

**BRAINTREE BOARD OF HEALTH**

**MINUTES**

**December 18, 2014**

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

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

Dr. Nedelman called the meeting to order at 7:00 pm.

**MINUTES:**

**Motion By:** Dr. Bregoli to approve the meeting minutes of October 23, 2014 contingent upon correction of several typographical error noted.

**Second By:** Dr. Nedelman

**OLD BUSINESS:**

**1) Continued: Review of proposed draft Amended Environmental Tobacco Smoke Regulation**

Ms. McGrath advised the Board that this matter has been continued from the September 23, 2014 meeting at which time the Board asked that the proposed draft be reviewed by the Town Solicitor as to legal form.

Ms. McGrath advised that Town Solicitor Peter Morin did review the proposed draft regulation, and suggested the Board consider the following:

1. The regulation should more closely track the state law G.L. Chapter 270 Section 22 Smoking in Public Places, particularly where state law allows smoking in private "members only" clubs and allows nursing homes to have limited smoking areas in locally permitted identified residential areas.
2. The proposed regulation allows smoking on the golf course but in no other park areas, provided smokers remain 20 feet from non-smokers. The statute is silent on public parks, beaches, etc. He suggested the Board think about how we regulate smoking in public parks?
3. He suggested the need to address public and private vehicles. Further, to explicitly ban smoking in all municipal vehicles and vessels. He suggested we not prohibit smoking by individuals in private vehicles or vessels. They should be treated as an extension of a residence. A prohibition on smoking in private vehicles on public roads would create enforcement issues for the police.

4. He advised that it makes sense to include e-cigarettes in the ban. He would suggest the Board consider a further extension to non-tobacco cigarettes as well, as we've had a history with non-tobacco cigarettes enforcement.

The Board agreed to implement numbers 1, 3 and 4 noted above as suggested by Town Solicitor Morin. The Board wants to keep the 20 foot setback between smokers and non-smokers, in place with regard to the municipal golf course, as mentioned in number 2 above. The Board wants to continue the prohibition of smoking at public parks and beaches, as is presently outlined in the current regulation, and as defined under "Public Places" of the proposed draft regulation.

Dr. Bregoli asked about smoking in nursing homes.

Ms. McGrath advised that the state Smoke-Free Workplace law already addresses it, but she will incorporate that language into the draft regulation.

Ms. McGrath advised that she will review the state Smoke-free Workplace Law to incorporate any language necessary to satisfy the suggestions made by Solicitor Morin. She advised that she will then bring the latest revised draft of the regulation forward to the Board at the January 15, 2015 meeting for final review, in the hope of moving forward with a public hearing thereafter.

**Motion By:** Dr. Bregoli to update the proposed draft ETS regulation, as outlined.

**Second By:** Mrs. Dowd  
**Unanimously Voted**

#### **NEW BUSINESS:**

#### **2) Sale of Tobacco Violation: Braintree Café' and Convenience-250 Ivory Street (MBTA Station)**

Present: Jaswinder Kaur and Balbin Singh, owners

Mr. McLaughlin advised the Board that on November 11, 2014 routine tobacco compliance checks were conducted in the town of Braintree. At approximately 12:38pm, a compliance check was conducted at Braintree Café' and Convenience located at 250 Ivory Street, which is inside the MBTA station. At that time, a nineteen year old female did enter the establishment with the purpose of buying a tobacco product. She left his vehicle with no money on her, except the money given to her by Mr. McLaughlin, and with her identification.

When the buyer entered the establishment and asked for a pack of Newport cigarettes, the adult male clerk did ask her for an ID. She presented her MA license ID that showed that she was 19 years old. The clerk did state to the buyer that she is 19. The buyer replied yes. At that time, the buyer did purchase a package of Newport cigarettes with a twenty dollar bill. The buyer then returned to Mr. McLaughlin's vehicle, and the cigarettes were then mark and tagged as evidence and kept in Mr. McLaughlin's possession until turned over to Ms. McGrath for the hearing this evening.

Ms. Kaur, owner of the establishment advised the Board that she and her husband realized that they did make a mistake with the tobacco sale to an individual under 21.

Ms. McGrath advised the Board that the compliance checks conducted in November 2014 by Mr. McLaughlin would have been the first cycle of checks performed since the regulations changed to prohibit the sale of tobacco and nicotine delivery products to anyone under 21 years of age, which went into effect on October 1, 2014. She further advised that all tobacco vendors were notified of the regulation changes in June and October 2014.

Ms. McGrath advised that this is the first offense within a two year period. The penalty for a first offense is a five day suspension of the tobacco sales permit, a one hundred dollar fine and within thirty days of the first day of the suspension, all employees involved in tobacco sales must receive merchant education.

**Motion By:** Mrs. Dowd to impose the penalty for a first offense to begin on Friday December 19, 2014 at 12:00 pm.

**Second By:** Dr. Bregoli  
**Unanimously Voted**

### **3) Request for Keeping of Rooster-450 Liberty Street**

Ms. McGrath advised the Board that the applicant, Sarah Anne Keefe, has requested a continuance of this matter until the Board of Health meeting to be held on January 15, 2015.

**Motion By:** Mrs. Dowd to continue the request for the keeping of a rooster at 450 Liberty Street until the Board of Health meeting on January 15, 2015.

**Second By:** Dr. Bregoli

### **INFORMATIONAL:**

#### **4) Future Board of Health meeting schedule**

**Motion By:** Mrs. Dowd to adjourn the meeting at 7:31 pm.

**Second By:** Dr. Bregoli