

Board of Selectmen Minutes
Meeting – September 11, 2013

Present: Selectmen - Mark Gilmore, Carolyn Shores Ness, David Wolfram
Interim Town Administrator – Wendy Foxmyn

Hearings/ Appearances before the Board:

Tobacco Regulations: Present Mary Kersell, Coordinator, Franklin-Hampshire Substance and Tobacco Prevention Partnership; Cheryl Sbarra, Attorney for the Mass. Boards of Health Association, and Dick Calisewski, Health Agent.

Ms. Sbarra reported there are 21 towns in Franklin and Hampshire Counties that have formed a collaborative to coordinate regulations pertaining to the use and sale of tobacco products. She and Ms. Kersell were present to discuss proposed draft regulations to be followed at a later date by a public hearing. Proposed provisions of the regulations specify age restrictions for purchasing, restricting tobacco displays, prohibit provision of tobacco samples, as well as prohibiting use in the workplace and public areas.

Ms. Ness wanted to be sure the definition of e-cigarettes included nicotine delivery products. The Coalition is interest in obtaining smoking data collected in a recent survey of Frontier students for informational purposes within the regulation. W. Foxmyn and R. Calisewski will get this information. There was discussion about packaging and pricing of cigars to appeal to kids. The current cost of cigarettes is such that kids are turning to cigars which can be purchased individually. Requiring cigars to be sold in packages of four (4) would increase the price, hopefully, discouraging purchase.

Attorney Sbarra detailed what has not changed from earlier version of local tobacco regulations is: checking photo ID's as per state and federal regulations. Fines imposed by the state for violations within in a thirty-six (36) time period: 1st offense \$100, 2nd offense \$200 and 3rd offense \$300. The Coalition suggests additional penalties including suspension of sales for 7 days for second offense and as much as 30 days for 3rd offense.

In the retail environment the focus is on packaging of cigars, blunt wraps, roll-your-own machines, and banning sale in pharmacies with the goal of limiting access and controlling price. Mr. Gilmore commented that at some point excessive probation might backfire. He said there needs to be a balance. He questioned the pricing of cigars at market rate and how that would affect sales. His concern is that enacting rules and regulations is fine, but in doing so, we are not teaching kids how to use good judgment in making decisions.

The date for a public hearing was set for October 9, 2013.

Medical Marijuana: Present - Cheryl Sbarra

Atty. Sbarra gave a brief presentation of process for complying with the recently passed medical marijuana law. The state Department of Public Health (MDPH) is the oversight agency. She explained that in phase 1, 181 applications were received. The application fee is \$1,500. The applicants have to meet a number of criteria, one of which is a half-million dollars in assets. Phase 2, for applicants that survive phase 1, will include a \$30,000 application fee. Each application is for a dispensary and cultivation. A key to success in this phase is municipal support. The total number of final facilities to be licensed is 35 with a limit of 5 in a county. The MDPH is responsible for managing the regulations including inspections, chain of custody, business plans, security, sanitary, and disposal. The local municipality can control zoning, hours of operation, and may impose a permit

fee to cover the cost of things such as police service. Since marijuana is not considered a food, no food permit is required. The applicant must be a non-profit business.

Romanowski Site Assignment Hearing (continued from July 3 and July 24)

Present: Stanley Romanowski, Attorney R. David DeHerdt, Dick Calisewski, Atty. Cheryl Sbarra

Attorney DeHerdt questioned the reason for summoning his client to a hearing. It was his impression that a letter from Mr. Romanowski stating that he was no longer raising pigs commercially was sufficient to relieve him from the Site Assignment requirement. He reminded there is a right-to-farm law. Ms. Ness explained this hearing was called as there needs to be an orderly procedure for re-establishing a Site Assignment should Mr. Romanowski decide to begin raising and selling pigs commercially again.

Mr. DeHerdt responded that there are likely a number of other persons in Town who raise pigs; is there a number beyond which these people would be required to have a site assignment, or does this just apply to Mr. Romanowski? He said such a requirement must be across the board, not limited to Mr. Romanowski. He said the issue is very vague and should be made clear so that everyone would know when they might be subject to the site assignment requirement.

Mr. Calisewski, in his role as Animal Inspector, responded that within the next couple of months he will have a report on all the animals in town. This is something that is done every year during October and November. Once the count of animals is done, it will be possible to determine whether, or not, there are other piggeries in Town. If there are, the same regulations should be applied to them. It was generally agreed that the Right-to-Farm bylaw should be reviewed to determine what the existing criteria is.

As for Mr. Romanowski, the recommendation was to continue the hearing until the annual animal report has been completed. In the interim, the Site Assignment will be renewed with the original conditions. Mr. DeHerdt stated for the record that what the Board is doing is without consensus from Mr. Romanowski. With no regulations in place, putting everyone on notice, he's not agreeing. He's passed 2 inspections and wants to be treated on the same basis as everyone else.

A motion was made by Ms. Ness, seconded, and voted, to close this portion of the hearing. It will be continued when the annual animal report has been completed.

Deerfield Tag Sale: Present – Max Hartshorne, owner, DeerfieldAttractions

Mr. Hartshorne was present to announce the town-wide tag sale to be held on October 5th. He agreed to Ms. Foxmyn's request that updates in the tag sale permits issued be forwarded to him once a week. He said he would really like person's e-mails, but most people were reluctant to provide that information. He requested a link on the Town's website to his Deerfield Attractions site, which the Board took under advisement, as there is no policy in place. **A motion was made by Ms. Ness, seconded by Mr. Wolfram, and voted, to support the weekend tag sale event.**

Public Comment: Special Town Meeting - Skip Olmstead, Finance Committee Chair, inquired about plans for a Special Town Meeting and items to be put before the Town. One issue will be the proposed regional ambulance plan. A regional EMS meeting will be held on September 17th, at 7:00 pm in Whately. Mr. Gilmore said he is in favor of asking the Town for sufficient funds to either go it alone or as a member of the regional service. In either scenario he would like to see improvement to the paramedic level. A question was asked about involvement of the Personnel Committee in the selection of a director. Whether the director will be a working

director has not been decided. Mr. Olmstead had concerns about how this will be paid. He thinks some thought should be given to an override and went on to discuss additional matters financial to be addressed by the Town.

Selectmen's Comments/Announcements: none

Board of Health Comments/Announcements:

- 1) The Hazardous Waste Collection Day will be September 21, 2013. Participating residents need to register by September 13, 2013.
- 2) The annual river clean-up will be held on October 4th and 5th. The Board authorized free use of the transfer station.
- 3) The Emergency Dispensing Drill date has been changed from October 6th to October 20th. It will be held at the Yankee Candle site used last year. Flu shots are free.

Discussion/Decision Items:

Committee Appointments: 1) DEDIC In response to a request from DEDIC Chair Jack Ciesla & John Paciorek, a **motion was made, seconded, and voted to appoint the following people to the Deerfield Economic Development & Industrial Corporation for a term to end June 30, 2014: Paul Olszewski; Robert Decker, III; Franklin Sherburne; Richard Andriole; and Ralph Healy.** Mr. Gilmore said the members needed to represent specific segments of the community, as required by legislation.

Police Department: Present – Chief John Paciorek

Appointments - The Chief asked the Board to approve the appointment of three persons to part-time/ Special Police positions: Shawn Patterson, the Highway Superintendent; Christopher Moore, a safety director at Pelican; and Brian Carney, a former officer who has just got out of the Navy. **A motion was made by Ms. Ness, seconded by Mr. Wolfram, and voted to appoint the individuals as requested.**

Mutual Aid – The Chief presented a mutual aid plan designed to clarify: liability issues, responsibility for expenses, and who the commanding officer at an event is. He explained that the agreement is similar to those the Town has with bordering Towns. Hopefully, all of the police departments in Franklin County will participate. Most of the towns in Berkshire County have signed a similar agreement. Ms. Foxmyn said she wasn't aware that this was going to be on this evening's agenda. The Chief said that the MOU had just come out and he was anxious to get it before the Board. If signed, Deerfield would be the first Town to accept the agreement. In further discussion the Chief said this MOU will replace older mutual aid agreements the Town has. **A motion was made by Ms. Ness, and seconded by Mr. Gilmore, to sign the Memorandum of Understanding. Mr. Gilmore amended the motion to add that the agreement be signed at the Board member's leisure. The final amended motion was unanimously voted.** Board members will visit Town Hall to sign the agreement once they have had a chance to read it.

Transfer Request – A motion was made by Ms. Ness, seconded by Mr. Wolfram, and unanimously voted to transfer funds from the Reserve Fund to cover the adjusted cost of Worker's Compensation. The additional cost was due to a claim.

Comcast Notification of PEG Franchise Fee Payment in the amount of \$20,082.07

Treasurer/Collector/Town Clerk Notice of Retirement Date - A letter from Mary Stokarski notifying the Board of her plans to retire was read aloud by Ms. Ness. **A motion was made Mr. Gilmore, seconded by Ms. Ness, and unanimously voted to accept this notice of retirement with heartfelt regret.**

FRCOG Request for appointment to Franklin Regional Planning Board - Mr. Gilmore will continue to represent the Town in this position.

ZBA Request for Comments: Deerfield River Portage Zoning Appeal - Ms. Ness spoke of the erosion problem developing along the riverbanks due to growing use of the river. Mr. Gilmore commented that the state regulates the flooding of the river basin for recreational use which is contributing to the erosion problem on the River. He said a letter should be directed to DEP. **A motion was made by Mr. Gilmore, seconded by Ms. Ness, and unanimously voted, to support the concerns of the Police, Board of Health, and Zoning Agent.**

Interim Town Administrator Report: Ms. Foxmyn reported she has approached the Personnel Board about increasing the hours for the Town Accountant position. Mr. Wolfram thought the position should be full-time citing increased work load due to the garage project; Mr. Gilmore was opposed to an increase without justification.

Ms. Foxmyn requested permission to post the Treasurer/Collector/Town Clerk position. **In a motion made by Mr. Gilmore and seconded by Mr. Wolfram, the Board voted in favor of posting the position.** There was some discussion of splitting the position, but Mr. Gilmore thought it should be advertised as it currently is and see what the result is.

The Oxford property is being re-surveyed to obtain the ANR plan needed to satisfy requirements for bonding.

A motion was made by Ms. Ness, seconded by Mr. Wolfram, and voted, to adjourn the meeting with the signing of the warrant. Next meeting will be September 25, 2013.

Respectfully submitted,
Priscilla Phelps