

**BRAINTREE BOARD OF HEALTH**

**MINUTES**

**May 8, 2008**

**IN ATTENDANCE:** Paula Dowd, Chairman  
Dr. Philip Nedelman, Vice Chairman  
Dr. Mark Samuelson, Clerk

**ALSO PRESENT:** Marybeth McGrath, Executive Health Officer

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

**ORGANIZATION OF THE BOARD OF HEALTH:**

**Motion By:** Mrs. Dowd to nominate Dr. Nedelman the Chairman  
**Second By:** Dr. Samuelson

**Motion By:** Dr. Nedelman to nominate Dr. Samuelson the Vice-Chairman  
**Second By:** Mrs. Dowd

**Motion By:** Dr. Samuelson to nominate Paula Dowd the Clerk  
**Second By:** Dr. Nedelman

Dr. Nedelman advised that this is the first Board of Health meeting since the incorporation of the Mayoral form of government. There has not been a meeting since December 18, 2007. Mayor Sullivan was invited to join the Board, although he was unable to attend. The Board members have been appointed by the Mayor, and sworn in by the Town Clerk.

**MINUTES:**

**Motion By:** Mrs. Dowd to approve the minutes of December 18, 2007.  
**Second By:** Dr. Samuelson  
**Unanimously Voted**

**OLD BUSINESS:**

**NEW BUSINESS:**

**1. Sale of Tobacco Violations:**

Present: Jerry McLaughlin, Enforcement Officer

## South Shore Boards of Health Collaborative, Tobacco Control Program

**a. Luke's Convenience-411 Pond Street**

Present: No one present.

Ms. McGrath advised the Board that Luke's Convenience Store was tabled from the December 2007 meeting at the establishment's request. She advised that the owner was sent a certified letter indicating the hearing was rescheduled for tonight, and the green card was signed for on May 1, 2008.

Mr. McLaughlin advised the Board that on November 24, 2007 at approximately 12:20pm, a seventeen year old male entered the premises of Luke's Convenience located at 411 Pond Street for the purpose of conducting a routine compliance check. At that time, the minor exited Mr. McLaughlin's vehicle with no monies on him, except the money given to him by the Collaborative, which was six dollars. He had no ID or personal information on him. He entered the premises, did purchase a pack of Marlboro's, and returned to Mr. McLaughlin's vehicle where the cigarettes were properly tagged and held by the Collaborative. During the transaction, the clerk did not ask for an ID or ask the minor's age. The pack cigarettes were \$ 5.40. The minor returned to the vehicle with change of sixty cents from the six dollars that was given to him.

Ms. McGrath advised the Board that this is the first violation under this owner.

**Motion By:** Mrs. Dowd to implement the penalty for a first offense to begin on Friday May 9, 2008 at 12:00pm.

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

**b. Braintree Square Shell-384 Washington Street**

Present: Elias, Store Manager

Mr. McLaughlin advised the Board that at approximately 2:38pm on March 10, 2008, a seventeen year old male entered the premises of Braintree Square Shell for the purpose of conducting a routine compliance check. At that time, the male entered the establishment with no monies on him, except for the money given to him by the Collaborative which was six dollars. He carried no ID or other personal information. He exited Mr. McLaughlin's vehicle, walked into the Braintree Shell and did purchased a pack of Newport cigarettes. The male exited the gas station, and went directly to Mr. McLaughlin's vehicle with the package of cigarettes, which was purchased for \$ 5.25. The purchaser was not asked for an ID, and was not asked his or her age.

Elias advised the Board that he manages the gas station. He stated that in March that he had many temporary employees in and out. He just needed to know what time the sale occurred, so he can track it down.

Mr. McLaughlin advised that it was 2:38 pm.

Ms. McGrath advised that the clerk was described as a male adult, which would be between the ages of 30-60 years.

Ms. McGrath advised the Board that this is the first offense that has ever been reported on this establishment, and 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 seek merchant education.

**Motion By:** Dr. Samuelson to implement the penalty for a first offense to begin on Friday May 9, 2008 at 12:00pm.  
**Second By:** Mrs. Dowd  
**Unanimously Voted**

**c. Braintree Café & Convenience- 250 Ivory Street**

Present: R. Sehpal and Z. Moughaizel, Owners

Mr. McLaughlin advised that on March 10, 2008 at approximately 3: 34pm, a seventeen year old male conducted a routine compliance check at the Braintree Café located at 250 Ivory Street, inside the MBTA Station. At that time, the purpose of a routine compliance check was to purchase a tobacco product. The minor entered the premises with no monies on him, except the money given to him by the Collaborative, which was six dollars. He had no ID or personal information on him. He left Mr. McLaughlin's vehicle, went inside the MBTA Station to the Braintree Café and returned to Mr. McLaughlin's vehicle with a pack of Newport cigarettes, which were then tagged and held as evidence by the Collaborative. During the transaction, the minor was not asked for an ID or his age.

Ms. Sehpal advised the Board that her husband and she run the business. She runs it in the morning and he runs it in the afternoon. It does get very busy after 3:00pm. She advised that she always checks every person. When it is busy, he probably didn't ask, but normally they do on a general basis.

Mr. Moughaizel advised the Board that he works another job, which he starts at 1:30am to 11:30am, and then he works a shift at the Braintree Café until 5:00pm. So, he may have been tired.

Ms. Sehpal advised that they have owned the shop for five years and sold cigarettes for about three and a half years. They have never had a violation before.

Ms. McGrath advised the Board that this establishment has never had a violation on record, so this is the first offense.

**Motion By:** Dr. Samuelson to implement the penalty for a first offense to begin on Friday May 9, 2008 at 12:00pm.

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

**2. Request for Variance of Lifeguard Provision of 105 CMR 435.23**

**a. Devonwood Condominiums-One Devon Club Lane**

Ms. McGrath advised the Board that this request is to continue to have lifeguards, except if the pool remains open after September and the lifeguards go back to school or during a slow holiday time. The request is a repeat of previous years.

**Motion By:** Dr. Samuelson to approve the variance request  
**Second By:** Mrs. Dowd  
**Unanimously Voted**

**b. Riverbend Condominium Trust-399 Pond Street**

Ms. McGrath advised the Board that nothing has changed. This is a repeat request for a full lifeguard variance.

**Motion By:** Dr. Samuelson to approve the variance request  
**Second By:** Mrs. Dowd  
**Unanimously Voted**

**c. Royal Lake Village Condominium Trust-3 Royal Lake Drive**

Ms. McGrath advised the Board that Royal Lake has provided documentation of the very low bather load usage. This is a repeat request for a full lifeguard variance.

**Motion By:** Dr. Samuelson to approve the variance request  
**Second By:** Mrs. Dowd  
**Unanimously Voted**

**d. Hampton Inn-215 Wood Road**

Ms. McGrath advised the Board that this is an annual pool and spa facility. They have a key card system into the pool enclosure, which is the same as the guest's room card. The office is also next to the pool enclosure. They are requesting a lifeguard variance.

**Motion By:** Dr. Samuelson to approve the variance request  
**Second By:** Mrs. Dowd  
**Unanimously Voted**

**e. Reservoir Crossing-614 Pond Street**

Ms. McGrath advised the Board that this is a new request from Reservoir Crossing Condominium, which is located on Pond Street, almost on the Randolph line, across from the Dunkin Donuts.

Ms. McGrath advised that the contents of the request letter have changed since she conducted a site inspection a few days ago to address some questions she had before bringing this request before the Board.

The pool enclosure has an emergency gate, which is only used for emergency purposes. It is locked all of the time, except for emergency use. The only way into the pool enclosure is through the building. When the lifeguard is present, the door is unlocked. When no lifeguard is present, which is the issue, they wanted to just leave the door unlocked and anyone could walk out to the pool enclosure from the building, which is not allowed by Code.

Amy Carey, Health Code Enforcement Officer and Michael McGourty, local Building Inspector went out on-site on Tuesday May 6, 2008. One of the things they discussed with the manager was installing a key card system, on the door in which the card would be swiped through the electrical door system and that is the only way the door would unlock, if there is no lifeguard present.

Ms. McGrath further advised that the establishment is not requesting a complete lifeguard variance, just when it is slow or a lifeguard is sick. The majority of the time there would be a lifeguard.

Ms. McGrath advised that presently, the door has a handicapped push bar installed on it. The proposal is to install the electric key card system, in addition to the push bar which is required for handicapped purposes. The door would not unlock until activated by the key card.

Dr. Samuelson asked if this door is an emergency exit.

Ms. McGrath advised that the Building Department has indicated that it is.

Dr. Samuelson advised that he does not know how the Board can do that because they cannot expect someone to have a card to unlock the door for an emergency exit.

Ms. McGrath advised the Board that the establishment is working with a company to satisfy the Building Department requirements, and trying to seek a lifeguard variance.

Mrs. Dowd asked if swiping the card only gets them into the building or out.

Ms. McGrath advised it would get them out of the building into the outside pool enclosure.

Dr. Nedelman asked if there is any way they can separate the pool area by a gate

from the building itself.

The Board expressed a concern about this door being an emergency exit, which happens to go into a pool area, and them requesting a lifeguard variance. It does not make any sense.

Ms. McGrath described the existing conditions of the pool enclosure with fencing around the pool, and the door entry from the building into the pool. She advised that individuals cannot enter the pool enclosure unless they go through the building into the pool enclosure. The emergency outside gate is for emergency use only, not to use to enter and exit the pool.

The Board advised that they are not satisfied with the establishment's proposal. They are concerned about individuals getting into the pool enclosure outside of pool operating hours because this door is an emergency exit.

Ms. McGrath advised that presently the pool is closed and the door is locked.

Dr. Nedelman stated that they cannot keep that door locked.

Ms. McGrath advised that was a question of the Building Inspector when they went out because they had taken down the emergency exit sign. So, this is being addressed into by the Building Department.

Ms. McGrath advised that the pool can open with a lifeguard because they have met all of the requirements. This is specifically because they do not want a lifeguard.

Dr. Nedelman stated that the Board will only allow the pool to operate if there is a lifeguard there.

**Motion By:** Mrs. Dowd not to grant the variance request.

**Second By:** Dr. Samuelson

**Unanimously Voted**

### **3. Final Review of Approvals of Well Variance**

- a. 31 Lunar Ave. (Property Lines)**
- b. 15 Hatch Ave. (Roadway)**
- c. 10 Candlewood (property Line & Roadway)**

Ms. McGrath advised the Board that these wells had been pending for sometime while the Board appointments were being considered. The applicants were very upset about the delay to approve, so following the Board's regulation, and policies and procedures Ms. McGrath advised that she felt very comfortable approving them and issuing permits with the condition that they would be brought forward to the Board for a final endorsement.

**Motion By:** Dr. Samuelson to endorse the issuance of these irrigation well permits by the Executive Health Officer.

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

**INFORMATIONAL:**

**4. Annual Rabies Clinic**

Dr. Nedelman advised that the annual Rabies Clinic conducted by Dr. Richard Harris is scheduled for this Saturday May 10, 2008 from 10am-12pm at the Town Hall.

**5. Norfolk County Mosquito Control Project-Early Morning Aerosol (ULV) Applications**

Ms. McGrath advised that this public service announcement is for the ground applications that are conducted throughout the summer on Thursday mornings from 1am-6am in designated areas weekly. Weather permitting this should begin May 27<sup>th</sup> through September 30<sup>th</sup>. The aerial applications for wetlands have already been conducted.

**6. Letter request-Outdoor Recreational Activities and the Risk of Mosquito-Bourne Diseases**

Dr. Nedelman advised that he does not believe that the precautions are any less that last year.

Ms. McGrath advised the Board that this is the same letter that the Board has used in the past. She is bringing it forward to the Board now for approval because the schools are already scheduling their late summer and fall programs. Ms. McGrath advised that if the Board approves the draft letter, then she would like to contact Mayor Sullivan to see if he will also endorse this recommendation.

**Motion By:** Mrs. Dowd to endorse the draft letter to be sent to the schools and outdoor recreational programs in Braintree.

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

**7. Household Hazardous Waste Collection Day**

Dr. Nedelman advised that the Household Hazardous Waste Collection day is being held on Saturday May 17<sup>th</sup> at the Ivory Street Recycling Center from 9am-1pm.

Ms. McGrath also advised the Board that SEMASS Covanta, the company that runs the Transfer Station is working with the Recycling Committee to remove mercury from the waste stream including fluorescent tanning bulbs. They will be collecting these bulbs from the tanning establishments in Braintree on Friday May 16<sup>th</sup>. A notification letter has been sent to all eight licensed tanning establishments in Braintree.

**MATTERS BY THE BOARD:**

## **8. Future Board of Health Meetings**

Ms. McGrath will put together a proposed schedule for the Board.

Dr. Nedelman asked what has occurred with the Health Department budget and possible layoffs.

Ms. McGrath advised the Board that within the Mayor's Reorganization, the Health Department and the Building Department will be merged into the Department of Municipal Licenses and Inspections.

The principal clerk in the Health Department is being laid off, and the Inspector of Buildings and the Code Compliance Officer in the Building Department are being laid off. The loss of the principal clerk for the department is significant because of the bulk of work that individual does. In the Building Department, the two laid off positions are being combined into one position.

The Board of Health will still serve in their capacity, but in appointed positions instead of elected positions.

## **9. Mayor's Health & Wellness Advisory Committee**

Dr. Nedelman advised that the Mayor has appointed a Health Commission, of which the Board of Health plays a part.

Ms. McGrath advised that is her understanding.

Dr. Nedelman advised that it is his understanding that the Mayor's concern is methods with and way in which we can improve the health and welfare of the residents of Braintree.

Ms. McGrath advised the Board that the Mayor's appointments to the Health & Wellness Advisory Committee have been approved by the Town Council. She indicated those appointments are: Tom Corcoran, Dr. Jernegan, Art Graziano from BELD, Stephen Pratt, an individual who works for a private health care firm, the Board members and herself.

Ms. McGrath advised that the Mayor would like to meet, and hopefully at that time will give the Committee some direction.

Dr. Nedelman asked about the fall flu clinics. He advised that it is his understanding that the state will no longer be giving any free vaccine out to the physicians.

Ms. McGrath advised that is her understanding, but is always subject to change.

Dr Nedelman advised that assuming that is the case he would think there would be a much greater demand at the fall clinics.

Ms. McGrath advised that her hope is if they are not providing to physicians, then the Health Department would receive a larger allotment.

Ms. McGrath also advised that in the very near future, the local Health Departments will not be distributing most commonly used vaccines to physicians, it will be distributed through the a manufacturer pharmaceutical company working with the state.

Mrs. Dowd inquired about the status of the SHARPS program.

Ms. McGrath advised that the program is ready to begin.

**Motion By:** Mrs. Dowd to adjourn the meeting at 8:00 pm  
**Second By:** Dr. Samuelson