

**Braintree Board of Health
Fletcher Hall Meeting Room, Town Hall
1 John F. Kennedy Memorial Drive, Braintree MA
Thursday, June 14, 2018, 7:00 p.m.**

MINUTES

IN ATTENDANCE: Dr. Arthur Bregoli, Chairman
Dr. Philip Nedelman, Vice Chairman
Laurie Melchionda, Clerk

ALSO PRESENT: Marybeth McGrath, Director of ML & I

Dr. Bregoli called the meeting to order at 7:00 p.m.

Approval of Meeting Minutes: May 17, 2018

Motion By: Mrs. Melchionda to approve the meeting minutes of May 17, 2018
Second By: Dr. Nedelman
Unanimously Voted

List of Complaints:

The Board reviewed a list of complaints received from May 14-June 8, 2018.

Old Business:

- 1) Request for keeping of chickens: 108 Cedar Street (Update)
Present: Carol Reynolds, Property owner and applicant
David and Kathy Mahoney, abutting neighbors at 50 Pleasant Street

Ms. McGrath advised the Board that at the May 17, 2018 meeting, Mrs. Reynolds came before the Board to request a permit to keep chickens. At that meeting, the Board requested that certain conditions be met prior to the permit being issued, and Mrs. Reynolds is present to address these conditions. The Board had requested that the chicken be removed, the yard be cleaned up, a 6 foot fence be installed in the rear and side yards of the property, the coop be located 10 feet off the property line, and the pest control company provide service to not only 108 Cedar Street, but also 50 Pleasant Street to ensure there is no problem with rodents or wildlife.

Ms. McGrath advised that she conducted an inspection of the property today, including Mr. Mahoney's property. She did not observe any rodents or insects or bait stations on the property, although she was told there were bait stations on the property. The pest control company has stated there has been no activity noted on the property and the bait stations should be removed, so as not to attract other animals, such as squirrels. On Mrs. Reynold's property the material for the 6 foot high stockade fence has been

delivered, but is not yet installed. There is currently no chicken on the property. Ms. McGrath recommended continuing this to the Board's next meeting on July 19, 2018, to ensure the fence has been installed.

Mrs. Reynolds stated the chicken is being kept off site. She stated there are currently two bait stations on her property, one by her house and the other underneath the pool shed. Mr. Mahoney indicated he is in agreement with waiting until the next meeting. Mrs. Mahoney stated her concern is with the rats. She stated she has lived there for 23 years and there were never rats prior to the chicken. She stated she believes the chickens attract the rats. She asked if there would be periodic inspections to prevent the rats from returning. Mrs. Melchionda responded that if there continues to be problems, they can call the Board of Health at any time and an inspection can be conducted. Dr. Nedelman stated in all his years on the Board they have never had a complaint of rats associated with properties that keep chickens, and there are quite a few properties with chickens.

Motion By: Dr. Nedelman to continue this matter until July 19, 2018
Second By: Mrs. Melchionda
Unanimously Voted

New Business:

2) Request for keeping of chickens

(a) Monica Rus- 144 Liberty Street (3 chickens)

Present: Monica Rus, Property owner and applicant
 Mabel Au-abutting neighbor at 3 Lincoln Street

Ms. McGrath advised the Board that Ms. Rus is requesting a permit for the keeping of three chickens. She stated this is a small property with a lot going on, including a garden and tree house. She stated the coop can be located ten feet from the side property line, which would meet the setback requirement.

A neighbor, Mabel Au of 3 Lincoln Street, was present in opposition to this request. She stated the properties are close and the backyard is very small. She also expressed concern that the chickens would attract other animals and she has a child and that there would be a problem with noise.

Dr. Bregoli stated the structure would be enclosed and the chickens would not be wandering the property.

Ms. McGrath stated the property is fenced so the chickens would be able to walk around the property.

Mrs. Melchionda stated the chickens would be able to fly over the fence if their wings are not clipped.

Ms. Rus stated they would like to have chickens as their son is allergic to cats and dogs and they were told they make good pets.

Mrs. Melchionda asked if the coop could be located at the back of the property, away from Ms. Au's house.

Ms. Rus was agreeable to changing the location to the back.

Dr. Bregoli stated that the Board has issued many permits and there has never been a complaint brought back before them. He stated there is more fear upfront, but most people do not even realize when a property has chickens.

Ms. McGrath informed Ms. Rus the Board does not allow roosters.

Ms. Au asked what the requirements are for removing the chicken droppings.

Ms. McGrath stated they can be disposed of in the regular trash or the manure can be used for compost.

Ms. Rus stated they have a garden and plan on using this for compost.

Motion By: Mrs. Melchionda to approve the permit for 144 Liberty Street with the conditions the coop be located in the backyard, 10 feet off the property line, and for three chickens only.

Second By: Dr. Nedelman

Unanimously Voted

(b) Abby Sage- 190 Tremont Street (5 chickens):

Present: Abby Sage, Property owner and applicant

Ms. McGrath advised that Dr. Nedelman is recusing himself from this agenda item, as he is related by a family member to the applicant.

Ms. McGrath advised the Board that the chickens are already located on this property and have been for some time. She stated the property is located on the corner of Lakeview Avenue and Tremont Street. She stated the coop is not located 10 feet from the property line. However, it abuts Lakeview Avenue, not another property.

Ms. Sage advised that she is agreeable to moving the structure to meet the 10 foot requirement.

Motion By: Mrs. Melchionda to approve the permit for 190 Tremont Street with the condition the coop be relocated in the backyard 10 feet off the property line.

Second By: Dr. Bregoli
Unanimously Voted (Dr. Nedelman Recused)

3) Review of Draft Regulation: Restricting the Sale of Tobacco Products

Ms. McGrath advised the Board that on October 1, 2014, the Board enacted an amendment to the existing regulations for the sale of tobacco due to the introduction of the sale of nicotine delivery products, and this update included all of those devices. The Board also changed the age of the sale of tobacco from 18 to 21. She stated the nicotine delivery products have become popular for youth; and many cities and towns have taken an additional step to prohibit flavored products in retail establishments where persons under the age of 21 can enter.

Ms. McGrath advised the Board that the town has done a lot of education related to substance use, and we need this policy piece to follow along with the educational piece. She provided the Board a list of establishments that would be affected by this change. Two current vape shops would not be affected as individuals under the age of 21 are not allowed in these establishments.

Ms. McGrath asked that the Board consider the following proposed changes:

1. Prohibiting the sale of flavored nicotine delivery products in retail establishments where customers under the age of 21 are allowed to enter.
2. Lowering the maximum number of allowed licenses from 50 to 40.
3. Capping the allowed number of vape shops at 2, which is the number of shops currently operating in the town.
4. Excluding new retail establishments that sell these products from opening within 500 feet of a school or educational facility.
5. Excluding retail establishments that sell these products from opening within 500 feet of an existing establishment which sells these products.

Ms. McGrath advised that if a retail establishment were to close, they would have to surrender their license. However, if another establishment were to open in that location, the existing establishment could transfer their license.

Dr. Bregoli expressed concern with telling businesses what they can and cannot sell. He stated that individuals under the age of 21 are not allowed to purchase these products, even though they can enter the establishment.

Ms. McGrath stated 111 communities across the Commonwealth have adopted this type of policy because flavored products are attracting youth to use them.

Ms. McGrath stated she would like the Board to consider this regulation and would like to hold a public hearing at the July 19, 2018 meeting, at which time the Board could potentially vote on the draft regulation.

She advised the Board that she would send notice of the public hearing to all the establishments that hold permits with a copy of the draft regulations, inviting them to attend the hearing. She recommended that if the regulation passes that there be a waiting period for it to take affect, so the businesses have time to comply and not lose money on existing product.

Dr. Nedelman asked that this regulation be reviewed by the Town Solicitor.

Ms. McGrath stated if the Board wants to move forward this will be reviewed by the Town Solicitor. She advised that the state assisted with drafting of this regulation, so it has already been vetted by their attorney.

Dr. Nedelman expressed concern that if a retail establishment that held this type of license were to close and a new business opened in that location they would not be able to sell tobacco products.

Ms. McGrath explained to the Board that if an establishment closes and another comes in and takes its place, the license can be transferred to that new business, and would be required to come before the Board for approval. However, if no business opens in its place, the license must be surrendered to the Board and this would start lowering the cap of allowed licenses.

Dr. Nedelman expressed concern with the legality of setting a cap on the number of licenses.

Ms. McGrath assured him that many communities utilize this type of cap. However, this will be reviewed by the town solicitor prior to bringing it back before the Board.

Mrs. Melchionda stated she would like to add Juul, a type of nicotine delivery device, to the list of prohibited products.

Dr. Bregoli stated they have to be careful with including specific product names, as the name can be changed in the future.

Ms. McGrath stated she will look into this.

Mrs. Melchionda asked if the retail establishments are required to identify their educational programs.

Ms. McGrath stated that Jerry McLaughlin, their Compliance Officer, would go out and do merchant education if there is a violation, unless the establishment can prove that they have a comparable program in place which has been approved by Mr. McLaughlin.

Mrs. Melchionda asked with a fourth violation, would the establishment have a loss of license, in addition to the proposed \$500 fine.

Ms. McGrath stated they will also lose their permit for one year. Under the current regulation their permit is suspended, but there is no fine attached.

Ms. McGrath brought to the attention of the Board, page 9, Section C of the regulation under "date." She stated the Board can use any date they want for this section, regardless of the date the regulation goes into effect. She asked that they give this some consideration. She stated if the Board votes to move this forward she will put a notice in the newspaper for a public hearing on July 19, 2018, and she will send notice to all the tobacco establishments with a copy of the draft regulation.

Dr. Bregoli asked if the Town Solicitor will be present at the public hearing.

Ms. McGrath stated she would ask the Town Solicitor to provide any comments or suggested changes to the Board in writing.

Motion By: Mrs. Melchionda to approve the draft regulation restricting the sale of tobacco products pending review as to legal form by the Town Solicitor, and then scheduling a public hearing on July 19, 2018.

Second By: Dr. Nedelman
Unanimously Voted

Informational:

4) Future Board of Health Meeting Date Schedule (July-December 2018)

The Board reviewed the schedule of future meeting dates from July-December, 2018.

Motion By: Mrs. Melchionda to adjourn the meeting at 7:58 p.m.

Second By: Dr. Nedelman
Unanimously Voted