCEMENT LIST: Mr. Porter, Hearing Administrator Officer reported on the administrative hearings held August 12, 2020.

DOCKET #20-007:

Respondent: Cattaraugus County Property Address 274 Main Street, Randolph, NY.

**Violations: Sanitary Code of the Cattaraugus County Health District Section 16.6.1
Tenant discharging inadequately treated waste water onto ground surface
eventually flowing into neighbor's property.**

Brief Summary and Recommendation:

1. Residence appeared to be owned by a non NYS Residence. First class and certified mail returned from addressee informing of problem and requesting immediate repairs. As property owner was not properly served, a hearing was not held.
2. As raw sewage was being discharged creating a public health hazard different scenarios were discussed to remedy ASAP. Tenant was unapproachable.
3. Within two hours of the scheduled hearing on 8-12-2020 the Health Department staff reported that the residence was a tax foreclosure and owned by Cattaraugus County and had a squatter residing.
4. It is apparent from conversations with county officers the squatter knows she cannot be evicted due to Governor's Administrative Order.
5. Health Department staff is working with County Legal to inquire best solution.
6. Tax Foreclosure sale in process sale concludes September 8, 2020.
7. Bid goes to Legislators for acceptance.
8. Hopefully new owner.

Dr. Bohan asked if there was any way to get rid of the squatter and Mr. Porter replied that the Governor is strict about evicting people from their home during COVID-19. A motion was made by Mrs. Fox to accept Mr. Porter's recommendation, seconded by Mayor Smith, and unanimously approved.

DOCKET #20-005:

**Respondent: Mr. John Sinsabaugh, 1838 Dugan Rd., Olean, NY 14760.
Property located at 694 Garden Ave., Olean, NY 14760.**

Violation: 10NYCRR Section 67-2.8 Mr. John Sinsabaugh was issued a Notice and Demand, dated January 23, 2020, which required the discontinuance of conditions conducive to lead poisoning at 694 Garden Avenue, located in the City of Olean. In the Notice and Demand, Mr. John Sinsabaugh was requested to prepare and submit a written, detailed work plan to this Department within 14 days of this notice outlining the methods he will use to correct the conditions conducive to lead poisoning. In attempt to bring Mr. John Sinsabaugh into compliance, two voice mail messages were left asking to contact the Department, however, there was no response from Mr. Sinsabaugh. On March 11, 2020, a letter was mailed to Mr. John Sinsabaugh informing him that he was in violation and that failure to submit the work plan by March 19, 2020 would be cause for legal action. To date, the work plan has not been received and there has been no response from Mr. John Sinsabaugh.

- Recommendations: a.) The respondent pay a fine of \$500.00 X 2=\$1,000.00 for failure to appear at administrative hearing after being properly served by 9-30-2020.
- b.) Respondent to prepare and submit a written, detailed work plan to the Health Dept. by 9-30-2020 outlining the methods to correct the conditions conducive to lead poisoning at 694 Garden Ave, Olean, NY. The work plan must be approved by the Health Dept. before any lead remediation work begins.
- c.) Failure for compliance to (a) & (b) above will result in a \$10 per day per diem until in compliance.
- d.) Lead remediation must be completed and a request for a clearance inspection must be made to the Health Dept. by 11-2-2020. (A compliance schedule will be determined by the Health Dept. for any deficiencies found during the clearance inspection.)
- e.) The Health Dept. will commence proceedings to placard 694 Garden Ave., Olean, NY as a public health hazard if all of the above conditions have not been met.

Dr. Bohan asked if this was a single family home or a multiple unit. Mr. Porter replied that this is a duplex which has already received a Board Order for conditions conducive to lead poisoning for the other unit, and both units are currently occupied. A motion was made by Mr. Haberer to accept Mr. Porter's recommendation, seconded by Mrs. Fox and unanimously approved.

DOCKET# 20-011:

Respondents: Edgar & Theresa Armstrong, 60 Clif-Nel Drive, Eldred, Pa 16731. Location of property 172 Barbertown Rd., Portville, NY.

- Violations:**
- a.) 10NYCRR Subpart 7-3.7 development of a campground without prior notice and approval from the permit issuing official.
 - b.) 10NYCrr Subpart 7-3.5 (a)(1) operation of a campground without a valid permit to operate issued by CCHD.
 - c.) NYCRR subpart 5-1.22 (a) construction of a public water supply without prior submission and approval of plans and specifications by the CCHD.
 - d.) 10NYCRR Subpart 5-1.22 (d) placing a public water supply into service without prior approval from New York State.
 - e.) Sanitary code 16.3.2 installation of a new on site waste water treatment system without a valid permit to construct issued by CCHD.
 - f.) 10NYCRR appendix 75-A(a)(1) installation of a new onsite waste water treatment system within the FEMA 10 year flood plain.
 - g.) 10NYCRR appendix 75-A(b) installation of a new onsite waste water treatment system within the minimum separation distances from the Oswayo Creek and the pond in the middle of the parcel.

- Recommendation:**
- a.) That the respondent pay a fine of \$350.00 on or before 9-30-2020 (7 violations X \$50.00/violation).
 - b.) a \$10.00 per day per diem will be levied for every day the fine and violations are not complete after 9-30-2020.

A motion was made by Mrs. Fox to accept the recommendation of Mr. Porter, seconded by Mrs. Cooney-Thrush, and unanimously approved. Dr. Bohan suggested that the County Attorney look at the \$10.00 per day per diem for all fines not paid, to see if this fine should be raised.

Administrative Hearing 8-25-2020 @ 10:00AM

DOCKET #20-006:

Respondent: Thomas A Gilray, 1474 Four Mile Rd., Allegany, NY 14706/ DBA Sherwood Court, 1440 Four Mile Rd., Allegany, NY 14706.

- Violations:**
- 10NYCRR Sec. 17.4(a) operating a mobile home park without having a current permit to operate from the CCHD permit expired 5-31-2020. Repeat violations Docket# 19-017 and Docket #18-015.
 - 10NYCRR Sec. 17-11(a) accumulation of garbage and debris in shed at lot 11 a notice of violation dated 2-27-2020 was given with a 3-6-2020 deadline to correct the violation, approximately one-half removed.
 - 10NYCRR Section 17-6(b)(6) inadequately treated sewage on the ground surface under and next to lot 1 there was a blockage in the pipe that the respondent was responsible to repair. The blockage was repaired but as of 7-9-2020 the raw sewage has not been cleaned up.

DOCKET #20-006 (continued):

10NYCRR Sec. 5.1.71(c) Notice of water quality violation mailed to Mr. Gilray requiring that he meet with CCHD within 30 days of the notice dated 4-21-2020 to develop a corrective plan. Mr. Gilray has not contacted the CCHD to date regarding the matter.

10NYCRR Sec. 5-A.3.2.1.2 per the 8-15-2017 sanitary survey. Mr. Gilray was to have performed a test to determine flow rate and quality of unused auxiliary well water by 9-1-2018 to date Mr. Gilray has not provided the CCHD with any information in regards to the auxiliary well.

- Recommendation: a.) Violation #1 pay a \$625.00 fine and have a current permit to operate a mobile home park by 9-30-2020. Lab water bills must be current to obtain a permit.
- b.) Violation #2 pay a fine of \$50.00 and have the garbage and debris in and around lot 11 removed per tenant rules by 9-30-2020.
- c.) Violation #4 & #5 pay a fine of \$250.00 for failure to comply with notice dated 4/21/2020 sent to respondent by certified mail comply with recommendations dated 4-21-2020 by 9-30-2020.
- d.) Failure to meet the deadline of 9-30-2020 for full compliance will result in a \$10.00 per day per diem until in compliance.

Mr. Haberer asked if the Board was authorized to fine for tenant laws as opposed to statute? Mr. Porter replied that he contacted the County Attorney to ask the same question and was told that by rights the Board could actually send a violation to both parties but it is the respondent's responsibility to enforce the rules of the park. Dr. Bohan asked if the recommendation could include not allowing any others to move into the park until the corrections were made. County Attorney Milliman stated that condition would need to be added to the permit not the Board Order.

A motion was made by Mayor Smith to accept Mr. Porter's recommendation seconded by Mrs. Cooney-Thrush, and unanimously approved.

NURSING DIVISION REPORT: Mrs. Moore, Director of Nursing reported that the census for homecare is currently at (264). The office is busy with nurses off on vacation, injuries, and sickness. Dr. Watkins has brought back two of the department's retired nurses, Sue Feldbauer, RN will be teaching CPR training, and Laurie McClory, RN will be helping the COVID team and the clinic.

There are (81) active cases in the lead program that are being followed with elevated blood lead levels (EBLL) greater than 5ug/dl. There are (3) newly confirmed cases in August with EBLLs between 5-15ug/dl. The majority of the cases are between 2-10ug/dl with, (6) cases being greater than 10ug/dl, (2) children in particular, (1) child has an EBLL of 18ug/dl and (1) has an EBLL of 22ug/dl.

The department will begin scheduling influenza clinics in October. The plan is to pre-register participants for every 10-15 minutes, like what is being done for COVID testing, to avoid congregating in the building. The department is expecting (250) doses of the quadrivalent flu vaccine this week, the high dose is currently on a wait list which has not been approved yet.

The clinic had previously enrolled in a NYS Department of Health (NYSDOH) Hepatitis C Virus (HCV) rapid testing program. The program has changed and the department will no longer receive free HCV rapid tests. The department will continue testing for HCV but will order venous blood draw on patients and not the rapid testing. In the past four years the clinic has tested, and diagnosed, (2) new cases of positive Hepatitis C using the HCV rapid test kits. All others were chronic and previously positive.

Clinic testing for HIV included (7) in Olean, none in Machias, and (12) in Salamanca, all of which were negative. There were no Hepatitis C testing in any of the clinics in August.

Communicable disease report: there were (2) cases of campylobacteriosis; (11) cases of chlamydia, (4) cases of gonorrhea, (2) cases of chronic Hepatitis C, and (4) which were not yet confirmed; (1) chronic case of Hepatitis B, (20) suspected cases of Lyme disease, none have been confirmed, (1) confirmed case of salmonella, that was pending in July; (1) confirmed case of syphilis, and (1) pending.

In the month of August there was (1) pre-exposure rabies vaccination series given to a vet technician; (12) rabies post-exposure prophylaxis series given, due to (8) bat exposures, (1) dog bite, (1) cat bite, (1) raccoon bite, and (1) woodchuck bite.

Dr. Bohan asked if the nursing division is doing most of the contact tracing. Mrs. Moore replied that a team approach is being used involving multiple staff from other divisions. Mr. Haberer asked if it required medical personnel to do the contact tracing. Mrs. Moore responded not necessarily but for testing purposes there must be at least (1) registered nurse on site. Dr. Steiner added that the actual contact tracing does not require medical personnel.

ENVIRONMENTAL HEALTH REPORT: Mr. Wohlers, Environmental Health Director reported that next drive thru rabies clinic will be held on September 19th at the County Fairgrounds in Little Valley. To try and eliminate the long lines that developed at the first drive thru clinic, the department is asking residents to preregister for a time slot.

The department was informed a few weeks ago that bowling alleys and fitness centers would be allowed to reopen. Subsequently, guidance was released that gyms and fitness centers must undergo a local health department inspection within (14) days of reopening. There are approximately (30) establishments that fall under this category. One of the requirements for any of these facilities to re-open is that the facility's air circulation system must be checked out by a certified Heating Air Ventilation and Cooling (HAVC) technician. Mazza Mechanical has trained staff and they are doing inspections, and then forwarding mini reports of their findings to the department.

The Governor has release new COVID state guidance for agritourism businesses as New York State enters the fall season. The businesses, which include corn mazes, pick-your-own fruit and vegetable operations, hayrides and haunted houses, are considered low-risk outdoor arts and entertainment and are permitted to operate under New York's Forward guidance. The department will share those guidelines with local businesses.

Two weeks ago the department was informed by NYSDOH that new revisions to the State Drinking Water regulations subpart 5-1 will be officially published in the NYS register and become effective on August 26th. New drinking water standards have been established for emerging chemicals that are a big concern.

NYSDOH has been doing widespread testing of closed landfills and drinking water systems throughout NYS. Based on new statutory changes, all public water systems in NYS will now need to test for perfluorooctanesulfonic acid (PFOS), perfluorooctanoic (PFOA) and 1,4-dioxane. Systems that serve over (10,000) people will be required to do this new testing by October 25th, 2020; medium size systems between (3,300-10,000) people required by November 25th, 2020, and small systems which serve under (3,300) people will test by February 25th, 2021.

At last month's meeting Mr. Wohlers reported that the department had been contacted by the US Department of Agriculture regarding the dropping of oral rabies bait for wildlife in our area. According to the USDA's website, it looks like most of the baits in Cattaraugus County were dropped between the dates of August 14th and 19th, with a total of (619,450) baits dropped in WNY.

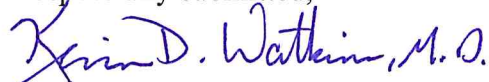
Mr. Haberer asked if the new water testing requirements for the small municipalities would apply to Sherwood Court. Mr. Wohlers stated yes, it applies to all community water systems and non-transient non community water systems which includes mobile home parks. Dr. Bohan asked if this testing would be expensive. Mr. Wohlers replied yes it will cost thousands of dollars for monitoring, treating, capital and annual maintenance.

Old/New Business:

Dr. Watkins stated that the department has been fielding many calls regarding the community influenza clinic schedule. Dr. Witte reported that the clinics will start in October and that it is his opinion that it is best to wait until October to get the influenza vaccine since the vaccine is effective for about six months after inoculation. If given too early, a person may not have protection throughout the length of the flu season.

There being no further business to discuss, a motion to adjourn was made by Dr. Hamlin, seconded by Mayor Smith and unanimously approved.

Respectfully submitted,



Kevin D. Watkins, M.D., M.P.H.
Secretary to the Board of Health