



Town of Barnstable

Board of Health

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John T. Norman
F.P. (Tom) Lee, P.E., Alternate

BOARD OF HEALTH MEETING MINUTES Tuesday, September 25, 2018 at 3:00 PM Town Hall, Hearing Room 367 Main Street, 2nd Floor, Hyannis, MA

Rev

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, September 25, 2018. The meeting was called to order at 3:00 pm by Chairman Paul Canniff, D.M.D. Also in attendance were Board Members Donald A. Guadagnoli, M.D., and alternate Tom Lee. John Norman was unable to attend. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

I. Public Comment:

- A. Mark Ells, Town Manager, spoke to the Board to reiterate the programs already in place and his goal to reduce or remove the Interim Saltwater Estuary Regulation.

- B. Steven Seymour urged the Board to make sure the Fire Training Academy's pollution is cleaned up thoroughly. He is from Hyannis and has been drinking the Hyannis water for years and has come down with thyroid cancer. He, also, made reference to the program on TV Monday night showing toxic chemicals in the clothing of firemen and the illnesses they are coming down with.

Dr. Canniff said the Board has not been presented with information on the cleanup and will look into it closely.

II. Monitoring Reduction Request:

Winston Steadman, All Cape Environmental Services, representing Carol Bergenheim, owner – 11 Nyes Point Way, Centerville, seasonal occupancy, requesting reduction.

Winston Steadman said the owner is seasonal. No testing has been done as of yet and would like the Board to change the requirements to two times a year.

Mr. Lee requested the approval letter require notification to the Board if the property changes to year-round.

Upon a motion duly made by Dr. Guadagnoli, seconded by Tom Lee, the Board voted to amend the monitoring to two times a year with the following condition: 1) the contractor (i.e., Winston Steadman) must notify the Board if the property is used "year-round" vs "seasonal" and at that time the testing will revert back to four times a year. (Unanimously, voted in favor.)

III. Hearing – Order Issued to Remove Underground Fuel Storage Tank (Cont.):

Attorney Mark Boudreau representing Robert and Maureen Vanasse, owners - 514 Grand Island Drive, Osterville, existing 3,000 gallon underground tank used for heating oil, constructed of single-walled steel, more than 30 years of age, owner was ordered by certified mail to remove the tank (item postponed from July 19, 2018 meeting).

Attorneys David Lawler and Mark Boudreau were present. The owners have made a request to Centerville-Osterville-Marstons Mills (COMM) Fire to obtain an abandonment permit as the tank is under the driveway and would disrupt landscaping, etc. A letter from COMM states this will be allowed. Mark said a licensed professional would take out the permit, drain the tank, sanitize it, drill holes in bottom, test soil underneath the tank (to ensure it hadn't leaked) and once that certification is granted; they will fill it with the proper solution.

Upon a motion duly made by Dr. Guadagnoli, seconded by Tom Lee, the Board voted to grant a 60-day extension to allow time for the abandonment. (Unanimously, voted in favor.)

IV. Food – Temporary:

Betsy Davis representing Cape Cod Doxie Day, to be held on September 29 at Barnstable County Court Complex, 3195 Main Street, Barnstable with one vendor, The Local Juice, with the following menu items: pre-bottled juices/smoothies, prepackaged salads and grain bowl.

Betsy Davis discussed her proposed event.

Upon a motion duly made by Dr. Guadagnoli, seconded by Tom Lee, the Board voted to grant the Cape Cod Doxie Day as an annual temporary food event. (Unanimously, voted in favor.)

V. Hearing – Food:

Ms. Hye Suk Olden, owner – Annie's Frozen Yogurt at Cape Cod Mall – 793 Iyannough Road, Hyannis, continues to operate without a certified food protection manager on site at follow-up inspection.

No one was present.

Mr. McKean said the Board had required her to be on site whenever they were open until the employees also became food safety certified and this has not been done. The food inspector and Mr. McKean had both found there to be no one on site with the proper certifications three times. Ms. Olden must have been close by during one of the inspections as she showed up quickly after the inspector arrived. One employee is signed up for a training class during the first week of October.

The Board determined Mr. McKean will send a letter stating she has three more days, in accordance to the Board determination last month, and if not in compliance, her license will be suspended. (Unanimously, voted in favor.)

VI. Food – Grease Trap

Chandler Bosworth, building owner, and Enrique Valdovinos, owner of Mi Pueblo – 459-B Main Street, Hyannis, Map/Parcel 308-083, extension to install exterior grease trap expired September 21.

Chandler Bosworth and Enrique Valdovinos were both present. They had met with DPW, who would still like to see a grease tank; however, they said it is up to the Health Division.

The restaurant has been in business for five years, using the Big Dipper recovery device and pays a company \$90/month to clean it and it is working well. They will keep the invoicing as documentation for the Health Division.

Mr. McKean stated he had done a surprise inspection and found the device plugged in and operating correctly.

Upon a motion duly made by Dr. Guadagnoli, seconded by Tom Lee, the Board voted to grant the grease trap variance with the following conditions: 1) they will kept the invoices of company who cleans the Big Dipper for the record, and 2) they will continue using paper plates and plastic silverware. (Unanimously, voted in favor.)

VII. Minutes:

Minutes – May 22, 2018 and Aug 28, 2018.

Minutes for May 22, 2018:

Upon a motion duly made and seconded, the May 22, 2018 minutes were adopted. (Two voted in favor, Mr. Lee abstained - not on the Board in May).

Minutes for August 28, 2018: (verify...pg 5 Gannon's Tavern was unanimous.

Upon a motion duly made and seconded, the Board voted to adopt the August 28, 2018 minutes. (Unanimously, voted in favor.)

VIII. Informal Discussion:

Dan Ojala, Down Cape Engineering, representing Osterville Pines Condominium Association – 3040 Falmouth Road, Marstons Mills, Map/Parcel 099-030, replacement of multiple septic systems to one shared pressure-dosed system.

Mr. Ojala believes the wording is very clear in the Town Code that this would not require an innovative/alternative (I/A) septic system.

Action:

Mr. Ojala will speak with Brian at MA DEP and see whether he would require the complex to have an I/A installed.

IX. Old / New Business:

A. Wimpy's Restaurant – 752 Main Street, Osterville, requesting food variance for outside dining for six tables with no screen door.

Item was continued until owners of property work out their septic issues with MA DEP.

- B. Update: Temporary Food Establishments –Information from Michael Moore, MA Department of Public Health (DPH).

MA DPH has revised their food policy, which also covers temporary food events, and will present it at the annual health conference at the end of September 2018.

- C. Percolation Test and Test Holes for Repairs.

Item was moved to the October 23, 2018 meeting.

X. Hearing – Tobacco Violations

Tobacco violations as reported by Bob Collette of Barnstable County Tobacco Control.

First Offense, tobacco products sold to a minor.

- A. Mr. Zahid Rashid, Centerville Food Mart, 1149 Falmouth Road, Centerville

Upon a motion duly made and seconded, the Board voted to fine the business \$100 for the first offense. (Unanimously, voted in favor.)

- B. Mr. Pat Russi, Speedway, 149 North Street, Hyannis

Upon a motion duly made and seconded, the Board voted to fine the business \$100 for the first offense. (Unanimously, voted in favor.)

- C. Ms. Jennifer Monihan, Manager- Star Market, 625 West Main Street, Hyannis

Upon a motion duly made and seconded, the Board voted to fine the business \$100 for the first offense. (Unanimously, voted in favor.)

XI. Workshop – Tobacco and Smoking Products (Cont.)

(Continued from July 12, 2018).

(See Exhibit # 1, pages 1-3, for voting results)

XII. Informal Discussion

Section 360-45 Interim Saltwater Estuary Regulations – regarding the modification or the elimination of Article XV: Protection of Saltwater Estuaries.

This item was continued to the October 23, 2018 meeting and Dr. Canniff, Chair, will meet with Mark Ells, Town Manager, prior to the Board’s next meeting.

MEETING ADJOURNED 5:50pm.

Workshop – Tobacco and Smoking Products.

TOWN OF BARNSTABLE BOARD OF HEALTH WORKSHOP RESULTS

2018 Sales Regulation:

The Board used a model regulation from the State.

THIS MODEL REGULATION INCORPORATES THE FOLLOWING:

1. The minimum standards required pursuant to the United States Food and Drug Administration on the sale and distribution of cigarettes;
2. M.G.L. Chapter 270, Sections 6 and 7 regarding sales to minors and required signage;
3. The Massachusetts Attorney General's Regulations on sales and distribution of tobacco products, including e-cigarettes and childproof packaging of liquid nicotine containers; and
4. The Department of Energy and Environmental Affairs* regulation regarding hazardous waste disposal.

INSTRUCTIONS FOR USE:

1. Fill in [city or town] name;
2. If measure is to be a by-law or an ordinance, (a) replace “regulation” with “by-law” or “ordinance”; (b) remove references to “board of health”; and (c) remove “Authority” section.
3. Fill in effective date;
4. If sections are removed, re-letter/re-number accordingly.

THE FOLLOWING ARE RESULTS OF THE VOTING BY THE BOARD:

CHECKLIST FOR POLICY DECISIONS:

1. Expanded definition of tobacco products (with nicotine delivery products)	YES	
2. Include cessation sign requirement (§D.2.b)	---	--- (this has already become a State Code)
3. Include minimum cigar package size/price (§F)		NO
4. No permit renewal if outstanding fines exist (§E.5)	YES	
5. No permit renewal if three sales to under MLSA (§E.8)	YES	
6. Cap and/or reduce number of permits (§E.9)		NO
7. No sales within 500 feet of a school (§E.9.c)	YES	
8. No new permits within__ feet of existing permit (§E.9.d)		NO (No vote, did not want to restrict)
9. Restrict flavored tobacco products (includes 9 definitions (§G)		NO
10. Minimum legal sales age for tobacco products (§D)	18 years	(YES vote, minimum age 18 years old)
11. Ban blunt wraps (§H)		NO
12. Ban free distribution of tobacco products & redemption of coupons (§I)	Voted To Keep Current Regulations Same As Is.	
13. Ban out of package sales (§J)	Voted To Keep Current Regulations Same As Is.	

- 14. Ban self-service displays (§K) Voted To Keep Current Regulations Same As Is.
- 15. Ban vending machines (§L) Voted To Keep Current Regulations Same As Is.
- 16. Ban Non-Residential RYO machines (§M) Voted To Keep Current Regulations Same As Is.
- 17. Ban tobacco product sales in health care institutions (§N) Voted To Keep Current Regulations Same As Is.
- 18. Ban tobacco product sales in educational institutions (§O) YES
- 19. Fining structure mirrors state law (§Q) OR FLAT FINE \$100/200/300 -Voted for this fining structure.
- 20. Tolling periods for violations (§Q.1.b and c) 24 months YES, 24 months in tolling period.
- 21. Suspension Period – Maintain or Double Lengths (§Q.1b and c) Voted To Keep Current Regulations Same As Is.
- 22. “Shall” vs. “May” language for suspensions SHALL -Voted to use ‘Shall’ as language.
(3 instances found in §§Q.1.b, Q.1.c and Q.4)

LOCAL ENVIRONMENTAL TOBACCO SMOKE (ETS) REGULATION CHECKLIST

THE BOARD USED A MODEL REGULATION WHICH INCORPORATED THE FOLLOWING:

- 1. The minimum standards required pursuant to the Massachusetts Smoke-Free Workshop Law, M.G.L. Chapter 270, Section 22: and
- 2. An expansion that prohibits the use of electronic cigarettes wherever the state law applies and in any additional places added to the local regulation from the checklist; and
- 3. A section, 4(c) where cities and towns can be stricter than the state law. (See checklist for examples.)

BELOW IS A CHECKLIST FOR POLICY DECISIONS THAT MAKE THE LOCAL REGULATION STRICTER THAN STATE LAW AND THE BOARD’S VOTE ON EACH IS GIVEN.

BAN SMOKING LOCALLY IN:

- 1. Smoking bars (cigar bars, hookah bars and vape bars) Voted To Keep Current Regulations Same As Is.
- 2. Adult-Only retail tobacco stores (tobacconists, vape shops) YES
- 3. Buffer zones around municipal building entrances (Ten Feet) YES – buffer zone will be 10 feet.
- 4. Municipal-owned parks and playgrounds YES
- 5. Municipal-owned athletic fields YES
- 6. Municipal-owned beaches and other swimming areas YES
- 7. Membership Associations (private clubs) NO – will not apply
- 8. Nursing homes NO – will not apply
- 9. Hotels, motels, bed & breakfasts and lodging homes NO – will not apply
- 10. All outdoor areas of restaurants, bars, taverns where food and/or beverages are sold, served or otherwise consumed NO – will not apply
- 11. Public transportation, bus and taxi waiting areas YES