

BRAINTREE BOARD OF HEALTH

MINUTES

August 15, 2013

IN ATTENDANCE: Paula Dowd, Chairman
Dr. Philip Nedelman, Vice-Chairman
Dr. Arthur Bregoli, Clerk

ALSO PRESENT: Marybeth McGrath, Director of ML & I
Jerry McLaughlin, Tobacco Compliance Officer

Mrs. Dowd called the meeting to order at 7:00 pm.

Mrs. Dowd and Dr. Nedelman welcomed Dr. Arthur Bregoli, as a newly appointed member of the Board of Health.

MINUTES:

Motion By: Dr. Nedelman to approve the minutes of June 20, 2013
Second By: Mrs. Dowd

NEW BUSINESS:

1) Sale of Tobacco Violation: East Braintree Gas-411 Quincy Avenue

Present: Ed Maloney, District Manager-Super Shine Auto/East Braintree Gas

Mr. McLaughlin advised the Board that on Thursday July 25, 2013, routine compliance checks were conducted in the town of Braintree. At approximately 3:50pm, compliance check was conducted at East Braintree Gas located at 411 Quincy Avenue. At that time, the seventeen year old male minor buyer left Mr. McLaughlin's vehicle with no identification on him, and with only the money provided by Mr. McLaughlin, to go into East Braintree Gas to see if he could purchase a package of cigarettes. The buyer was able to purchase a package of cigarettes and then returned to Mr. McLaughlin's vehicle, at which time the cigarettes were tagged as evidence by Mr. McLaughlin. The price of cigarettes was \$ 8.40. The clerk was an adult male. Mr. McLaughlin held the tagged cigarettes in his possession and has brought them to the hearing this evening.

Mr. Maloney advised the Board that he does his own compliance checks in each of the ten store locations he oversees. If an employee is caught selling cigarettes to a minor, they are immediately terminated. He is at a loss as to what more he can do, as he has trained and retrained the employees about tobacco sales.

He feels the only way that he can see employees not selling to minors is if the Town fines the employee for a sale and the employee is paying the monetary fine.

Ms. McGrath advised that would not occur because the tobacco sales permit is issued to the establishment, not the employees. So, she is not aware of any mechanism that the Board of Health would have to fine to an employee.

Ms. McGrath advised that this is a second offense within a two year period at this location, with the first offense having occurred on September 25, 2012. The penalty for a second offense is a ten-day suspension of the tobacco sales permit, and a three hundred dollar fine.

Motion By: Dr. Nedelman to impose the penalty for a second offense to begin at 12:00 pm on August 16, 2013.

Second By: Dr. Bregoli
Unanimously Voted

2) Review Tobacco Compliance Check schedule

Ms. McGrath advised the Board that in February 2013, due to the rate of increase in the number of tobacco sales violations previously, the Board of Health voted to have Mr. McLaughlin conduct monthly tobacco compliance checks in retail establishments, which would continue until August 2013 at which time this schedule will be reviewed.

Ms. McGrath provided a written monthly summary of the tobacco compliance checks from February – July 2013.

Ms. McGrath provided an overview of the tobacco compliance check program for Dr. Bregoli, and a summary of compliance checks in which the violation rate increased between September – December of 2012.

Mr. McLaughlin advised that the word is out there and establishments got the message that compliance checks are being routinely conducted. Sales of tobacco to minors during these compliance checks have been declining.

Ms. McGrath advised that previously the normal compliance check schedule was quarterly (every three months). She suggested that if the Board still has a concern, then consider going to compliance checks every two months for the next six month period, and see how that works out. After the six month period, the Board can review the schedule again.

Motion By: Dr. Nedelman to modify the tobacco compliance check schedule to every two months for the next six month period, starting in September 2013.

Second By: Dr. Bregoli
Unanimously Voted

3) Review for Consideration-Sample Tobacco Sales Regulations

Ms. McGrath advised the Board that for some time Braintree has had the most stringent Tobacco Sales Regulations on the south shore, as relates to penalties and fines for sale of tobacco to a minor. However, as time goes on the Board members have expressed concern and wanted to give some consideration to the regulations regarding selling cigarettes from pharmacies, electronic cigarettes (E-cigarettes), blunt wraps, etc.

Ms. McGrath suggested that if the Board considers modifying the current regulations, that they not necessarily be changed completely from the current regulation, but rather add to the current regulation.

The Board members engaged in discussion in the matter of modifying the current Tobacco Sales Regulations with Mr. McLaughlin and Ms. McGrath. More specifically, they discussed whether or not electronic cigarettes or nicotine delivery devices are a tobacco product and what health concern they may pose, as well as blunt wraps and their uses.

The Board discussed considering raising the age for the sale of tobacco products to anyone under the age of twenty-one (21) years old, instead of the current age in the regulation of eighteen (18) years old.

Ms. McGrath advised that if the Board would like her to create proposed amended draft Tobacco Sales Regulations, she can do so and bring them forward to the Board.

Motion By: Dr. Nedelman to endorse that Ms. McGrath prepare proposed amended draft Tobacco Sales Regulations to bring forward to the Board at a future date for a public hearing that would include increasing the age of purchasing tobacco products from eighteen years old to twenty-one years old, consider electronic cigarettes as tobacco products and blunt wraps.

Second By: Dr. Bregoli
Unanimously Voted

4) Request for Keeping of Chickens-11 Kendall Avenue

Present: Paul and Jennifer Wilson, property owners

Ms. McGrath advised the Board that Mr. & Mrs. Wilson are requesting a permit for the keeping of chickens on their property. They have met all of the requirements to receive a permit. However, there was one objection from a direct abutter regarding the approval to keep chickens at 11 Kendall Avenue. The abutter was concerned that there is already wildlife in the area, and he is concerned that if chickens were permitted to be kept on his neighbor's property that they would only attract more wildlife.

The Wilson's have sent notification to the direct abutters, and have gone to the extent of notifying other neighbors that do not directly abut their home. The direct abutter raising the objection would not sign for the notifications that were sent/delivered to him. Letters have been provided by those neighbors indicating they do not have an issue with the issuance of a permit to keep the chickens.

The regulations do not speak to what happens if an abutter objects, which is why this matter has been brought before the Board.

Ms. McGrath advised that the department inspector has been on site and inspected the proposed chicken coop area. The coop structure has been enclosed with hardware cloth mesh wiring and a steel locking coop/run door. The wiring has been placed two feet below grade around the coop to protect the coop. In the daytime, the Wilson's would like the chickens to be loose to forage about the backyard under supervision, in an effort to control a tick problem they are having in their backyard. Mrs. Wilson has done extensive research on keeping chickens, and preventing nuisance and predator issues. The research documentation is within the Board packets.

Dr. Bregoli advised that he feels based on their submittal documentation and presentation, that they have demonstrated that the chickens will not present a nuisance or do any more to attract wildlife. However, he advised that the chickens themselves will not eradicate ticks on their property.

Ms. McGrath advised that the permit for the keeping of animals is issued on an annual basis, and inspections of the property conducted by the department. Also, if issues came about regarding a nuisance, they would be addressed on a case by case basis.

Dr. Nedelman asked if the neighbor that objects is present at the meeting.

Ms. McGrath advised that the neighbor is not present.

Motion By: Dr. Nedelman to approve the issuance of a permit for the keeping of chickens at 11 Kendall Avenue.
Second By: Dr. Bregoli
Unanimously Voted

INFORMATIONAL:

- Ms. McGrath advised the Board about the status of beach testing to date regarding Sunset Lake and Smith Beach.
- The Board asked that reorganization of the Board be placed on the September 2013 meeting agenda.

Motion By: Dr. Nedelman to adjourn the meeting at 8:05 pm.
Second By: Dr. Bregoli
Unanimously Voted