



TOWN OF TEWKSBURY BOARD OF HEALTH

Raymond Barry, Chairman
Kathleen Brothers, Vice Chair
Charles Roux, Clerk
George Ferdinand
Anthony Boschetti

DEPARTMENT OF COMMUNITY DEVELOPMENT

MEETING MINUTES April 21, 2016

The meeting was called to order by Raymond Barry, Chairman, at 6:06 p.m. at the Tewksbury Town Hall. Present at the meeting were Charles Roux, Kathleen Brothers, George Ferdinand, and Anthony Boschetti. Also in attendance was Susan Sawyer, Board of Health Director.

Approval of Meeting Minutes – March 17, 2016

The Board members have reviewed the March 17, 2016 meeting minutes and edits have been suggested.

MOTION: Mr. Roux made the motion to approve the March 17, 2016 meeting minutes as amended; seconded by Ms. Brothers and the motion carried 3-0-2. Mr. Ferdinand and Mr. Boschetti abstained.

Continued Public Hearings: POSTPONED by request of the Applicant

Public Hearing to obtain a variance of the Tewksbury Board of Health regulations Chapter 7 Dumpsters. Property located at 875 East Street.

Applicant: Demoulas Super Markets, 875 East Street, Tewksbury, MA

New Business

Non Compliance Hearing – on the matter of tobacco sales to minors – Life’s Too Short d/b/a Mobil on the Run

Per the local tobacco regulations; section 11.12.1b, a violator shall receive: in the case of second violation within 24 months of the date of first violation “a fine of \$200” and “the sales permit shall be suspended for 7 consecutive business days”

Mr. Barry noted that none of the regulation changes that will go into effect on June 1, 2016 will pertain to tonight’s hearing. The current regulations will apply.

Present was Sheri Sutherland, Owner and Ron Beauregard of Health Community Tobacco Control. Ms. Sutherland noted that she also owns two others locations on River Road and Andover Street. Ms. Sutherland noted that she is adamant with upholding this law and is in agreement with Tewksbury's recent changes to increase the sale age for tobacco. Ms. Sutherland explained that this particular incident involved a young high school student she had hired and noted that this person had gone through the tobacco sales training. On this day, the high school student was working with two other cashiers. A customer came in and ordered the tobacco. One cashier got the tobacco and the other cashier rang the product in without looking up once. Ms. Sutherland explained that she is now implementing Circle K training for sales of tobacco and alcohol and she also took it again. The program will educate employees on what to look for in IDs, etc. Ms. Sutherland explained that this has been a lesson learned and that she will now hire more mature people. Ms. Sutherland requested the Board consider her overall track record as well as her intentions going forward.

Mr. Roux asked if it was one pack of cigarettes that was sold and Ms. Sutherland confirmed this.

Ms. Brothers asked if Ms. Sutherland was before the Board before for this particular location and Ms. Sutherland confirmed this. Ms. Brothers noted that she was absent that particular evening; however, it is her understanding that the Board was lenient with Ms. Sutherland and asked if the \$200 fine has been paid and Ms. Sutherland noted that it has not. Mr. Beauregard noted that his records indicated that the fine was paid on December 17, 2015. Ms. Brothers explained that she is tough on tobacco issues and feels that given the break has been given to Ms. Sutherland in the past, she has not taken the regulation seriously as the breaches have happened within 10 months of each other. Ms. Sutherland noted that she "runs a tight ship". Ms. Brothers asked if Ms. Sutherland is aware that a second violation within 24 months of each other is a \$200 fine and a 7 day suspension from the sale of tobacco and alcohol and Ms. Sutherland confirmed this. Ms. Brothers recommended a 7 day suspension.

Mr. Roux noted that previously the Board explained to Ms. Sutherland that if this should happen again they would not be so lenient and Ms. Sutherland confirmed she is aware of this.

Ms. Sawyer asked how much of Ms. Sutherland's stock will be effected by the changes coming into effect on June 1, 2016 and Ms. Sutherland explained that approximately 50% will be coming down. Ms. Sawyer suggested this be taken into consideration when the products are brought back in after the 7 day suspension.

Mr. Barry noted that Ms. Sutherland has received a total of 3 tobacco sales violations and that he is intrigued by the fact that 50% of the stock that will be eliminated after June 1, 2016. Ms. Sutherland explained that they carry an extensive line of flavored cigars, e-cigarettes, etc. Mr. Barry explained that the Board's responsibility is the health and welfare of the residents and people who shop in Tewksbury and in the past some Board members have focused solely on the impact of loss of revenue rather than the health impact. The new regulations focus more on the health impacts. Mr. Barry noted that Ms. Sutherland will still be selling some of the products that she has received violations for after the June 1, 2016 changes and explained that in the past the Board would give a partial restriction, such as three or four days, and it was aimed to be done during a time where there would be the least financial impact; however, some do not agree with this approach.

Mr. Roux explained that while he is not a fan of penalizing people, he has reviewed the previous violation hearing and feels that the seven day suspension is in order.

It was noted that a 30 day suspension is given if a third violation occurs within 24 months.

Mr. Barry explained that historically the Board has been lenient and it has not always provided the outcome they had thought. Mr. Barry noted that he is also very passionate about the tobacco issues and feels that the 7 day suspension should be upheld.

Discussion took place on the time frame for the suspension. Mr. Barry noted that a date will not be specified; however, it must be 7 consecutive days.

MOTION: Ms. Brothers made a motion on the matter of tobacco sales to minors – Life’s Too Short d/b/a Mobil on the Run; a fine of \$200.00, the tobacco and nicotine delivery product sales permit sale be suspended for 7 consecutive business days; seconded by Mr. Boschetti and the motion unanimously carried 5-0.

Election of Officers – Annual Reorganization of Board

Mr. Roux opened the nominations for Chairman.

MOTION: Mr. Roux made the motion to appoint Raymond Barry as Chairman of the Board of Health; seconded by Ms. Brothers and the motion carried 4-0-1. Mr. Barry abstained.

Mr. Barry opened the nominations for Vice-Chair.

MOTION: Ms. Brothers made the motion to appoint Charles Roux as Vice-Chairman of the Board of Health; seconded by Mr. Ferdinand and the motion carried 4-0-1. Mr. Roux abstained.

Mr. Barry opened the nominations for Clerk.

MOTION: Mr. Roux made the motion to appoint Kathleen Brothers as Clerk of the Board of Health; seconded by Mr. Boschetti and the motion carried 4-0-1. Ms. Brothers abstained.

Annual Reappoint of Health Agents:

Ms. Brothers inquired about the appointment for the animal inspector and Ms. Sawyer explained that the animal inspector has been appointed by the State. Discussion took place on the difference between the animal inspector and animal control. It was noted that that animal inspector’s purpose is to ensure the health of the animals and the animal control is for the safety of the public.

MOTION: Mr. Ferdinand made the motion to reappoint Susan Sawyer as Director of Public Health and Shannon Sullivan as Sanitarian; seconded by Ms. Brothers and the motion unanimously carried 5-0.

Annual Reappointment of Special Health Agents

Mr. Barry noted that the Town Clerk is only a special health agent as it relates to burial permits.

MOTION: Mr. Ferdinand made the motion to reappoint Sarah Kinghorn, Public Health Nurse, Ron Beauregard as Tobacco Control, and Denise Graffeo as Burial Agent; seconded by Ms. Brothers and the motion unanimously carried 5-0.

Chapter 7 - Dumpster Regulation

Consideration to amend the local regulation to all exemptions to the fence enclosure in certain areas.

Mr. Barry provided the members with a copy of the current dumpster regulations along with a copy of a suggested memo for the board's discussion and consideration. Mr. Barry explained that as part of trying to update the regulations, the areas where there are a lot of variance requests should be reviewed. Mr. Barry provided the example of the sushi restaurants where an owner would have to come before the Board for a variance of the state sanitary code as it relates to the PH monitoring in sushi. The Board decided to allow Ms. Sawyer to review and approve these applications and notify the Board in the event she saw any areas of concern. Mr. Barry explained that something similar is being sought in regards to dumpsters.

Ms. Sawyer explained that in the short time she has been here, she has identified three possible times where there was something that was not considered specifically in the dumpster regulations. Typically, the first thought for locations are behind restaurants, buildings, etc.; however, this is not always the case. The first situation is a compactor dumpster, which is attached to the building. Ms. Sawyer noted that the idea behind the dumpster regulations is to prevent illegal dumping, to protect the environment, etc. and this would not apply to a compactor dumpster. The second situation is the size of the dumpster; such as those located at a bank (3 or 4 yard dumpster). Ms. Sawyer noted that aesthetically it would look better in fence; however, if the dumpster is kept locked there is no real threat of illegal dumping. The third situation is where there was an appropriately enclosed dumpster, but they then decided to have a cardboard box dumpster to dispose of the boxes. The owner is now in violation as there is now a dumpster that is not enclosed. Ms. Sawyer noted that she visited the site today and took pictures of the area; from the front the area looks great; however, the side was left open.

Mr. Barry suggested setting up an informal "subcommittee" of no more than two committee members to review the dumpster regulations. Discussion took place on the current dumpster regulations, who issues permits, etc.

Discussion:

New Board Members – Introduction and Orientation

Mr. Barry noted that he is in his 4th year on the Board and his second year as chair. He has been a resident of town for approximately 23 years. Mr. Barry reviewed his background and noted that he is strong believer and supporter of health education and what the Board can do to improve the health and wellness of the residents. Mr. Barry noted that he is also a member of the Upper Merrimack Valley Medical Reserve Corp where the focus is mainly on emergency preparedness and planning.

Ms. Brothers noted that her background is in nursing and explained that public health is very important to her and that many people do not know what the Board does. Ms. Brothers is currently serving her second year of a three year term along with Mr. Roux.

Mr. Ferdinand noted that he has been in town for approximately one and half years and graduated from Wilmington High School. His background is in the auto industry.

Anthony Boschetti has been in town for approximately 20 years.

Discussion took place on the Open Meeting Law with regards to emails.

It was noted that the only people allowed to do inspections are the town employees in the Health Department and suggested that if a Board member should see something wrong in an establishment, they should contact Ms. Sawyer and not handle it themselves.

Mr. Barry discussed possibly having business cards for the members and noted that he is working with Ms. Sawyer on this. It was noted that the Board members should not conduct independent site inspections and should contact the Health Department to arrange a site inspection.

Announcements:

Ms. Sawyer discussed Tewksbury Cares and noted that an effort is being made to bring this program back and all groups are excited. The substance abuse coordinator, Maria Ruggiero, is working towards a large grant where certain requirements must be met including the creation of this group. Two Board of Health members are being sought to participate and Mr. Ferdinand has expressed an interest. Ms. Sawyer noted that the first tentative meeting has been scheduled for May 4, 2016 at 1:00 p.m.

Ms. Brothers discussed the referendum on the ballot in the fall to legalize marijuana and provided a copy of an editorial on the subject. Ms. Brothers suggested this be something the Board take a stand on and noted that it has already been legalized for medical marijuana.

Mr. Barry noted that with Ms. Sawyer and two new board members, he is very encouraged as the Board is now trying to fulfill the entire intention of the Board of Health; which is the health and wellness of the community and not just being a regulatory body. The Board and Ms. Sawyer are taking great strides to work with other town departments and community groups on awareness and education opportunities. Mr. Barry suggested possibly sending a survey to the residents on what they think the issues are and provide education and awareness on those issues.

Adjourn

MOTION: Mr. Roux made the motion to adjourn at 8:15 p.m.; seconded by Mr. Ferdinand and the motion unanimously carried 5-0.

Approved: May 19, 2016