MINUTES OF THE PUBLIC HEALTH COUNCIL

Meeting of September 14, 2022

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH

**PUBLIC HEALTH COUNCIL MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH**

**Henry I. Bowditch Public Health Council Room, 2nd Floor 250 Washington Street, Boston MA**

**Docket: \*\*\*REMOTE MEETING\*\*\* Wednesday, September 14, 2022 – 9:00AM**

***Note: The September Public Health Council meeting will be held remotely as a video conference consistent with St. 2021, c. 20, s. 20, which provides for certain modifications to the Massachusetts Open Meeting Law due to COVID-19.***

Members of the public may listen to the meeting proceedings by using the information below:

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Access code: 2539 895 6162

1. **ROUTINE ITEMS**
   1. Introductions.
   2. Updates from Commissioner Margret Cooke.
   3. Record of the Public Health Council Meeting held August 10, 2022 **(Vote)**.
2. **DETERMINATIONS OF NEED** 
   1. Request by New England Surgery Center, LLC for a Significant Change Amendment to its previously approved Determination of Need Project #20072809-AS (**Vote**).
3. **REGULATIONS**
   1. Request to promulgate amendments to 105 CMR 164, *Licensure of Substance Use Treatment Programs* **(Vote)**.
   2. Request to promulgate amendments to 105 CMR 153, *Licensure procedure and suitability requirements for long-term care facilities* **(Vote)**.
   3. Request to promulgate amendments to 105 CMR 120, *Massachusetts Regulations for the Control of Radiation* **(Vote)**.
4. **PRESENTATIONS**
   1. Overview of Healthcare Associated Infections in Acute Care Hospitals, 2021.
   2. Massachusetts Healthcare Personnel Influenza Vaccination in Health Care Facilities for seasons 2019 -2022.

*The Commissioner and the Public Health Council are defined by law as constituting the Department of Public Health. The Council has one regular meeting per month. These meetings are open to public attendance except when the Council meets in Executive Session. The Council’s meetings are not hearings, nor do members of the public have a right to speak or address the Council. The docket will indicate whether or not floor discussions are anticipated. For purposes of fairness since the regular meeting is not a hearing and is not advertised as such, presentations from the floor may require delaying a decision until a subsequent meeting.*

Attendance and Summary of Votes:

Presented below is a summary of the meeting, including timekeeping, attendance and votes cast.

Date of Meeting: September 14, 2022

Start Time: 9:05am Ending Time: 10:56 am

| **Board Member** | **Attended** | **First Order: Approval of August 10, 2022 Meeting Minutes (Vote)** | **Second Order: Request by New England Surgery Center, LLC for a significant change amendment to a previously approved Determination of Need (Vote)** | **Third Order: Request to promulgate amendments to 105 CMR 164, Licensure of Substance Use Treatment Programs (Vote).** | **Fourth Order: Request to promulgate amendments to 105 CMR 153, Licensure procedure and suitability requirements for long-term care facilities (Vote).** | **Fifth Order: Request to promulgate amendments to 105 CMR 120, Massachusetts Regulations for the Control of Radiation (Vote).** |
| --- | --- | --- | --- | --- | --- | --- |
| **Commissioner Margret Cooke** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Edward Bernstein** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Lissette Blondet** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Kathleen Carey** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Secretary Elizabeth Chen** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Harold Cox** | Absent | Absent | Absent | Absent | Absent | Absent |
| **Alba Cruz-Davis** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Michele David** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Elizabeth Evans** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Joanna Lambert** | Absent | Absent | Absent | Absent | Absent | Absent |
| **Stewart Landers** | Yes | Yes | Yes | Yes | Yes | Yes |
| **Mary Moscato** | Yes | Abstained | Yes | Yes | Yes | Yes |
| **Secretary Cheryl Poppe** | Yes | Absent | Abstained | Abstained | Abstained | Abstained |
| **Summary** | 11 Members Present; 2 Absent | 9 Members Approved; 1 Abstained; 3 Absent | 10 Members Approved; 2 Absent; 1 Abstained | 10 Members Approved; 2 Absent; 1 Abstained | 10 Members Approved; 2 Absent; 1 Abstained | 10 Members Approved; 2 Absent: 1 Abstained |

**PROCEEDINGS**

A regular meeting of the Massachusetts Department of Public Health’s Public Health Council (M.G.L. c. 17, §§ 1, 3) was held on Wednesday, September 14th, 2022, by the Massachusetts Department of Public Health, 250 Washington Street, Boston, Massachusetts 02108.

Members present were: Margret Cooke; Edward Bernstein, MD; Lissette Blondet; Kathleen Carey PhD; Secretary Elizabeth Chen, PhD; Alba Cruz-Davis PhD; Michele David, MD; Elizabeth Evans, PhD; Stewart Landers, Mary Moscato, and Secretary Cheryl Poppe.

Also in attendance was Rebecca Rodman, General Council at the Massachusetts Department of Public Health.

Commissioner Cooke called the meeting to order at 9:05am and made opening remarks before reviewing the agenda.

**1. ROUTINE ITEMS**

*b. Updates from Commissioner Margret Cooke*

Commissioner Cooke proceeded to update the council on the following:

**Overdose Awareness Day**

Commissioner Cooke stated that September is National Recovery Month and August 31st was Overdose Awareness Day, an annual observance in Massachusetts and around the world. Deputy Commissioner Barrelle, Governor Baker, Secretary Sudders, and Bureau Director Deidre Calvert joined family and friends in planting 20,00 flags on Boston Common, each signifying a Massachusetts resident who died of a drug overdose in the past ten years. In addition, bridges and building were lit in purple and Governor Baker issued a proclamation declaring August 31st Overdose Awareness Day across the Commonwealth. The Commissioner gave special thanks to Deidre Calvert who heads the Bureau of Substance Addiction Services for her efforts to bring attention to this issue. She then provided available resources.

**Public Health Laboratory Appreciation Month**

Commissioner Cooke said that September is also Health Laboratory Appreciation Month. She recognized lab staff who protect public health through diagnosis, surveillance investigation, prevention, and more.

**Mosquitos and Ticks**

Commissioner Cooke said it is still mosquito season and since the last PHC meeting, DPH has announced four human cases of West Nile Virus this year. There has been no detection of Eastern Equine Encephalitis (EEE) this season. She then gave resources for mosquito prevention.

**Monkeypox Virus**

Commissioner Cooke said 347 cases on the monkeypox virus in the Commonwealth have been identified since the first case on May 18th. She described the symptoms of the disease and encouraged people to talk with their health care provider if they believe that they have been exposed to the virus. She said more than 20,000 doses of the vaccine have been administered and the availability of the vaccine has been greatly expanded with the use of lower dose intra dermal method of administration. Massachusetts has also obtained a therapy for monkeypox called TPOXX and this medicine can be used for patients with, or at risk of the disease. The Department had been issuing weekly press releases with monkeypox cases and vaccination information, but last week shifted to publishing a dashboard which is updated on Thursdays with demographic and other data on cases and people vaccinated. She said more can be learned at mass.gov/monkeypox.

**COVID-19 Boosters**

Commissioner Cooke reported that earlier this month, updated Pfizer and Moderna COVID-19 boosters were authorized by the FDA and recommended by the CDC for people ages 12 and over. She recommended getting the booster if you have already been vaccinated to help reduce the risk of serious illness, hospitalization, and death.

**Back to School Vaccine Clinics**

Commissioner Cooke said that our vaccine equity initiative has partnered with communities to host 480 COVID-19 vaccination clinics for children and families throughout August and September.

**My Vax Records**

Commissioner Cooke reminded everyone that a digital copy of their COVID-19 vaccination records can be accessed through MyVaxRecords.mass.gov for all Massachusetts residents.

**Suicide Prevention - 988**

Commissioner Cooke reminded everyone that September is Suicide Prevention Month and there is a new 988 dialing code that has replaced the ten-digit number for suicide prevention hotline. 988 offers 24 hour, 7 days a week, non-clinical, compassionate, and emotional support for callers and referrals to resources as needed. This support is in multiple languages.

**1. ROUTINE ITEMS**

*c. August 10, 2022 Minutes (Vote)*

Commissioner Cooke asked if there were any changes to the August 10, 2022 minutes. Dr. Bernstein asked to revise a statement he made about the fact that elders represented 23% of the population but 91% of COVID-19 deaths. This was later added to the August 10, 2022 minutes and published with the correction on the DPH website.

Commissioner Cooke asked if there was a motion to approve the August 10, 2022 minutes, with this correction.

Mr. Landers made the motion, which was seconded by Dr. Bernstein, Mary Moscato abstained, and all other present members approved.

*Secretary Poppe joined the meeting at 9:19 am.*

*Due to scheduling adjustments, the order of this meeting was changed from the official docket during the meeting and is reflected throughout the document.*

**2. DETERMINATIONS OF NEED**

*Request by New England Surgery Center, LLC for a Significant Change Amendment to its previously approved Determination of Need Project #20072809-AS (Vote)*

Commissioner Cooke invited Dennis Renaud, the new Director of the Determination of Need program to review the staff recommendation for New England Surgery Center’s request for a significant change amendment to a previously approved determination of need project. He was joined by Elizabeth Kelley, Director of the Bureau of Health Care Safety and Quality, and Rebecca Rodman, General Counsel. Also, representatives from the applicant were available to answer questions after the presentation.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there are any questions or comments.

Ms. Blondet said that the request seemed reasonable, but she wanted to know how the additional requested $63,000 would be invested.

Ms. Rodman answered that because this is a surgery center, and not a hospital, their funds are going through the statewide community fund rather than going through the facility run process.

Ms. Moscato said the cost of the project is a 100% increase based on fixed equipment and high costs of construction due to supply chain problems from the pandemic, but what was not in the report that she wanted to know was if there is any impact on patients or the health care system in cost.

Ms. Rodman said they did not see any additional cost but perhaps the applicant could answer more clearly.

Norma Bacon, Administrator of The New England Surgery Center said there will be no impact on patient costs as their patients’ private insurances will cover that and no costs will be pushed over to the patient.

Ms. Moscato thanked her for assuring that patients won’t be impacted and said the health care costs and expenses are being reviewed across the state on all projects.

Ms. Bacon said that because they are a surgery center, they are able to provide excellent service at a lower price.

With no further questions, Commissioner Cooke asked if there is a motion to approve New England Surgery Center, LCC’s request for a significant change amendment to a previously approved DoN Project.

Dr. Carey made the motion which was seconded by Ms. Blondet with Secretary Poppe abstaining. All present members approved.

**3. REGULATIONS**

*Request to Promulgate Revisions to 105 CMR 153.00 Licensure Procedure and Suitability Requirements for Long-Term Care Facilities (Vote).*

Commissioner Cooke invited Marita Callahan, Director of Policy and Health Communications for the Bureau of Health Care Safety and Quality to present a request to promulgate amendments to the department’s regulation regarding long term care facilities.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there were any questions or comments.

With no questions, Commissioner Cooke asked if there is a motion to promulgate amendments to 105 CMR 153.

Dr. David made the motion which was seconded by Ms. Moscato, Secretary Poppe abstained. All members present approved.

**4. INFORMATIONAL PRESENTATION**

*Overview of Healthcare Associated Infections in Acute Care Hospitals, 2021*

Commissioner Cooke welcomed Dr. Kate Fillo, Director of Clinical Quality Improvement for the Bureau of Health Care Safety and Quality to give an informational presentation on Healthcare Associated Infections in 2021. Joining her was Christina Brandeburg, Senior Epidemiologist for the Bureau of Infectious Disease and Laboratory Science, Jessica Leaf, Epidemiologist, and Eileen McHale, Healthcare Associated Infection Coordinator for the Commonwealth.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there are any questions or comments.

Ms. Blondet began by thanking the department for their superb work which demonstrates their efficiency and thoroughness. She continued by asking how the Department supports healthcare facilities in preventing infections.

Dr. Fillo answered that outreach was provided to long-term facilities and other healthcare facilities during COVID-19, virtually or with phone calls. She said there is a team of one epidemiologist and one public health nurse advisor who does onsite infection control assessment. Each facility is visited once a year and we can return if needs arise. Our funding comes from both the CDC and state resources.

Commissioner Cooke added that both the Administration and the Legislature put significant funds into supporting all our healthcare facilities including nursing homes, hospitals, and long-term facilities during the pandemic. These funds can be used for this work.

Ms. Blondet clarified that her question had more to do with sustainability of this important work after CDC and state funds are not there and asked how this data gathering makes a difference.

Commissioner Cooke pointed out that the Department has been doing healthcare associated infections data collecting for some time and it is not necessarily a response to COVID-19. It has been funded by the state and possibly with some federal dollars.

Dr. Fillo agreed that the epidemiology team has been in place long before COVID-19 and antibiotic stewardship has been ongoing. She said this is the 13th year in a row that this presentation about healthcare associated infections and hospitals has been heard and that they were able to provide such a detailed report during COVID-19 due to such a well-established program. Funding comes from the state and the CDC. There is an expanded laboratory capacity fund which has been in place and is a multi-year grant that gets renewed every several years. The state and several other jurisdictions receive this funding to engage and continue this work.

Mr. Landers thanked the presenters and said he was especially interested in the slide that spoke or MRSA and that MA was significantly below the predicted outcomes, but he noticed a trend upwards.

Ms. Brandeburg said the influence of the pandemic has certainly influenced facilities and overall trends in infections. We look at facilities on an individual basis and use that data to do outreach to facilities who may need some improvement.

Mr. Landers asked if they share the data with PHC members that is also shared with facilities.

Ms. Brandeburg replied that they do share the annual report with facilities as well as a targeted assessment for prevention report which allows facilities to see a comparison of other facilities based on similar bed size, patient days and central line days and that is run on a quarterly basis.

Dr. Cruz-Davis complimented the team on the outstanding presentation and information. She requested the presentation to be shared in a PDF.

Dr. Fillo said that they update a website where the presentation as well as acute care hospital report card will be posted after the meeting.

Dr. Bernstein also congratulated the work that went into the presentation and mentioned the pipeline for recruitment in the future in terms of staffing to include developing a pipeline, specially to include people of color.

Dr. Fillo replied that they have within the Department of Public Health, an epidemiology community of practice and have opportunities for epidemiologists to share what they’re working on through posters and presentations. She said they do work in professional development that helps with retention and for recruiting they work very closely with all the public health schools in Massachusetts to be able to sponsor and show last term students what it is like to work in public health and show potential for a great career opportunity.

Ms. Moscato added her support to what others have said about the outstanding work the department has done. The reporting, the support and the expertise that are provided by the department to the field has been outstanding.

Dr. Bernstein added that when he speaks of the pipeline, he also means bringing in high school students into this career.

Dr. Evans asked what infection control and prevention measures are used for this work and if wastewater epidemiology is something that is used as a tool to be aware of different infectious diseases that might be present. Specifically, within the health care agencies that DPH is monitoring and if so, could there be a wastewater report that we learn from on this front.

Commissioner Cooke answered by acknowledging the extensive wastewater monitoring for COVID-19 which has become one the most watched predictors of levels of the virus in our population. She said it has been expanded to different facilities as well as every town that may want to join is eligible to do so and the Department will look into this request.

Dr. Fillo said they have a team of epidemiologists that monitor waterborne diseases, and they have a robust COVID-19 testing but also look at other things like legionnaires disease and other waterborne illnesses.

With no more questions, Commissioner Cooke thanked the team for the presentation.

**3. REGULATION**

*Request to Promulgate Revisions to 105 CMR 120.00 The Control of Radiation (Vote).*

Commissioner Cooke invited Jack Priest, Director of the Radiation Control Program to present a request to promulgate amendments to the department’s regulation regarding radiation. He was joined by Joshua Daehler, Radioactive Material Unit Supervisor.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there were any questions or comments.

With no questions, Commissioner Cooke asked if there is a motion to promulgate amendments to 105 CMR 120.

Dr. David made the motion, which was seconded by Secretary Chen, Secretary Poppe abstained. All members present approved.

**4. INFORMATIONAL PRESENTATION**

*Massachusetts Healthcare Personnel Influenza Vaccination in Health Care Facilities for seasons 2019 -2022*

Commissioner Cooke invited the Dr. Kate Fillo, Director of Clinical Quality Improvement for the Bureau of Health Care Safety and Quality to share a presentation on Healthcare Personnel Influenza Vaccination. She was joined by Eileen McHale and Fareesa Hasan, Epidemiologists for the Bureau of Healthcare Safety and Quality.

Upon conclusion of the presentation, Commissioner Cooke asked the council members if there are any questions or comments.

Ms. Blondet mentioned that she was surprised to see how low dialysis centers are performing and asked if there are any insights about this and if community health workers are assisting some educational efforts. She requested data on non-vaccinated staff if possible. Specifically, she asked for data by race, ethnicity, age, gender, and zip code because it might be a good match for those professionals who refuse vaccination and educational reports that are already taking place with some of these communities.

Ms. McHale said they too were surprised with the result from the dialysis facilities. She noted that they have reached out to the large dialysis organizations within the Commonwealth and to our corporate contacts to get a better idea of what the possible issue may have been.

Dr. Fillo said historically dialysis has performed well but certainly we are moving back. As shared earlier, we will be doing some beginning of flu season webinars for healthcare providers. We are promoting in alignment with the CDC to do a co-administration with the bivalent COVID-19 booster. They do not collect specific data from the healthcare organizations about who is unvaccinated by sub-population. We have had verbal communications with facilities, and we see that it is licensed nurses who are the most reticent to get vaccinated and their behavior will drive other professions such as nurse aids to choose not to get vaccinated. She continued that many facilities have adopted champions within populations like the kitchen staff or nursing as well as aids to try to promote vaccination through peer-to-peer education.

Ms. Blondet asked if there are specific facilities in the Commonwealth that have significantly lower rates and how does this trend in the dialysis centers compare to other centers across the country.

Dr. Fillo said in terms of last year’s trend the public and popular message was that it would be a light flu season and that we wouldn’t need to get vaccinated. We did however see a flu season which adversely impacted willingness and efforts for flu vaccination. She stated that she would not call the dialysis trend last year “a trend” because it is just one year.

Dr. Larry Madoff, Medical Director for the Department’s Bureau of Infectious Disease and Laboratory Science, said it was an unusual year and overall, it was a light flu season. What we saw was as COVID went up, flu went down and when our attention to COVID waned, interestingly, the flu went up. It raises the issue that vaccination is an extremely important way of controlling flu. We saw the effect of universal masking which reduced flu considerably. Vaccinating high risk patients which is often the case in dialysis centers and other communities also helps prevent flu as well as does requiring employees to stay home when they’re sick. He believed Ms. Blondet’s suggestion of looking at best practices and see where certain dialysis organizations were more successful than others is a good one and something the Department can pursue.

Dr. Evans asked if this is happening in other settings where healthcare happens, including addiction treatment centers, incarcerated settings, prisons, and jails. She asked if this type of monitoring is happening in those types of settings along with education and support. When we speak of dialysis, she said it makes her think of other places where people interact within healthcare and perhaps this is an opportunity to expand this type of effort.

Dr. Fillo said that these are the types of places that we have regulatory authority over in terms of needing to offer free of charge influenza vaccination and then report it to us. That does not preclude local boards of health and other stakeholder efforts within various congregate settings to vaccinate patients and clients or persons who are incarcerated as well as staff to prevent any spread of outbreaks. On the other side, if there is an outbreak, the Department’s epidemiology team helps to mitigate and offer resources. We support vaccination and this is a small piece of what we do in terms of vaccination efforts, and our lab gets flu vaccine in to be able to offer to stakeholder groups and municipalities that would otherwise have difficulty obtaining it.

Ms. Blondet asked why DPH doesn’t require flu vaccination for all health care providers.

Dr. Fillo answered that the healthcare facilities that they have worked with have been able to achieve vaccination benchmarks without a mandate and have been able to sustain it over a period of several years. They are now working with other types of healthcare facilities to be able to achieve those high rates of vaccination and ultimately sustain them.

Ms. Blondet asked if Dr. Fillo believed the mandate is not necessary.

Dr. Fillo said ultimately, DPH would like people to get vaccinated because of all the public health reasons that it is appropriate to do so versus mandating.

Dr. Bernstein said there are some settings that he was quite concerned about like adult care and nursing homes when the data states 91% of people are over the age of 60 and they are 23% of the population and considered vulnerable. He suggested financial incentives or disincentives that could be used to encourage vaccination.

Dr. Fillo responded saying back to the comments earlier about best practices, we hear and collect them, and we offer webinars at the beginning of the season, and we have facilities who have shown the greatest amount of improvement as well as those that have sustained high levels of vaccination across the flu season to share their best practices. There are employers offering a wide variety of incentives to individuals to get vaccinated and the Department is exploring if there are certain groups whether by profession, race, or language spoken, or community, where there is reticence, understanding the reasons for vaccine hesitancy and doing specific targeted work in order to encourage vaccination.

Dr. Bernstein thanked her for her reply and said respecting people’s views is very important but that it is also important for individuals to understand the implications to community and to others and themselves if they don’t comply with reasonable health measures.

**3. REGULATION**

*Request to Promulgate Revisions to 105 CMR 164.00 Licensure of Substance Use Disorder Treatment Programs (Vote).*

Commissioner Cooke invited Deirdre Calvert, Director of the Bureau of Substance Addiction Services (BSAS) to present a request to promulgate amendments to the department’s regulation regarding substance use disorder.

Upon conclusion of the presentation, Commissioner Cooke asked if there were any questions.

Mr. Landers commended BSAS on their work.

Dr. David thanked BSAS as well mentioning the remarkable traction they have made over the years.

Dr. Bernstein thanked BSAS for their achievements and referenced the beginning of the meeting hearing about 20,000 purple flags for Overdose Awareness Day. He mentioned a study that addresses the low barrier access to medication, the need for case managers and increased assistance with housing and that encourage the patient’s participation in treatment decision making. He asked if there are rates of transitions from ATS to other facilities available. He also asked about the what the standard would be to incentivize programs to increase this rate.

Ms. Calvert said she is proud of the work that they have done with their low threshold, permanent housing. When looking at the social determinants of health to his specific question, she said these new regulations will help with the transition from level to level. They will stay in the same place and then move through the system of care without the onus of having to move and find another place. Se we are hoping that this will allow for that flexibility and then that continuation of care.

Dr. Bernstein asked whether Ms. Calvert was referencing a change in legislation from a 7 day requirement to 14 day requirement.

Ms. Calvert answered that this would be the ATS and CSS so that would move you from the ATS which would be the 7 to 14 days down to the CSS would be much longer depending on the guests’ individualized care, so yes, that would help with that.

Dr. Bernstein thanked Ms. Calvert for the work.

Mr. Landers asked if BSAS could speak to the financial stability of the program and where things are at these days, how well providers are doing and how many are struggling and how important are rate increases to keep the system robust and functioning.

Ms. Calvert said we hope that staffing to census will help with the workforce issue because before we were asking to be staffed to capacity. We’re hoping that will alleviate some of the pain points. She said in her opinion that the rates should be raised and have parity with behavioral health which she believes they are moving toward, and they work very closely with their partners over at MassHealth to ensure that is happening. She said they have an immense workforce issue across the board, where we need to have people excited about this field, who want to be in this field, and who are compensated well for this field.

With no further questions, Commissioner Cooke asked if there was a motion to promulgate amendments to 105 CMR 164.

Dr. Cruz-Davis made the motion which was seconded by Mr. Landers, Secretary Poppe abstained. All members present approved.

Commissioner Cooke stated that this presentation concluded the final agenda item for the day and reminded the council that the next meeting of the Public Health Council is October 12, 2022 at 9:00 AM.

Ms. Blondet requested an update guidance to 105 CMR 130.

Commissioner Cooked stated that update will be provided in October.

Commissioner Cooke asked if there was a motion to adjourn. A motion was made by Dr. Bernstein and seconded by Lisette Blondet, Secretary Poppe abstained, and all other members present approved.

The meeting was adjourned at 10:56 am.