

## **HAMILTON BOARD OF HEALTH**

**WEDNESDAY, AUGUST 26, 2015**

**Present:** Board of Health members: Lindle Willnow, Susan Wilfahrt, and Health Agent Leslie Whelan.

**Meeting Opened:** Lindle Willnow called the meeting to order at 7:02 p.m. at Hamilton Senior Center

### **Public Hearing – 203 Highland Street – Tobacco Sales Permit Non-Compliance**

Discussion ensued with George Daaboul, owner of G & M Motors, Inc. dba US Gas, about how North Shore/Cape Ann Tobacco Policy Program did a compliance check and a tobacco product was sold to 17-year-old minor youth in violation of M.G.L. Chapter 270, Section 6 and the Hamilton Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products at his gas station. This is the second violation in 36 months and regulations specify that there has to be a hearing before implementing a \$200 fine and 7-day suspension of the Tobacco and Nicotine Delivery Products Sales Permit.

Mr. Daaboul mentioned that the letter he received on July 28, 2015 about compliance check from North Shore/Cape Ann Tobacco Policy Program was for violation at 45 Bay Road which is the incorrect address for his establishment. Secondly that if there was another violation in the last 36 months he was not aware of it. Discussion ensued about how Mr. Daaboul had appeared before the Board of Health relative to a similar violation six years ago. Mr. Daaboul acknowledged that a recent sale for a 99 cent tobacco wrap to a minor had occurred at the gas station. Health agent stated that address was a typo and would be reissued.

The Board of Health agreed to research if it was the second violation in the last 36 months. Discussion ensued about if there had not been a violation in the last 36 months, the latest violation would be considered the first violation and fine would be \$100. The Board will research information on the matter and send Mr. Daaboul a letter with date of violation and specify first violation no hearing and second violation, a hearing will be held. The fining and suspension will be postponed until the Board's next meeting. Mr. Daaboul acknowledged that he would still owe the Town \$100 fine if there was a first violation and agreed to look into if he has paid fine by check to Town of Hamilton.

**Public Hearing – 45 Bay Road – Tobacco Sales Permit Non-Compliance**

Discussion ensued about how the Community Package Store representative could not attend tonight's meeting. Drew Marc-Aurette had not sent a letter to the Board on the matter.

Documentation of prior violation within 36 months will be provided to the Board next month.

**Discussion – “Plastic Bag & Expanded Polystyrene By-Law” – Attorney General Approval, Next Step**

Discussion ensued about a draft list compiled by Roberta Cody, Health Inspector, regarding by-law since she would be at food establishments for inspections and by-law states that Health Department has to provide food establishments with a list of alternative products. The by-law in the plastic bag section gives definitions for compostable and biodegradable (i.e., reusable bags or paper bags) but it does not do so in the polystyrene section. The BOH will provide a list of alternatives to polystyrene that are recyclable, compostable and biodegradable. Some of the products on Cody's list include recycled content, but are not necessarily recyclable.

Also noted was that there exists plastic products that are claimed to be biodegradable and compostable but they are not certified. In addition, the Board of Health did not ban plastic lined cups even though they are not compostable or recyclable. Discussion was about list of suitable, affordable, biodegradable or recyclable alternatives for each of the disposable food or beverage product containers. This list will be upgraded as needed. Discussion addressed how straws are not made of polystyrene and are not banned. This by-law would apply to Styrofoam cups, plates, and clamshell storage containers provided at food establishments. Susan Wilfahrt will provide information she had researched on the matter to Health Agent Leslie Whelan. The Board was in favor of letter drafted on matter.

**Discussion – Animal Inspector/Inspections**

Discussion was on liability for Animal Inspector if that person accidentally left a gate open. Whelan reported that Town Manager Michael Lombardo had said this was not an issue for Town counsel and in general Town employees are covered by Town insurance when performing their duties but each issue is dealt with on a case by case basis. Depending on the circumstances there could be some personal liability which is not the norm. If there is a claim for damages Lombardo should be contacted immediately to

manage the issue. Whelan mentioned her conversation with Mike Cahill at the Division of Animal Health and how animal inspectors report to his office. She spoke to his office about animal inspector doing unannounced and solo inspections. Cahill had responded that preference was for animal inspections to be conducted with property owner via scheduled appointment. Subsequent animal inspections (i.e., the following year) could be done without an appointment with prior consent of the owner. Cahill was not in favor of animal inspections being conducted with students or third parties. Lindle Willnow opined that if sufficient attempts are made to schedule an appointment and no reply is received inspection could occur without an appointment.

Discussion addressed new Animal Inspector Jennifer Gilson who started this week who is responsible for all animal control and inspection. Gilson carries out this responsibility for Manchester as well. Animal inspector will continue to report to Board of Health and animal/dog control will report to Hamilton Police Department.

Lindle Willnow moved for the Board of Health to nominate Jennifer Gilson as the Animal Inspector. Wilfahrt seconded the motion. VOTE: Unanimous.

#### **Discussion – “Keeping of Animals” Regulation – Complaint regarding Roosters**

Discussion ensued about complaint from Cutler Road resident about roosters and Town manager’s intent to help resident with citizen’s petition for a Town Meeting warrant article to ban roosters. Lombardo is working with Town counsel researching right to farm by-law.

#### **Discussion – Mosquito Control – Bat Houses**

Bat houses will be installed by public works at designated sites in Town by the BOH’s next meeting.

#### **Discussion – Septic Policies on Building Permits and Cesspools**

Whelan researched neighboring communities and most of them do not have any policies above what Title 5 is asking for. Rockport, Middleton and Manchester require Title 5 inspections under certain circumstances before signing off on building permits. Rockport focuses on cesspools. Middleton and Manchester focus on major additions/renovations without much recent information in the files. Discussion addressed how the Health Department will continue to recommend a Title 5 inspection be done when a property has a cesspool and major renovations are proposed.

**Review Minutes dated July 8, 2015**

Willnow moved to approve the minutes as amended. Wilfahrt seconded the motion.

VOTE: Unanimous.

**Other Business**

Discussion ensued about local upgrade approval requests for 240 Linden Street and 9 Pine Street.

**Meeting Adjourned:**

Willnow moved at 8:00 p.m. to adjourn. Wilfahrt seconded motion. VOTE: Unanimous.

The Board's next meeting will be on Wednesday, September 30 at the Senior Center.

**ATTEST:**

cc: Selectmen, Planning Board, Town Clerk, Conservation