

## **HAMILTON BOARD OF HEALTH**

**WEDNESDAY, SEPTEMBER 30, 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 (cigars) was sold to 17-year-old minor youth on July 28. 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.

The Board had documentation about prior sale in the last 36 months and \$100 fine where a hearing was not required. Mr. Daaboul discussed how a 99 cent wrap (made from tobacco leaves) was sold. Also how Joyce Redford from North Shore/Cape Ann Tobacco Policy Program had visited his establishment and discussed BOH regulation restricting sale of tobacco products and nicotine delivery products. Mr. Daaboul explained that he was not aware of the regulations including 99 cent small pack cigars that is supposed to be priced at \$2.50 and that he had this product for over a year without being aware of regulation. Health Agent Leslie Whelan noted that the pricing is to make the tobacco products less attractive to children.

Discussion was on how if the local regulation is violated then there would be a \$200 fine and 7-day suspension of the sale of tobacco and nicotine delivery products. Mr. Daaboul stated that he would not sell products if he was aware of the regulation which he would be more likely to read if he received it electronically versus in hard copy. The Board agreed that the Health Department could develop a summary sheet that highlights details of regulation including with photographs of products that should not be sold. Lindle Willnow thanked Mr. Daaboul for attending the two public hearings.

Discussion was about \$200 fine and 7-day suspension of the sale of tobacco/nicotine delivery product (during week of October 8 to 14). Whelan noted that during the suspension period all tobacco/nicotine delivery products would have to be removed

from the premises which she will be inspecting. There would be a 30-day suspension for any violation of the regulation in the next 36 months.

Willnow moved to follow the by-laws and issue a \$200 fine and 7-day suspension. Susan Wilfahrt seconded the motion. VOTE: Unanimous. Mr. Daaboul provided the Board of Health with a \$200 check to pay the fine.

Discussion was about changing language in letter related to the public hearing, eliminating the word "possible" to clarify if a violation occurred then the penalties would occur as outlined. The Board reiterated the importance of creating a summary sheet with photographs of tobacco/nicotine delivery products for retailers with Tobacco and Nicotine Delivery Products Sales Permit. Also mentioned was that Mr. Daaboul had been warned by Redford about not selling tobacco blunt wraps.

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

Discussion ensued about how the Community Package Store owner Drew Marc-Aurelle was not at the meeting relative to violation where a package of cigarettes was sold on July 28, 2015 to a minor which 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. The first offense was in February 2014 when a package of cigarettes was sold.

In absence of Mr. Marc-Aurelle at the hearing to dispute the violation, Willnow moved that a violation occurred and that the owner should be fined \$200 and sale of tobacco/nicotine delivery products be suspended for 7-days from October 8 to 14. Wilfahrt seconded the motion. VOTE: Unanimous.

Mr. Marc-Aurelle appeared near the close of the meeting and discussed the matter with the Board, acknowledged the second violation on July 28, 2015 and need to pay \$200 fine and requested the sale of tobacco/nicotine delivery products suspension date be changed from October 8 to 14 to January 6 to 12 with permit reinstatement on January 13, 2016 which the Board agreed to with the condition that this date might have to change, and closer to the date Whelan will notify Marc-Aurelle if suspension period timing has to change. Whelan specified that all tobacco/nicotine delivery products had to be removed from the premises during the suspension period when she would be doing an inspection. In addition, Marc-Aurelle was notified that he has to send the \$200 to the Town to pay the fine within seven days.

**Discussion – Flu Vaccine Clinics**

Two flu clinics are scheduled for Wednesday, October 14 from 3 p.m. to 6 p.m. at the Senior Center and Wednesday, November 18 from 3 p.m. to 6 p.m. at the Senior Center. The flu vaccine to be used will be what is provided by the state. Discussion was on Health Department revolving fund that has money which was reimbursed by insurance companies for prior years' vaccinations where some of the funds could be used to pay the nurses \$30/hour who give the vaccinations during the flu clinic.

Will now moved to allow nurses administering vaccines at the upcoming flu clinics to be paid \$30/hour from the Board of Health revolving fund. Wilfahrt seconded the motion. VOTE: Unanimous.

**Discussion – “Plastic Bag & Expanded Polystyrene By-Law” Notification**

A letter was sent to retailers with photographs of alternatives to Styrofoam. No feedback has been received yet. There was discussion about how Health inspector Roberta Cody is already enforcing this rule in Marblehead. Wilfahrt may have a list of email addresses of Hamilton businesses that was used during effort to get by-law passed at Town Meeting which she will provide to Health Department administrative assistant Nancy Stevens for an email of the notification package in the spring.

**Discussion – Potential Citizens Petition to Ban Roosters**

Discussion ensued about draft by-law discussed with Board of Selectmen about noise and if an excessive noise complaint comes to the Town, the Town manager would be the hearing officer. Currently the allowed time in Town for noise is 7 a.m. until 9 p.m. The animal by-law addresses animals kept for agricultural purposes (i.e., roosters). BOH will provide input about nuisance noise by-law that the police chief is working on. The Health Agent will clarify if roosters as a nuisance noise would be covered under the noise by-law or if roosters and dogs barking would fall under animal by-law by speaking with police chief and Town manager.

**Discussion – Mosquito Control – Bat Houses**

The bat houses have been installed at designated sites in Town. Discussion ensued about West Nile virus death and that EEE was found in Worcester County.

**Discussion – Patton Park Pool Site Plan Review**

Discussion was on sufficient septic design for pool proposal and that soil tests were done a year ago. The Board of Health staff will review pool plans for septic system, pool, and bathhouse (relative to use and bather load) and snack bar.

**Discussion – Board of Health member search**

A third member is needed to complete the Board who will be appointed by the Selectmen.

**Review Minutes dated August 26, 2015**

Willnow moved that the minutes be approved as amended. Wilfahrt seconded the motion. VOTE: Unanimous.

**Other Business**

A handout on a forum on fluoridation in Gloucester was distributed to the Board where a group is opposed to fluoridation in public water supply. Discussion was about how the benefits of fluoridation outweigh the risks.

**Meeting Adjourned:**

Willnow moved at 8:30 p.m. to adjourn. Wilfahrt seconded motion. VOTE: Unanimous. The Board's next meeting will be on Wednesday, October 28 at the Senior Center.

**ATTEST:**

cc: Selectmen, Planning Board, Town Clerk, Conservation