

BRAINTREE BOARD OF HEALTH

MINUTES

December 17, 2009

IN ATTENDANCE: Dr. Philip Nedelman, Chairman
Paula Dowd, Vice Chairman
Dr. Mark Samuelson, Clerk

ALSO PRESENT: Marybeth McGrath, Director of ML & I

Dr. Nedelman called the meeting to order at 6:00pm.

MINUTES:

Motion By: Paula Dowd approve the minutes of September 17, 2009.
Second By: Dr. Nedelman

OLD BUSINESS:

1. Motel 6-Public Health and Safety Update Review

Present: Peter Morin, Chief of Staff and Operations
Attorney William Hunt, Representative for Motel 6

Mr. Morin advised the Board that he was present to provide an update of the status of the operation of Motel 6. He mentioned that the Board may recall that on April 29, 2009, in response to two deaths at the motel, Mayor Sullivan demanded that a number of steps be taken to improve security. Accor Corporation, the operator of Motel 6, complied. These steps included the hiring of police details seven nights a week, police review of the guest registry, prohibition of visitors to rooms after 10:00pm, implementation of a parking pass policy and training of employees to identify and report suspicious activity.

Unfortunately on May 11, 2009, there was a subsequent death that resulted in a filing by the Mayor for request to review the motel's licensure. The hearing was initiated in May and continued for June, and continued to August. Prior to the August date of the hearing, Accor and the Town agreed to maintain the Mayor's requested security measures and also have agreed to complete architectural plans and file a renovation plan with the Town and initiate a construction bidding process for the renovation of the motel prior to December 31, 2009. These steps have a goal of changing the nature of the business at

the motel, so that this kind of security and public health and safety issue won't be reoccurring. In reviewing the security measures and the effect of the security measures in place since May, there has been a positive effect. The number of incidents, the number of requests for service has stabilized. When you extract the traffic calls, there have been 15 traffic calls that have nothing to do with the operation of the motel, there have been 74 other calls for service since July 1, 2009 ranging from suspicious activity calls to calls for ambulatory service to response to mental health issues. It is the identical number of calls prior to July 1, 2009, so they had 74 incidents before and 74 after. It has had a stabilization. What has improved is the nature of the calls is less serious. They have not had a death. They have had two larcenies, two assaults and batteries and a minimal amount of drug activity with two drug arrests. The majority of the calls have been for suspicious activity which is laudable because of the training of staff to be aware of activity that may be detrimental that is occurring at the facility. So, it has had a positive effect. The security measures in place, has unfortunately not eliminated the need for police presence. The company has also taken several steps towards completion of their other commitments. They have met with the Town on repeated occasions and described their intended renovation plans. They have filed for permits for minor renovations particular to the entrance. They have provided the Town with more extensive renovation plans, and have put out to bid for more extensive activity that would be a complete refurbishment of all of the hotels fixtures, furniture, flooring, walls draperies, bathroom, a major overhaul of the interior. That is a positive step. What has not been filed is a plan to enclose the exterior corridors and to limit the means of access and egress to the rooms through a central local, which the Town thinks would eliminate the security problems to a great degree that the Town is seeing.

Mr. Morin also advised that the motel is designed to have separate access and egress to each of the 92 rooms on site, which makes it hard to observe who is entering and leaving, and to control the activity. The Town has spoken with Accor, and they are interested in coming to a model that would have a central means of access and egress and better control the flow of guests and visitors on the property. What is the major impediment that they have informed the Town of at this point is that there are currently six different owners of the property that they lease. They are not the owners of the property. The property was once owned by a pair of brothers, who are deceased. The property passed to their children, so across the country there are six different owners. It is very hard for Accor to complete transactions with six different parties and to get an agreement done that would allow them to do more extensive renovations. That is where they are right now. While there have been some improvements made, there remains much to be done. More extensive renovation, namely enclosing the exterior corridors and a central entrance is required for better access and egress to the rooms. The lack of progress is not entirely Accor's fault. However, the Town would like to see a more aggressive approach on Accor's part, more of a priority to get these extensive renovations done because that is believed to be the ultimate resolution to the problems that have occurred at the motel. In light of the need for greater progress on this site, the Mayor would request the following two measures. First, that any renewal of the license be conditioned on the continuation of the public safety measures that are in place presently. Second, that the license be granted for a limited duration, so that another review hearing may be held to gauge the

progress in completing or forwarding the renovations and reducing the public safety issues at the site.

Dr. Nedelman mentioned that there was some question of vouchers being used.

Mr. Morin advised that they be eliminated to the extent possible, as part of the security plan. That has not been a major issue and those using vouchers have not been linked to any of the public safety issues that has been seen.

Dr. Nedelman and Mrs. Dowd also asked if there were any children or homeless families at the facility, as there was a few years ago.

Mr. Morin advised none that he was aware of. There may be on an occasion, such as someone displaced by a fire or emergent situation.

Dr. Samuelson asked if Mr. Morin was happy with the security plans.

Mr. Morin advised he would be happier if they had seen more of an elimination, rather than a stabilization because they are still seeing activity there and he believes it is more due to the nature of the structure and the pricing structure. He believes that investment in the property and a more appropriate pricing for the market that they serve will eliminate the problems that they have. What is troubling is the number of access points that have to be monitored both in the front and the back of the building, which makes it very hard to maintain appropriate security.

Mr. Morin advised that personnel at Motel 6 are cooperative and have worked well with the police. They had as well prior to the deaths. It is not a case of unwilling proprietors, it is just the nature of the facility.

Dr. Nedelman asked what is the percent of occupancy. Is it seasonal?

Mr. Morin advised that he has some numbers that he can get to the Board, but he cannot quote them directly. Motel 6 has been cooperative and did give them an idea of the level of their occupancy and from where their customer base comes from. Largely, their customers come from surrounding communities and not from out of state.

Dr. Nedelman asked what kind of investment money is being talked about with this type of structural change that the Mayor would like to see.

Mr. Morin advised about one million dollars.

Dr. Nedelman asked if that was unreasonable from the standpoint of the owners.

Mr. Morin advised no, that in discussions with the owners they have outlined three different plans and proposals, and this was the lowest price tag of the three that were discussed. The Town understands that there are limitations or challenges in obtaining

financing. The Town understands that there is a corporate structure that they have to put things through, not only in Texas but it also has to go to Paris. The Town is willing to be a patient and work with them. They are not asking for revocation now, but do want to see that they continue on the path that they are on. The Town would prefer that they were further along, than they are but want to make sure that they continue and that is why they are asking for a short leash on this.

Dr. Nedelman asked Mr. Morin what he considered a short.

Mr. Morin advised three to six months.

Mrs. Dowd asked if the structural concerns were a Board of Health issue. It is a sound facility now to meet permitting. She did not know that all of these other issues are Board of Health issues.

Ms. McGrath advised the Board that what Mr. Morin is advising is that the security issues that have existed at the establishment may be reduced and or eliminated if there was a renovation of the facility that would provide for a single entry into the facility as opposed to clients making individual access into the rooms themselves. The way that it is structured now the person that is in the office cannot see people going into the rooms because they are completely separate from each other.

Mr. Morin advised that the other facilities in Town have that single access point, and they do not have the volume of calls.

Dr. Samuelson reviewed that there were 74 visits for service since July 1, 2009.

Mr. Morin advised that was correct.

Dr. Samuelson stated that was over ten a month. His biggest concern was they are the Board of Health and how is this related to health. His take on this is that the police are busy here and they cannot be available to take care of the citizens of Braintree.

Mrs. Dowd advised that the calls are less violent than they were before.

Dr. Samuelson advised that it is still taking a police officer away from the station at least ten times a month, so from his vantage point things have not changed.

Mrs. Dowd advised that the calls were for suspicious activity, which the individuals have been trained to call them on and they are doing the right thing. We've asked them to do that.

Ms. McGrath advised that a police detail has been provided on a routine basis.

Mr. Morin advised nightly they provide a paid police detail.

Dr. Samuelson asked if that is above and beyond the normal staffing of the police.

Mr. Morin advised that is correct. He does think that a detail officer on site does mitigate the amount of time an officer would not be able to respond to a call in the town. They deserve to be credited. 17 of the 74 calls were for suspicious activity. So, those are calls that he didn't think they would be getting if they did not have this agreement. So, good procedures are inflating to an extent the number of calls they are getting.

Dr. Samuelson advised that it is all still a little nebulous to him. The Mayor and Mr. Morin asked the Board of Health to step in and the Board stepped in. The Board is now in this awkward position of saying things aren't perfect, but they are okay at the request of the Mayor. Now, the Board is being asked to limit their renewal. He is just not sure where the teeth are in this thing. Either they negotiate with the Town and they agree with the negotiation or they don't. It sounds like the Town is not completely happy with them. However, he does not know if we can limit their license.

Ms. McGrath advised the Board that they may recollect that as a part of the approval to withdraw the request for hearing in August that was made conditional that an update be provided to the Board of Health before renewal of their permit which expires on December 31, 2009. So, the renewal paperwork that the Board has in their packet is for permitting starting January 1, 2010. The Board of Health, who issues the permit does have the ability to put a limit or put a time frame on the permit renewal. The request that Mr. Morin is making is to limit it to three to six months at which time they would come back to provide another update as to where they are in the process.

Dr. Samuelson advised that is fine, but in six months the Board will probably be in the same position. He thinks they need to draw a line, do this or don't do this and if they come back to us and didn't do this they we do not renew their license.

Mrs. Dowd asked if it was the Board of Health's right to not grant a license because they do not enclose the structure.

Dr. Samuelson advised that from a public health standpoint, it is the Board of Health's if they see a danger to public health not grant a license.

Ms. McGrath advised that this agenda item is not a hearing for suspension or revocation, but to provide the Board with an update, so if the Board is even remotely considering that then they would need to schedule a meeting to consider revoking or suspending the license prior to December 31, 2009.

Mr. Morin advised that there are a number of things have changed. The Town has a better idea of what the impact of the security measures are. It has provided a stability that was not there when the deaths were occurring. The Town has an increased level of cooperation and the Town is making progress with the lesser to renovate the property. It is a difficult market and there are circumstances that are not within their control. The Town is trying to recognize this and be reasonable. He realizes the gravity of a Page 5

revocation hearing and does not want to put the Board or Accor through that unnecessarily. He wants to exhaust all of the remedies available to them before it gets to that point, so that is why he is asking for this limited action.

Dr. Nedelman asked if this was a work in progress.

Mr. Morin advised that it is.

Attorney Bill Hunt advised the Board that he is the Attorney for Motel 6. He advised that representatives from Accor wanted to be at this meeting, but could not because of the late notice and conflicts with their schedules, and they send their apologies.

Attorney Hunt is prepared to talk about some things. He is not prepared to talk about the license hearing because they were not made aware that this was going to be dealing with the license hearing. He is able to address some of the points. He has the call statistics. Mr. Morin advised that there were two larcenies. He agrees with that. Mr. Morin advised that there were two assaults and batteries. The statistics indicate there was only one over the 74. There was only one drug issue and that was for a marijuana arrest. More important, for the last two weeks in November there were zero calls to the police, so the program is working. When the program was instituted, they had a clientele and a course of conduct that was problematic that they recognized and have tried to work with the police and believe they have worked with the police very closely to remedy. Once you crack down on that kind of conduct, you are going to have more calls. In addition, when you station a police officer there full time you will have more calls. They expected and in discussions even warned of the fact that when this program was implemented would see more calls. Statistically, the heaviest month of calls was May, which is the first month when they implemented the program. For the last two weeks in November, there were none, and he did not believe they had a complete analysis of December yet. He advised that Mr. Morin did make a point that he was taking out the 22 motor vehicle calls on Union Street that were tagged to them.

Attorney Hunt advised that they see an improvement based upon the police officer being there. This is a police officer that who does it overtime. He or she is not being taken from a shift. There has been a lot of communication between their security person and the police. They have made a big effort to try to improve the problem and just as importantly try to improve their relationship with the town because they like doing business here and want to be considered to be a contributor to the town. As part of what they have done, they have agreed with the Town to do these renovations. They have committed to a minimum of renovations that are in line with what Mr. Morin has described. They have pulled the first permit for the first part of the work already and have a bid package out for the rest of the work, which is expected back on December 18, 2009. They are moving right along. He did want to point out that there were negotiations between the Mayor's office and them last summer and an agreement was reached. In response to a letter that Mr. Rabinowitz, Accor's legal counsel, wrote to the Town, Motel 6 received an email back from Mr. Morin on August 6, 2009 that stated " your letter notes that the completion of the architectural plans for filing of the renovation

plans with the Town and the initiation of the bidding of the construction work are all scheduled to occur within 120 days from today prior to the expiration of the 2009 license. Completion of these tasks would be sufficient progress to provide a basis for renewal of your license.”

Attorney Hunt advised that they have completed those tasks. Their view is among other things is that they have an agreement with the Town that if they do this that they will not have any problem with getting their license renewed. They want to assure the Board that they want to do the right thing and are moving forward quickly. He also understands that there are plans and efforts afoot to develop the property that encompasses in part the town dump and turn that into something other than a landfill. One of the bidders in that process has approached Motel 6 and asked to see if they are interested in joining his effort, and they are. They are not slowing down their efforts to rehabilitate the property, but want to communicate that there are a lot of things going on at that premises that would be beneficial and that they are trying to participate in. They are moving forward on what they committed to in the summer and in their strong view complied with the agreement that they had with the Town. They will be committing very real money to the project, as Mr. Morin has indicated.

Attorney Hunt advised that if this is a renewal hearing that they would have to plead surprise because they were unaware that this was a renewal hearing. They thought this was a status and if the Board is going to act in any way other than just to renew their license and that includes a three or six month license, then they will have to protest and say they were not given proper notice. Also, if the Board was not to renew their license, they would have to protest on the basis that they had an agreement with the Town and they have complied with that agreement and hope that the Town would also comply.

They are moving forward and feeling confident and secure in the fact that the project was going great. Things were coming in on time and everything were being done, and had hope that the Town would recognize that particularly since these numbers of calls are dropping and as Mr. Morin has indicated the nature of the calls are dropping. They are seeing a drop off over the last month that is showing the fruits of their labor.

Dr. Nedelman asked Mr. Morin what position his email of August 6, 2009 puts the Board in.

Dr. Samuelson advised it has nothing to do with the Board. His promise to you has nothing to do with the Board.

Mr. Morin advised that he can show a most recent email from Mr. Rabinowitz apologizing for portraying full compliance when they have only filed for a \$ 90,000.00 permit. He also advised that two weeks of no activity in November is laudible, but do they know that is attributable statistically to the activity that they have taken. They have to look at other years. They have not done that kind of analysis. They have the same number of incidents that they had in total compared to last year. There has not been a total elimination of the activity there. Things have not been going perfectly. He gets

repeated emails from Mr. Rabinowitz saying they have not been able to do what they want because their negotiations have been stalled. It has been a hard negotiation for Accor to make the improvements. They have not been able to do what they want to do. They are not where they want to be and neither is the Town, that is why we need to proceed with caution.

Attorney Hunt advised the Board that Accor committed to a minimum with the Town and has complied with that commitment. Beyond that commitment, it is hoping to do perhaps more to really comply with what that property is likely to become and that is where it has been bogged down. They have been able to do what they promised they would do and you take the position that that does not bind the Board. But, they are taking the position that they have a deal with the Town and feel very confident about that position. They don't want to have that kind of conversation because they think they have done a lot and are happy to do that. If they were to discuss all of the issues and all of the comparisons regarding their license and the other hotels and other things like that they would be prepared to do that, but he is not prepared to do that tonight. There is a lot that goes into that. If they are back to where they were last summer, and it sounds like this is where Mr. Morin wants to take this, they have a document request out to the Town that has not been complied with and they would need all of that documentation. They would have a safety expert that they would fly in from out of state to parcel all of these numbers and tell you what was really going on there. They would have a map of the Town showing the Board where all of the motels that are being compared to by the Town are and they are all at the intersection of Route 128 and 93 by the mall and on the hill. This is the only one downtown and more importantly the only one right by the T station. There is a lot that goes into this if you want to go there. They do not want to go there. They want to keep everything amicable. Their security people are on a first name basis with the Town's security people. They think that it is working and are not relenting in their efforts to make that work. They are happy to have the police officer there. They are happy to do the renovations and have committed serious money to this project and hope to be working with the Town on what is going forward.

Dr. Nedelman advised that the one person that is missing here is Town Counsel and he feels uncomfortable about making a decision one way or another.

Dr. Samuelson advised that he sees this as the duty of the Board to either renew or not renew the license from a public health standpoint. He has not heard anything tonight one way or another that has told him they cannot renew it. He feels the decision is very straight forward, either renew it or unless they have a good reason don't renew it. He feels it has less to do with some of these other things because they are not part of the Board's perusal. One thing he would like clarified is the police presence at night. Was this going on before July?

Mr. Morin advised that there were details but not to the extent that they made necessary. There were details on weekends. There were not details every night.

Dr. Samuelson advised that is a good thing.

Ms. McGrath advised the Board that the Board needs to decide to renew or not renew. But, she did not believe that Mr. Morin has indicated that the Mayor's office is requesting not to renew the license. The Board could renew the license as you have in the past making it conditional that there be an update within three to six months, which is what has been requested.

Mr. Morin advised that they are not asking for a revocation at this point. If they were they would have complied with the notice of hearing and presenting lot of evidence about the number of deaths that have occurred at this facility. If the Board grants the license and schedules another update in a matter of months that is fine. He just thinks there needs to be oversight on this facility given the current conditions of its operation.

Dr. Nedelman asked if they can renew it for a six month period.

Ms. McGrath advised they can renew it for the annual period, but make it conditional that within three to six months there be another status update.

Mr. Morin agreed that was satisfactory.

Attorney Hunt advised that Motel 6 has passed each and every sanitation inspection. He advised that he disagrees with Dr. Samuelson on his jurisdictional argument whether they have the authority to revoke or otherwise discipline on the grounds that he is suggesting. He does not want to have that argument with him. He does not think it is a Board of Health jurisdiction. The stuff that we all agree that the Board of Health has authority over which is water and sanitation issues and things like that, he thinks that the Board agent would agree that they passed.

Dr. Nedelman asked if Attorney Hunt had any problem if they were to renew the license with a stipulation that they have an update in three to six months.

Attorney Hunt advised if it is a true update. If in three to six months they are forced to defend the license then he would have an issued based on what he perceived to be what is going on between the Town and them. But, if it were a true update and they want them in within three to six months, then they would be delighted to do that.

Dr. Nedelman asked what Attorney Hunt would expect to present in three to six months.

Attorney Hunt advised that he expect and anticipate that the call numbers will continue to improve. They anticipate that the renovations on the entrance for which the permits have been pulled will proceed. The bid packages will be returned by tomorrow for the balance of the renovation that has been discussed and committed to with the Town.

Ms. McGrath advised Attorney Hunt that this is not a hearing, this is a review of the status of public health and safety issues which was made very clear in the letter that she sent.

Dr. Samuelson advised that the Board does have the authority not to renew the license if there is a public health and safety issue, and drug related deaths and the police force being called, and your facility taking them away from the rest of Braintree is a health related issue and they could make a stance on that now.

Attorney Hunt advised that he is concerned that this is not the way that he thought this was going to go. He thought that they were going to give them status and headed forward with the Town in an appropriate way, and now he is hearing about a six month license and he would consider that serious.

Mrs. Dowd advised that that the Board did not say a six month license, that they would be up for a review in six months.

Ms. McGrath advised that Attorney Hunt mentioned that they anticipate receiving the bids back tomorrow, so logically there should be no reason that within three months and no longer than six months that they should reasonably be able to present something of a satisfactory nature to the Mayor's office, and as a review to this Board.

Attorney Hunt advised that if the Board wants them back in three months they will come in and talk to the Board in three months. His hesitation is that he has not had the opportunity to talk to the person that is in charge of instituting the construction process because he has not been available.

Motion By: Paula Dowd to renew the annual permit with an update in April 2010, and a request for Peter Morin, Carolyn Murray, the Town Solicitor and Police Chief Paul Frazier be in attendance at that meeting.

Second By: Dr. Samuelson
Unanimously Voted

NEW BUSINESS:

2. Definitive Subdivision-Spruce Street Improvements

Ms. McGrath advised the Board that she has spoken with the Principal Planner with the Department of Planning and Community Development, as this application will be going before the Planning Board and she has requested that the Board of Health consider tabling it because she has concerns about the drainage. She advised Ms. McGrath that she is meeting with the applicants tomorrow, so would have more information before the next meeting. There is a requirement with subdivisions that once an application has been submitted that it has to come before the Board within forty five days of receipt, so certainly this has been complied with for this meeting date, and there is no objection to tabling this if the Board agrees.

Motion By: Paula Dowd to table this item.

Second By: Dr. Nedelman
Unanimously Voted

INFORMATIONAL:

3. Update-Influenza Vaccinations

Ms. McGrath provided the Board with an update of the seasonal and H1N1 influenza vaccinations that have been provided by the health department to date, and discussed future H1N1 vaccination clinics with the Board.

4. Future Board of Health Meeting dates

5. Opiate Addiction

Ms. McGrath advised the Board that the gentlemen that provided this information is now working with the Mayor's office to place information on the Town's website regarding this matter.

MATTERS BY THE BOARD:

6. Ethics Reform Law

Ms. McGrath advised the Board of the requirements that must be met regarding the Ethics Reform Law.

Motion By: Paula Dowd to adjourn the meeting at 7:10 pm.
Second By: Dr. Samuelson

