

BRAINTREE BOARD OF HEALTH

MINUTES

October 27, 2011

IN ATTENDANCE: Paula Dowd, Chairman
Dr. Philip Nedelman
Karen Hubbard, Clerk

ALSO PRESENT: Marybeth McGrath, Director of ML & I

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

MINUTES:

Motion By: Dr. Nedelman to approve the minutes of July 28, 2011
Second By: Mrs. Hubbard

NEW BUSINESS:

- 1) Sale of Tobacco Violations:
Present: Jerry McLaughlin, Tobacco Enforcement Officer with the Town of Braintree Tobacco Control Program
 - a. A & L Convenience Store-593 Washington Street
Present: Katie Phan, owner

Mr. McLaughlin advised the Board that on September 28, 2011 at 6:00pm, a compliance check was conducted at A & L Convenience Store located at 593 Washington Street. A sixteen year old female entered the premises of A & L Convenience Store to purchase a tobacco product. She entered the establishment with no money except the money given to her by Mr. McLaughlin, which was a \$ 10.00 bill. She entered the establishment with no personal effects or ID. She went in and asked for a pack of Marlboro's. She was sold a pack of Marlboro 100's for \$ 8.25. She returned to the vehicle and gave Mr. McLaughlin the cigarettes, which were marked as evidence at that time. Mr. McLaughlin brought the marked cigarettes with him to the Board meeting tonight. The clerk that sold it to her did not ask for an ID or ask for her age. The clerk was a young adult male.

Ms. Phan advised that she was not available in the store on the date and time that the sale occurred. It may have been her brother. They do check the ID's.

Ms. McGrath advised the Board that under this ownership, this is a first offense. The penalty for a first offense is a \$ 100.00 fine, a five day suspension of the tobacco sales permit, and within thirty days of the first day of the suspension all employees involved in tobacco sales must receive merchant education.

Ms. Phan asked if a warning could be issued instead of a suspension of the permit.

Ms. McGrath advised that the regulations do not permit for a warning to be issued. She asked if Ms. Phan has any evidence to present to the Board indicating that the sale did not occur.

Ms. Phan advised that her video camera tapes are erased every seven days, so they have no video evidence for that day.

Motion By: Dr. Nedelman to implement the penalty for a first offense to begin at 12:00 pm on Friday October 28, 2011.

Second By: Mrs. Hubbard

Unanimously Voted

Ms. McGrath explained for the Board and Mr. Patel the details of each penalty within the regulations.

- b. H & A Convenience, Inc.- 123 Hancock Street
Present: Dashrathb Patel, owner

Mr. McLaughlin advised the Board that on Wednesday September 28, 2011 tobacco compliance checks were conducted in Braintree. At approximately 5:10pm, a sixteen year old female entered the premises of Hancock Market located at 123 Hancock Street. She exited Mr. McLaughlin's car and went directly into the market. The only money that she had was the money given to her by Mr. McLaughlin. She had no other articles. She walked into the market for the purpose of buying a pack of cigarettes. She entered into the market and returned to the car a few minutes later with a pack of Marlboro cigarettes. The cigarettes were given to Mr. McLaughlin and marked as evidence. Mr. McLaughlin kept the cigarettes in his possession and brought the pack of marked cigarettes with him to the Board meeting this evening.

Mr. McLaughlin advised that the cigarettes cost \$ 8.45. Also, that the adult male clerk asked the female minor for an ID, and she told him she did not have one. The clerk then told her to bring the ID next time.

Mr. Patel advised the Board that he would like to see the minor person, so that next time they can make sure they are underage or over 21. He would like the time of the sale, so he can check his camera system.

Mrs. Dowd advised that the sale occurred on September 28, 2011 at 5:10pm.

Mr. McLaughlin advised that the youth went from his vehicle directly into the store and returned directly back to his vehicle. She was in his site when she left his vehicle, went into the store and returned.

Dr. Nedelman asked Mr. Patel if he understands that a person must have an ID to purchase a package of cigarettes.

Mr. Patel advised yes he understands that.

Dr. Nedelman advised that this person did not have an ID.

Ms. McGrath advised the Board that under this ownership, this is a first violation. The penalty for a first offense is a \$ 100.00 fine, a five day suspension of the tobacco sales permit, and within thirty days of the first day of the suspension all employees involved in tobacco sales must receive merchant education.

Motion By: Dr. Nedelman to implement the penalty for a first offense to begin at 12:00 pm on Friday October 28, 2011.

Second By: Mrs. Hubbard
Unanimously Voted

Ms. McGrath explained for the Board and Mr. Patel the details of each penalty within the regulations.

Mr. Patel asked to see a photograph of the minor buyer.

Mr. McLaughlin advised that under the Massachusetts laws the youth buyer is a minor, so we cannot show her picture or identification to anyone other than the Board of Health members and department director, so they can make sure the youth does not appear older than she is.

Mr. McLaughlin further advised that under Town of Braintree policy and state law, when the youth buyer enters an establishment for the purpose of buying cigarettes, they are not allowed to buy any other items, such as candy, gum, soda or any other items that may confuse the purpose of buying a package of cigarettes.

- 2) Request for Variance from the State Plumbing Code-N' Control dba Planet Smoothie-250 Granite Street
Present: Randall Parrott, Establishment Owner

Ms. McGrath advised the Board that they are somewhat familiar with these types of applications. Mr. Parrott is applying to the State Plumbing Board for a variance of the plumbing regulation requirements. In order to do so, Mr. Parrott's application request

must come before the Board of Health to seek either your endorsement or not of his request because a letter from the local Board of Health must accompany the application to the state indicating your endorsement or not.

Ms. McGrath advised the Board that Planet Smoothie is an existing food establishment located within the Food Court at the South Shore Plaza. Ms. McGrath advised that within this existing establishment is a three-compartment sink in the back kitchen for washing, rinsing and sanitizing. At one point, there was a grease trap installed, which is required. Most recently it was observed and discovered that the grease trap had been removed. For what reason, she did not know.

Mr. Parrott advised that the grease trap was beside the three-compartment sink under the drain board, but it had rusted out.

Ms. McGrath advised that per the Plumbing Code, a grease trap is required if a three-compartment sink has been installed. Additionally, there is an administrative consent order in place since early 2000 to present by the Department of Environmental Protection for the Town of Braintree regarding grease control.

Ms. McGrath advised that she did speak with the Director of Public Works, who indicated that a grease trap is required as per the administrative consent order. Additionally, she spoke with Andy Lyne, the Town's Plumbing and Gas Inspector who advised that a grease trap is required per code. He is responsible for enforcing the code, so his recommendation is that the grease trap be installed.

Furthermore, it has been determined that there is a significant problem with sewer flies in the establishment because there is no trap.

Mr. Parrott advised that they are fruit flies from the bananas.

Ms. McGrath advised that they may be getting fruit flies from the bananas. However, she further advised that the day that she was in the establishment there were flies coming from the drains, and she spoke with Mr. Parrott by phone while on-site in the establishment. So, there is a contributing factor that there is no trap on that drain that is causing the sewer flies.

Mr. Parrott advised that he is not arguing that fact. The relevance of the grease trap is an issue, which is why he is applying for a variance.

Ms. McGrath advised that the only way that the regulation can be vary from, is if the state plumbing board makes a determination that he does not need a grease trap, and then they will be the ones to vote on that.

Dr. Nedelman asked how long the establishment has been without a grease trap.

Mr. Parrott advised that it has been 2 to 3 years. The trap had failed and been leaking for a while. He advised that fruit is very acidic. The only time a grease trap is not required is in a bar, or if the three-compartment sink is of a smaller capacity. The smoothies are very acidic and they have no grease. They have had to replace most of their copper and brass plumbing lines because they corrode so quickly. So, as part of this variance moving forward when replacing lines, he is requesting the use of PVC. They finally found a major leak in the front line of the store.

Mr. Parrott advised that smoothies are fruit, ice and herbs. When a customer orders a smoothie, they add fresh fruit, ice, a booster /protein blast, herbs and possibly a non-dairy dry milk or a frozen yogurt. It is all blended together and poured into a cup. Each blender jar is rinsed in the rinse sink between the next smoothie making. At the end of the day, all of the blender jars are washed, rinsed and sanitized in the three-compartment sink. The insert pans that hold the fruits in the cold prep refrigerator during operation are also washed, rinsed and sanitized when empty in the three-compartment sink. The three-compartment sink is normally used twice a day or so, but primarily at night. The large size of the three-compartment sinks is to properly fit the blender jars into the sink compartments. Over time because of the acidity in the fruit, they have had numerous leaks in the plumbing.

Ms. McGrath advised Mr. Parrott that the washing, rinsing and sanitizing of equipment is to be done in the three-compartment sink, not a rinse sink on the front line.

Ms. McGrath recommended that the grease trap be reinstalled and that the Board not endorse the variance request. Her reasoning for that is that a grease trap is required with a three-compartment sink installation in this type of establishment; the town is under an administrative consent order for grease control; and the Plumbing and gas Inspector, who charged with enforcement of the Plumbing Code advised that a grease trap is required.

Ms. McGrath advised that they do have some dairy products in the establishment that by their nature do contain fat. She advised that they do not generate a large amount of grease, but as the department director she is responsible for enforcing the codes and certainly has to endorse the code she enforces.

Mr. Parrott advised that he understands that, but that the fruit smoothie establishment is a new type of establishment for codes going forward. There is not a lot of history for everyone to go on regarding fruit smoothies and codes.

Motion By: Dr. Nedelman to not endorse the applicant's variance request and that the grease trap be re-installed.

Second By: Mrs. Hubbard
Unanimously Voted

Mr. Parrott asked if the Board would consider endorsing his request to install PVC piping on all future piping replacements.

Ms. McGrath advised that she was unfamiliar with the type of piping that is allowed as per the State Plumbing Code. She suggests that the Board consider endorsing the requirements regarding the piping that is allowed as per the State Plumbing Code, which are enforced by the local Plumbing and Gas Inspector.

Motion By: Dr. Nedelman to endorse the requirements set forth by the State Plumbing Code, which are enforced by the local Inspector of Plumbing and Gas regarding the installation of PVC piping for future repairs.

Second By: Mrs. Hubbard

Unanimously Voted

OTHER BUSINESS:

3) Flu Vaccine Update

Ms. McGrath advised the Board that the next make-up clinic is Wednesday November 9, 2011 from 3-7pm for residents 18 years of age and old. Ms. McGrath advised that town employees will also be able to participate in this clinic. She advised that we will be going into the clinic with 470 doses.

Ms. McGrath advised that the department purchased 1420 doses of flu vaccine this year for a total of \$13, 590.00. The 20 doses of the 1420 are thimerisol-free. This vaccine was paid for from the Immunization Revolving Fund. The department received 320 doses of state supplied flu vaccine in pre-filled syringes, giving the department a total of 1740 doses of flu vaccine to offer.

To date, the department has administered 1202 doses of flu vaccine to the general population of Braintree at the large flu clinic on September 25, 2011, and at the senior housing complexes.

A separate flu vaccine allotment was received for the school immunization program, and we have administered the following vaccines:

- 113 to East Middle School, 118 South Middle School, 98 Archbishop Williams High School, 6 St Francis School and 278 Braintree High School, for a total of 613 flu vaccine administered to students.

Ms. McGrath advised the Board that 403 flu vaccines were administered in the schools last year. So, we have realized an increase of 210 vaccines administered this year, as compared to last year in the schools.

Ms. Mulready has already started the billing process, but hopes that the reimbursement revenue received will cover the cost of the vaccine purchase and operation expenses of the clinics. Additionally, this year we are able to bill the health insurance for all individuals 18 years of age and older that are insured and receive the vaccine.

Dr. Nedelman asked how many massage therapists are licensed in the town of Braintree.

Ms. McGrath advised that the state oversees massage and massage practitioners entirely. She could get those figures from the Commonwealth of Massachusetts Division of Professional Licensure-Massage Therapy Board.

Mrs. Hubbard advised that many practitioners are now referring to themselves as body works therapists, instead of massage therapists.

Ms. McGrath agreed and advised that she is trying to find and create draft body works regulations for the Board. She advised she is having some difficulty because there is very little regulatory information available on this subject matter.

Motion By: Dr. Nedelman to adjourn the meeting at 8:00pm.

Second By: Mrs. Hubbard