

Board of Health Hearing Minutes  
April 22, 2009 6:30pm

Present Members: John Reynolds, Chairperson, Marie Becker, Vice Chairperson, Michael Jankowski, Cyndi Kieck, Barbara Schmidt, Karen Stewart, Jacqueline Ove, Alderman Jim Shelenske, City Attorney Joe Murphy, Martin Zabkowicz, Sanitarian  
Excused: Dr. Sandra Scalzitti

Re: The Appeal filed by Attorney Alan Eisenberg on behalf of Gail Krug, 505 Madison Avenue, South Milwaukee, WI 53172 regarding the Orders issued by Martin Zabkowicz to Correct Conditions dated March 5, 2009.

Hearing called to order by Board of Health Chair Dr. John Reynolds at 6:30pm.

Discussed previous meeting held on March 4, 2009 regarding appeal of Health Department orders previously issued by the Health Department.

Clarified purpose of this hearing regarding the above order.

Attorney Alan Eisenberg discussed orders and presented background information about pets, farm animals, livestock and the difference between these animals and the pet goat that is this animal.

City Attorney Murphy asked Attorney Eisenberg how authority this Board has to determine that the enforcement of this ordinance is considered unconstitutional? Attorney Eisenberg stated this is selective enforcement and this is illegal, and is requesting this Board to withdraw this order.

Attorney Eisenberg continued by informing the Board about livestock and farm animals.

Attorney Eisenberg presented the City of Dallas ordinance and indicated that this has never been done in the City of South Milwaukee. He stated Dallas ordinance looked at density and the study of how many people live in a house and size of building, and then determines how many people should live in a home, not like South Milwaukee that chooses something out of the air that is arbitrary, capricious and unreasonable.

Gail Krug, 505 Madison Avenue, South Milwaukee, WI 53172, was sworn in by Attorney Murphy. She indicated her son, Kevin, purchased "GiGi" in Hales Corners, at St. Martins Fair.

Kevin has a basement apartment in the home at 505 Madison Avenue.

Gail Krug is the property owner.

Discussed care of the animal.

Discussed a vet report from Cedar Grove Veterinarian, Attorney Murphy received this as Exhibit 1.

Discussed the fact that Gail Krug has not abided by the orders that have been given as she has not decided which one of the lifelong companions to part with.

A fundraiser was held in Menomonee Falls for "Gigi". Questions were asked regarding the fundraiser. Discussed two fundraisers held in Oak Creek where they were welcomed.

Murphy asked Gail Krug about the ordinances regarding people keeping pet goats in their homes in Hales Corners. Answer is No.

Mr. Murphy asked Gail Krug about the ordinances regarding people keeping goats in their homes in Oak Creek. Answer is it does not allow goats.

Question regarding the vet report, that the goat received a sheep rabies vaccine that is not licensed for goats. Gail Krug did give an explanation.

Michael Mcelwrath, 505 Madison Avenue, South Milwaukee, WI 53172, was sworn in by Attorney Murphy.

Eight out of 19 communities in Dallas area allow variances for service animals cited as an example. If you have a 1/2 acre lot single family dwelling, you can have more than 6 dogs, 6 cats, 2 goats, unlimited reptiles, etc. Cyndi Kieck moved, Karen Stewart seconded to receive and place on file the Dallas Ordinances. All voted aye, except Jackie Ove who abstained.

Discussion regarding the Milwaukee County Zoo and their goats, their vaccinations, and their petting zoo.

Discussion about the City of Oak Creek and how Pete from Planning allowed a fundraiser with just a veterinary document and permission from the property owner.

Requesting a variance, or grandfathering in on an animal fancier permit. We are proving that Jacqueline Ove's concerns regarding Salmonella, E. Coli, and Rabies are not a concern according to the vet's report.

Attorney Murphy's question to Michael Mcelwrath where in Dallas goats are considered livestock. Nowhere does it say they can live in a home. It just says they are allowed according to Mr. Mcelwrath. He cites this because Gail Krug's lot is 2/3rds of an acre and Dallas allows 1/2 acre for the goats. Lot size can be verified through the assessor's office.

Attorney Murphy called Martin Zabkowicz and swore him in. Marty Zabkowicz reviewed his actions.

Review of Ordinance 24.33.

Attorney Eisenberg questioned Martin Zabkowicz regarding potential for danger and spread of disease. Asked if Martin Zabkowicz would be willing to speak with the Veterinarian and read the letter from the Vet.

Attorney Eisenberg requested that the Board stay the prosecution.

Cyndi Kieck asked why the Veterinarian was not here tonight to answer the Boards questions if she would have so much to offer to the Board of Health. Attorney Eisenberg said the Vet. felt that the letter would be enough.

Marie Becker stated that the issues were discussed at the March 4th meeting.

Attorney Eisenberg asked if the goat lived on the property in a heated shed would this be a different situation. Again the ordinance was referenced.

Mike Jankowski sympathizes with the family, but according to the ordinances that have been in place longer than they have had the animal, they should not have the animal.

Attorney Eisenberg is asking for the Board to withdraw the order and reissue if necessary.

Attorney Murphy recommends you not withdraw the order. Stated you can either ask for a continuance and allow Mr. Zabkowicz to do more research, or make a decision this evening.

Attorney Murphy stated code 23.11 is not subject to the Board of Health's jurisdiction, regarding the number of cats and dogs.

Martin Zabkowicz stated that even if he speaks with the Vet., he still does not feel that it is going to change his opinion on potential for danger. Discussion continued regarding rabies vaccination and inspection.

Karen Stewart moved that we proceed with the orders as written with no stay. Marie Becker seconded. All voted aye, except for Jackie Ove who abstained. None voted against.

Discussion regarding Legislation and Permits meeting. Alderperson Lisa Pieper reported that the Legislation and Permits committee scheduled a meeting for next Wednesday for a second reading on the ordinance 24.33.

Clarification of motion by Marie Becker:

Move that the Board find the March 5th, 2009 Orders to correct conditions were written in accordance with the municipal codes 24.33 and 23.11, and find that the appropriate amount of time was given to allow for the compliance of these orders to correct these conditions. Seconded by Karen Stewart. All voted aye, except Jackie Ove who abstained.

Hearing was adjourned.

Respectfully Submitted,

Debbie Guthrie, Clerk III  
South Milwaukee Health Department

This meeting was recorded. An official copy is available for a fee.