

BRAINTREE BOARD OF HEALTH

MINUTES

September 13, 2007

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 7:03pm.

MINUTES:

Motion By: Dr. Nedelman to approve the minutes of July 12, 2007.
Second By: Dr. Samuelson
Unanimously Voted

OLD BUSINESS:

1. Executive Session- Update on 298 Pearl Street

Motion By: Dr. Nedelman to go into executive session at 7: 38 pm for the purpose of updating the Board on the legal proceedings to date pertaining to the status of compliance of violations at 298 Pearl Street.
Second By: Paula Dowd
Unanimously Voted

A roll call vote was taken by the Board of Health to go into Executive Session.

Philip Nedelman, Vice Chairman-Yes
Paula Dowd, Chairman-Yes
Mark Samuelson, Clerk-Yes

Dr. Nedelman advised that the Board will come out of executive session to resume the regular meeting business.

The Board of Health came out of Executive Session at 7:44 pm.

NEW BUSINESS:**2. Sale of Tobacco Violation:****Mutual Highland Auto-275 Hancock Street**

Present: Jerry McLaughlin, Enforcement Officer
So. Shore Boards of Health Collaborative, Tobacco Control Program

Note: No representative from the establishment attended the hearing.

Ms. McGrath advised the Board that the establishment owner has been duly notified of the hearing by certified mail, and she indicated the signed certified green card was received on August 22, 2007. Also, under the third paragraph of the hearing notification letter sent to the owner, Ms. McGrath advised that she stated "failure to appear at the scheduled hearing without adequate cause will not delay or postpone the hearing and shall be consider reason for immediate suspension".

Ms. McGrath advised the Board that she has not been notified by the owner or manager that they would not be here.

Dr. Nedelman asked if there is a problem with taking action on this matter without the owner or manager being here.

Mr. McLaughlin advised the Board that usually if the owner or manager does not show up for their hearing, they default.

He further advised that after he presents his testimony and evidence, if the alleged violator is not present to rebut or submit their own evidence, then Board of Health has the authority to render their decision on the evidence submitted, or they have the authority to postpone and re-notify the owner.

Mrs. Dowd advised that the Board will go forward with the hearing.

Ms. McGrath advised the Board that after a review of the establishment file, she determined that previous sales of tobacco at Mutual Highland Auto occurred on August 15, 2000 and June 21, 2000.

Mr. McLaughlin advised the Board that on August 15, 2007 at approximately 3:00 pm, a compliance check was conducted at Mutual Highland Auto at 275 Hancock Street. At that time, a seventeen year old female went into the establishment for the purpose of trying to procure a tobacco product. Specifically, the tobacco product was to be a blunt because they were doing compliance checks for blunts, which is a small flavored type of cigar that is commonly used by youth for other purposes than smoking the tobacco.

He advised the Board that he was directed by the Collaborative to conducted these checks in Braintree and other towns on stores that they had knowledge sold this type of product because they have received reports of youth buying them.

Mr. McLaughlin advised the Board that youth remove the tobacco from the blunt tobacco shell and then fill the tobacco shell with illegal substance to smoke.

Mr. McLaughlin showed Board the blunt tobacco product that he had marked as evidence in his possession that was procured during the compliance check at this establishment.

Ms. McGrath advised the Board that 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 and owner involved in tobacco sales must seek merchant education.

Motion By: Dr. Nedelman to implement the penalty for a first offense to begin on Friday September 14, 2007 at 12:00pm.

Second By: Dr. Samuelson
Unanimously Voted

**3. Request for Variance of Well Regulation- (Roadway Setback)
-Daniel P. McGrath- 55 Oregon Avenue**

Ms. McGrath advised the Board that Daniel P. McGrath would like to install an irrigation well, and is requesting a variance of the well regulations for the roadway setback.

Mr. McGrath is able to make the required 100' roadway setback to Oregon Avenue, but is only able to make a roadway setback of 30' to Pine Avenue.

Ms. Carey, a department inspector has conducted a site inspection and foresees no concerns with issuing the variance.

Ms. McGrath recommends approval of the variance requested.

Motion By: Dr. Nedelman to approve the request for variance.

Second By: Dr. Samuelson
Unanimously Voted

INFORMATIONAL:

- 4. South Shore Boards of Health Tobacco Collaborative-Compliance Inspections**
 - (a) Tobacco Retailer Compliance Inspections**
 - (b) State Smoke-Free Law Compliance Checks**

Ms. McGrath advised the Board that the Collaborative conducted routine tobacco retailer compliance checks for establishments that sell tobacco to check for required signage, proper tobacco storage, educational material, etc.

She advised there were a few violations, which the Collaborative addressed while on-site.

Ms. McGrath also advised the Board that the Collaborative conducted Smoke-Free compliance checks of twenty six restaurants in Braintree, with no violations found.

MATTERS BY THE BOARD:

- Mrs. Dowd advised the Board that the Braintree Public Schools have implemented the Board of Health recommendation to curtail outdoor evening sports activities. She further advised that Braintree is the only town in the Baystate League (of which Braintree is part of) that has curtailed outdoor evening games in Braintree. The School Department is concerned that Braintree is the only team in the league that is following their Board of Health's recommendation.

Dr. Nedelman asked if other Board's of Health have made recommendations.

Ms. McGrath advised that she was uncertain about the towns within this particular league, but she was aware of some South Shore towns that specifically took action to curtail outdoor evening school activities.

Ms. McGrath advised the Board that she spoke with Mrs. Dowd about this matter, and suggested that the recommendation issued by the Board in April to curtail outdoor evening sports activities be upheld. Further, the MA Department of Public Health recently issued a letter to school departments and boards of health reiterating the same recommendation.

- Ms. McGrath advised the Board of a potable water situation that is presently occurring at 45 Hollis Avenue involving the Water & Sewer Department. Ms. McGrath further advised that she sent a letter to the property owner regarding approval of the potable drinking water supply as per the housing code. She advised the Board of the response received from the property owner.

Ms. McGrath provided the Board with further details regarding this matter, and advised that she is working with Town Counsel.

- Mrs. Dowd requested that the department begin preparing draft updated well regulations for the Board's review and consideration at a future meeting.

Motion By: Dr. Nedelman to adjourn the meeting at 7:45 pm
Second By: Dr. Samuelson
Unanimously Voted