

TEWKSBURY BOARD OF HEALTH

Minutes
May 21, 2015

Call of Meeting to Order

Mr. Barry called the meeting to order at 6:10 PM. The meeting was held at the Tewksbury Senior Center. Present at the meeting were, Chairman Raymond Barry, Vice Chairman Charles Roux, Clerk Christine Kinnon, Kathleen Brothers, and Health Director Lou-Ann Clement. Phillip French was not present.

Attorney Rick O'Neil and Joann Allen of JJ Phelan were also present.

Mr. Barry stated that he would be taking the agenda items out of order.

Old Business

Decision for a Variance of Tewksbury Board of Health Regulations, Chapter 9 Grease Tank and Grease Traps Requirements for Food Establishments, Located at Origins Thai, 1699 Shawsheen Street, Tewksbury, MA – Applicant: Paul Rossi for Garret Nominee Trust, Owner

Ms. Clement stated that Exhibit 7 was delivered to Board members in the board's meeting packages but it has since been revised and Exhibit 8 was given to the Board tonight.

Mr. Barry read the decision.

Ms. Clement stated that there were a few typos. On page 4, Decision #5, "Water Water" should be "Waste Water". On page 3, #10, "GB 75" should be "GB-75". This should be a global change. On page 2, #10, "Pa" should be "Pam". On page 2, #8, there is an extra comma that should be removed. On page 1, #4, December 1st should be December 6th. On page 1, Unit #2 should be inserted to clarify what unit is getting the variance.

Ms. Clement stated that there is a problem with marking the tanks because the markings may come off when the floor gets washed.

Mr. Roux stated that he still has concerns with the ability of these components to remove the grease. This is a passive system and is not a better mouse trap. If the grease is not removed, it will go into the sewer and capacity is a problem.

Attorney Richard O'Neill appeared on behalf of the applicant. Attorney O'Neill stated that Mr. Phelan took all the Board's issues to heart. The reality is that this is a new technology. Burlington has embraced it and there is a 3 month check point and a year review. Mr. Roux stated that if Lowell Waste Water accepts it, then we are good. Attorney O'Neill stated that science says it would work.

Ms. Clement stated that one thing not discussed at the meeting is the schedule. She would not want to have the system opened or pumped during open hours. This should be scheduled during off-hours. Also, there was a question about 100 mg/liter but 200 mg/liter was mentioned at the meeting. Mr. Barry asked where that amount came from. Mr. Roux stated that it is in the inter-municipal agreement with Lowell Waste Water and the communities and also DEP. Mr. Barry stated that should be verified and added to the decision.

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Mr. Barry stated that #3 in the Decision should be reworded to read “The test of concentration of FOG in the outflow shall be performed by a third party independent laboratory via the access portal on the second downstream unit. The concentration of the FOG sample must not exceed the 100 mg/liter limit as stipulated in the inter-municipal agreement between the Lowell Waste Water utility and the Town of Tewksbury.”

MOTION - Mr. Roux made a motion to amend the decision as discussed tonight. The motion was seconded by Ms. Brothers and unanimously approved by a vote of 4-0.

MOTION - Mr. Roux made a motion to approve the Notice of Decision for 1699 Shawsheen Street as amended. The motion was seconded by Ms. Kinnon and unanimously approved by a vote of 4-0.

Attorney O’Neill and Ms. Allen exited the meeting.

New Business

Introduction of Chris Dijulio-Cook, Senior Clerk Secretary

Ms. Clement introduced Chris Dijulio-Cook, the new Senior Clerk Secretary for the Board of Health. Ms. Clement stated that Ms. Cook started last week and has a computer background and understands the workings of an office. She is a welcomed addition. Ms. Clement stated that she is still trying to find out who trains new personnel for the website. Mr. Barry and Ms. Kinnon stated that they would also like to be trained.

Proposed Amendments Chapter 1 through 3

Mr. Barry stated that we as a Board need to look at all the regulations to see if they are consistent and if they should be updated. They should all be formatted the same. Mr. Barry stated that the copies of the regulations on the website are stamped by the Town Clerk and he asked that they not stamp over the text. Ms. Clement stated that she can post their regulations without the Town Clerk stamp.

Mr. Barry stated that Chapter 1 through 3 are the administration regulations for the Board of Health. One change that should be done, is that we only meet once a month, so on page 2, Section 1.6.1, this should be changed to the 3rd Thursday of the month.

Ms. Clement stated that these are three separate chapters and she has added the effective date.

Mr. Barry stated that he is concerned that Chapters 1 through 3 are the umbrella regulations because we need to make sure that we don’t conflict in the other regulations such as the penalty section. These regulations state that the first offense is a warning, the second is a \$100 fine and the third is a \$200 fine. The tobacco regulations match the money aspect but there is also a suspension. We need to be consistent.

Ms. Clement stated that the Board has a right to implement other fines and penalties and is allowed to be stricter. We issue a lot of written warnings.

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Mr. Barry stated that the first violation mirrors what the other regulations state and asked if a public hearing would be required for changes to the regulations. Ms. Clement stated that a public hearing is not required except for changes to solid waste, grease, and sewer. Public hearings are not required for tobacco regulations but we have always held a public hearing. The regulations are always advertised for two weeks. Mr. Barry stated that we should bundle up as many regulations together as possible to be cost efficient.

Ms. Brothers stated that the public hearing for 1699 Shawsheen Street was postponed because the public was not notified. This should be in the regulations. Ms. Clement stated that was a variance and it is up to the applicant to make sure the notice is done. That is MGL.

Mr. Barry stated that we need to look at all the regulations together.

Ms. Kinnon stated that a lot of Chapter 1 through 3 is handled in the office and we would not see these. Ms. Clement replied that is correct. For example in Chapter 2, page 6, she has increased this to nine copies of plans required. She has also recommended deleting letter "K" which is the requirement for stamped envelopes. These regulations were done in 2010 and she does not mind taking the lead in making updates but there are items that affect the Board so she would want the members to also review them.

Mr. Barry stated that agrees that the regulations should be cleaned up and everything advertised once. Ms. Brothers stated that regulations are always changing. Ms. Clement replied that is correct, this will always be an ongoing process.

Ms. Clement stated that an intern has started and is looking at updating the animal regulations.

Mr. Roux asked that something be added to the regulations that at the discretion of the Chairperson, they can limit the amount of time a person speaks. Ms. Clement stated that could be a policy of the Board. Policies are easier to change. Mr. Barry stated that if someone brings in an Exhibit, they should also be told they have to have nine copies. There should also be a code of conduct on how to behave at meetings.

Ms. Clement stated that she will email the Board the most current regulations.

Discussion of TBOH Tobacco Regulations:

- Chapter 11, Tobacco Control – Restricting the Sale of Tobacco Products & Nicotine Products
- Chapter 12, Tobacco Control – Prohibiting Smoking in the Workplaces and Public Places, and
- Regulations Affecting the Use or Possession of Tobacco Products on School Property

Ms. Clement stated that the money for the fines discussed in Chapters 1 through 3 are handled through non-criminal disposition. According to State statute, the Board cannot go over \$300. The fines can be issued at the discretion of the Board. These don't have to be the same in all regulations. Ms. Clement also included North Andover's tobacco regulations. They have combined Chapters 11 and 12 into one regulation and have included some of the new items.

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Ms. Clement stated that Methuen has increased the age to buy tobacco to 21.

Mr. Barry stated that he agreed with combining the regulations.

Ms. Brothers asked if we should go thru these now. Mr. Barry replied no, we need to update them but we should look at them as a whole. Ms. Clement stated that the penalties section should be updated to correspond with Chapters 1 through 3.

Ms. Brothers stated that there are some new dangerous tobacco products such as N-Bomb. They are also now adding tobacco to gummy bears.

Ms. Brothers stated that our regulations require a 7 day suspension on the second sale to a minor but we never enforce it. If we want to give fewer days the regulations should be changed. Mr. Barry stated that we are essentially giving a variance to our regulations. Mr. Roux stated that he is ok with the lesser penalty provided that the owners are doing preventive measures to make sure it doesn't happen again. If they are not sincere, then they should get the 7 day suspension. Ms. Clement stated that the fines and suspensions are clear and the owners have the right to appeal the Board's decision to the proper court.

Mr. Barry stated that if the Board does grant a variance, then we need to specify why the variance was granted. Ms. Clement stated that a variance should only be given in case of hardship. The financial impact should not be considered. Ms. Clement agreed with Ms. Brothers. If the Board thinks that for a second violation a 2 or 3 day suspension is warranted, then the regulations should be changed.

Mr. Barry stated that there is a lot more we should do on the education portion. Ms. Clement stated that the State advertises on how bad tobacco is. The State has said that for Town's to get more money, they need to recruit more towns. The Town's do not see the money from the tobacco settlements anymore, the State takes it.

Mr. Barry asked if we could look at limiting how many tobacco licenses are issues. Ms. Clement replied yes, we have 46 current tobacco establishments including 3 smoke shops, so we could limit it to 50. If you want less, the existing would be grandfathered in and if the shop closed, it would go away. The Board may want to freeze the number of smoke shops at 3.

Mr. Barry stated that the Police Department has hired a substance abuse position based on a grant. Perhaps this position can help with the tobacco training. Ms. Clement stated that part of the regulations could be that if a violation occurs, the owners have to submit an employee education plan.

Mr. Barry stated that he can't wait until our meetings are televised again. Mr. Barry stated that he would want the meeting replayed.

Ms. Clement stated that we could do a PSA on some of the new items available to make people aware of them.

Mr. Barry stated that he is going to end the discussion now and we as a Board need to look at the regulations and North Andover's regulation to see if we would like to combine them.

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Old Business Continued

Update of TBOH Goals and Objectives and Meeting with Town Manager – Communication/Action Plans

Mr. Barry stated that he, Ms. Brothers and Ms. Clement met with the Town Manager and Steve Sadwick. The Town Manager agrees with us that promotion of health and wellness is very important. We told him we wanted to do a survey for adults as well as through the schools and he was in agreement.

National Prevention Week Update

Mr. Barry stated that he and Ms. Clement met with Officer Welch, Sarah Kinghorn and Ron Beauregard about the upcoming National Prevention Week. The problem is we do not know of public events until the last minute and then it's too late to participate. He wants a calendar of events that are scheduled from all departments including the schools. Mr. Barry provided a sample spreadsheet of known events and this gives a timeline on what we can focus on throughout the year. Mr. Barry stated that if they are teaching something in health class that we can provide information on, it's a benefit to the kids.

Mr. Barry stated that the library is running events that perhaps we can participate in. Coordination between Town departments is so important. We also need to utilize the Town's cable television station and Facebook, Twitter accounts.

New Business Continued

Emergency Preparedness Shelter Planning Status

Ms. Clement stated that she has been working with Billerica on looking into a regional shelter. They are looking for a medical shelter first. She has contacted Tewksbury State Hospital and they are willing to help. They have been meeting on a regular basis. The second step is to have a regional shelter for the general public. She has spoken to our Fire Chief regarding this. Billerica will be taking the lead and they will be trying to get Wilmington to join. The goal would be to have the regional shelter at Shawsheen Tech.

Board Member Reports

There were no board member reports.

Other Business

There was no other business.

Announcements

Ms. Clement stated that she would like to know who from the Board would be attending "If Only" on May 27th at 7:00 PM at the TMHS. She needs to get a count back to the Town Manager.

Ms. Clement stated that she and Mr. Barry have been invited by the Greater Lowell Health Alliance to attend a meeting on identifying mental health issues.

MOTION - Ms. Kinnon made a motion to close the meeting and adjourn at 8:45 PM. The motion was seconded by Mr. Roux and unanimously approved by a vote of 4-0.

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Approved On: July 16, 2015

List of Documents for 5/21/2015 Agenda

Documents are located in the Board of Health's Office

New Business:

Exhibit # 1 TBOH regulations proposed amendments to Chapter 1 through 3

Exhibit #2 Chapter 11 Tobacco Control-Restricting the Sale of Tobacco Products & Nicotine Products,

Exhibit #3 Chapter 12 Tobacco Control-Prohibiting Smoking in Workplaces and Public Places, and

Exhibit #4 Regulations Affecting the Use or Possession of Tobacco Products on School Property

Exhibit #5 Email from Sarah Mccolgan MHOA Tobacco Control Program dated April 22, 2015 regarding Tobacco Funding

Exhibit #6 Tobacco Free Mass notice named Sponsor Amendment #1057

Old Business:

Exhibit # 7 first draft Variance decision of TBOH Regulations Chapter 9 Origins Thai 1699 Shawsheen Street, Tewksbury MA Applicant: Paul Rossi for Garret Nominee Trust, Owner

Exhibit # 8 Revised draft Variance decision of TBOH Regulations Chapter 9 Origins Thai 1699 Shawsheen Street, Tewksbury MA Applicant: Paul Rossi for Garret Nominee Trust, Owner

Exhibit # 9 Events and Communication Plan

Exhibit #10 Draft Goals and Objectives