

**Board of Health
Meeting Minutes
March 5, 2012**

Members Present:

Tom Kinzer, Co-Chair
Bea Brunkhorst, Co-Chair,
Kevin Wormstead
Lea Susan Ojamaa
Mary Seymour

Staff Present:

Heidi Porter, Director
Mary Firestone, Recording Secretary

Also attending:

D. J. Wilson, Attorney, Tobacco Control Director,
Massachusetts Municipal Association
1 Winthrop Square, Boston
Greg D'Agostino, 9 Bradford Road, Natick, MA
Bill LeClerc, Northside Convenience, 44 North Road,
Bedford
Sarah Thompson, 40 Gould Road, Bedford
Sue Baldauf, Youth and Family Services, Bedford

Action Items:

1. Ms. Porter will get information on the state mandate for physical education.

The meeting was called to order at 7:00 P.M. Dr. Brunkhorst chaired.

Minutes:

Ms. Seymour moved to accept the minutes of the February 6, 2012 meeting as amended. Ms. Ojamaa seconded the motion. Vote count: 5-0

Hearing on Revision to Youth Access Tobacco Regulations:

Ms. Porter said that legal notice of the hearing was published in the newspaper. Two written comments were received by the posted deadline of February 29, 2012, from the Retailers Association of Massachusetts and the Massachusetts Food Association; an additional comment, from the National Association of Tobacco Outlets (NATO), was received on March 5, 2012.

Mr. Wormstead moved to open the hearing; Ms. Seymour seconded the motion: Vote count: 5-0, the hearing was opened at 7:10 P.M.

Dr. Brunkhorst suggested a brief review of the proposed regulations. Ms. Porter summarized the proposed regulations. Dr. Brunkhorst asked for comments.

Mr. LeClerc said that, as a rule, he supports tobacco regulation, but said the proposed changes restrict consumer choice. [He noted that his business was previously fined for sale of tobacco products to a minor.] This is the U.S.A. Is this regulation (ban on selling single cigars) meant to restrict availability to minors? 50-60% of people who buy single cigars are adults. This regulation would restrict and inhibit his ability to conduct a profitable business. He looks at this as a Big Brother regulation. He has nine individual permits to sell various products, e.g., fuel. He suggests that the Board put teeth in the existing law by penalizing those who attempt to buy products illegally. When teenagers try to buy using fake IDs, he bans them from his store. He has a problem with being told how to price his products.

Mr. Wormstead said that the cost of tobacco products does keep them out of the hands of kids who would only be able to buy a single cigar or have someone do it for them.

Mr. LeClerc said, you do have restriction on sales to 18-year-olds.

Mr. Kinzer said that the law is for everyone, not just kids.

Mr. LeClerc said that the attempting buyer should be penalized, putting teeth into the by-law, by such means as throwing them off sports teams or delaying issue of a learner's permit. When he was penalized by losing his sales permit for a week, the fine was nothing, but he lost \$5,000 in business.

Mr. Wormstead said that he appreciated Mr. LeClerc coming in. Cigars are a small part of the business but the regulation keeps the kids from getting tobacco products. It's good to hear from the person impacted.

Mr. Kinzer said, Thank you for your eloquence.

Mr. LeClerc left the hearing.

Mr. D'Agostino said that he works for a company that represents Philip Morris Tobacco Company; he is not here to provide input, but to observe only.

Mr. Wilson said that the new cigar regulation has been in force in Boston since January 2, 2012; there have been no lawsuits or enforcement events.

Ms. Porter said that she has not yet received comments from the town counsel. She recommends continuing the hearing to receive comments from town counsel.

Dr. Brunkhorst asked about the NATO comment, second paragraph. Does the Food and Drug Administration do compliance checks? Ms. Porter said, Yes. Mr. Kinzer said that the NATO comment was entirely about cigars. Ms. Ojamaa said that the point on the cigar rule is to make the cost of a cigar purchase equivalent to the cost of a pack of cigarettes.

Mr. Wilson said that the Massachusetts Department of Revenue issues minimum prices for all tobacco products. There is a ban on the sale of "loosies" (single cigarettes). There is further legislation pending.

Mr. Wormstead asked is there is an attempt by marketers to lower prices? Mr. D'Agostino said that he doesn't have expertise on that and can't represent the industry on it. Ms. Ojamaa said that the tax on cigarettes went up, but not the tax on other tobacco products.

Ms. Wormstead asked Ms. Porter about comments from retailers. Ms. Porter said that, prior to Mr. LeClerc's appearance, she had not heard from individual retailers in Bedford, and the town counsel has not yet seen the comments received from the associations. Mr. Kinzer said that when the Board last discussed to subject with the representatives from Stop and Shop, they said that tobacco was a very small percentage of their business.

Ms. Ojamaa said that tobacco is a legal product; the subject of the regulation is youth access. Dr. Brunkhorst asked about going after the buyers. Mr. Wilson said that it is illegal to sell tobacco products to minors, but possession is not illegal and use is very difficult to enforce. Enforcement stops if parents object to fines and penalties. Mr. Kinzer said that there is no budget for enforcement. Mr. Wormstead said that in the case of alcohol there is a clear and present danger to others as well as to user themselves, but not in the case of tobacco. Mr. Wilson said that kids have been penalized by assigning tasks, e.g., by picking up trash, but labor to supervise their work is tremendous.

Ms. Porter said that she will wait for comments from the town counsel. In the meantime, however, the NATO comment is a Freedom of Information (FOIA) request and she must respond. Also, if there is another change in the draft relations, possibly after input from the town counsel, it will be necessary to have a new hearing.

Ms. Ojamaa moved to continue the hearing to the next Board meeting on April 2, 2012. Ms. Seymour seconded the motion. Vote count: 5-0.

Mr. D'Agostino and Mr. Wilson left the meeting.

Ms. Porter said that she will respond to the FOIA request. She will also touch base with town counsel; she will send him the draft regulations, the list of towns with revised regulations, etc. The regulation is based on the Boston model. Ms. Ojamaa said that Boston is willing to take risks; they have a legal department and will go to battle. Mr. Wormstead said that it is easier to knock off smaller departments; the trade organizations are not representing our local retailers. Ms. Porter said that people representing themselves as Northeastern University students have been calling to request copies of the regulations, but were rumored to be working for the tobacco industry. Given that the documents are public record, she did not acknowledge and respond to their requests. A student were later identified herself as working for Atria.

Board of Health Action Items ---Old and New Business:

Update on BOH liaison assignments:

Ms. Seymour said that the Wellness Committee met. She as Ms. Porter attended. She provided a handout on Massachusetts School Nutrition Regulations. There is a huge educational component. Regulations apply to food provided at football games, fundraisers, concessions, vending machines, bake sales, proms, etc. Attendees can bring forbidden food and drink items for their own use; the regulations apply to sold and 'provided' food. Jackie Surprise went through the bill to highlight items for attendees at the committee

meeting; Ms. Ojamaa will send a link to the full regulation. Ms. Baldauf said that an email will go out: no more cupcakes. School lunches are under federal jurisdiction and are not affected by the state regulation. Dr. Brunkhorst noted that physical education is being pared down to non-existence. She asked Ms. Porter to mention this to the Wellness Committee. Ms. Porter will get information on the state mandate for physical education.

Mr. Wormstead said that he had attended the Youth and Family Services committee meeting.

Mr. Kinzer said that he is unable to attend the Community Partnership Committee meeting on Wednesday; Ms. Porter said that she will attend.

Dr. Brunkhorst said that she and Ms. Porter will visit a new applicant for a recombinant DNA permit, the Cystic Fibrosis Foundation. Ms. Porter said that another new company, Emerald Biostructures, will be coming to Bedford. There will be an IBC seminar in Cambridge.

There was an article in the Globe newspaper about underground chicken raisers in Boston, some of whom are producing large numbers of eggs; it will be necessary to tighten up regulations so that eggs for human consumption are kept in safe conditions.

Director's Report:

Ms. Porter discussed hoarding cases and methods of dealing with them. She said that she will go in as the "bad cop" and a social worker will go in as the "good cop." She will ask that police and fire department personnel be very specific about conditions they observe in the course of their duties.

Ms. Porter reported that a new dairy, producing goat milk products, is being established on Concord Road; products will not be sold at retail on the farm. The state does the inspection but the Board of Health issues the permit.

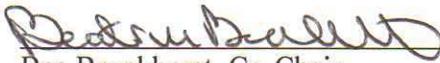
There is some concern about work being done at The Edge sports facility that may damage the remediation systems stabled by the Department of Defense at a cost in the millions of dollars.

A drug take back and medical sharps collection has been scheduled for April 28, from noon until 2:00 P.M. at the Council on Aging; on the same day, from 10:00 A.M., there will be a drug take-back at the Police Department.

The warrant for the town meeting includes an article on establishing the revolving account to support Board of Health clinics.

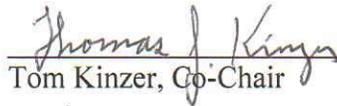
Ms. Ojamaa moved to adjourn the meeting; Ms. Seymour seconded the motion. Vote count: 5-0. The meeting was adjourned at 8:52 P.M.

Future meetings of the Board will take place on April 2 and May 7, 2012.



Bea Brunkhorst, Co-Chair

Lea Susan Ojamaa



Tom Kinzer, Co-Chair

Mary Seymour



Kevin Wormstead