

MEETING OF THE FAIRHAVEN BOARD OF HEALTH
July 11, 2011

A Regular Meeting of the Board of Health was held at the Town Hall on Monday, July 11, 2011 at 6:30 PM. The meeting was duly posted. Board members present: Peter DeTerra, Dolores Caton and Jeannine Lopes. Also present: Patricia Fowle, Health Agent.

Mr. DeTerra, Chairman, called the meeting to order at 6:30 PM and asked that the minutes of the meeting of June 27, 2011 be amended or approved.

Motion to approve the minutes was made by Ms. Lopes; seconded by Ms. Caton. Vote was unanimous.

Ms. Evora-Rosa, Community Liaison, Division of Prevention & Wellness had an appointment before the Board but was not present.

Ms. Sallie-Lou Johnson, Hathaway Street, Fairhaven, entered the meeting to ask the Board to increase the fine amount for illegal trash dumping which currently is \$50. She is particularly concerned about the conservation land the Town owns at Little Bay and Edgewater Street. Pictures of trash dumped as far back as 2001 were presented and are part of this record. Ms. Johnson spoke to the Board of Public Works (BPW) who placed the "no dumping signs" years ago and they have referred her to the Board of Health. The Board reviewed both Town and State regulations regarding fine assessments. Mr. DeTerra stated illegal dumping is a serious problem but in order to assess the fine you must catch the culprit. Ms. Johnson countered that a fine of \$50 is not a deterrent but if the fine was raised to the maximum allowed by law, the fine might make the perpetrators think twice. Mr. DeTerra said the health agent will speak with the Board of Public Works and find out details of frequency of clean up of the areas, materials dumped, cost of disposal and cost for new signs. The Board will review the information and consider the request. There is no budget for signage. Ms. Johnson asked for a timeframe for the request to be considered by the Board. Mr. DeTerra stated about one month.

The Board received a request for a variance from the 1999 Federal Food Code Section 6-501-115 (A)(B)(C) from Ms. Lori Shubert, proprietor of Narragansett Star Café, 230 Huttleston Avenue. The request is to allow dogs with their owners dining on the outdoor deck. Along with the request were examples of requirements other communities had placed on the granting of similar variance requests in Provincetown, MA and Maricopa County CA. The documents are part of this record. The Board discussed with Ms. Shubert many of their concerns in granting the first of its kind variance in Fairhaven to allow dogs at an outdoor eatery. Concerns/questions of the Boards were addressed by Ms. Shubert and her two associates as they occurred including approval by the property owner, liability insurance, accessibility for individual requiring additional assistance (IRAA), designated parking space for IRAA, sanitization of the outdoor eatery, education of employees as it relates to food handling, securing dogs on the deck, signage, leashes, dog fights, food issues as they relate to some dogs, access for the other business sharing the building, etc. Other issues regarding the food establishment were inquired about by the Board: complaints received in June that Ms. Shubert's dog is in the food establishment during early morning operations, the dog is allowed to run loose in the parking lot even though there is a Town leash law, people have observed customers now with their dogs on the deck in the early morning and that construction or alterations are ongoing without benefit of the necessary permits at 5 Narragansett Avenue (property abutting the café) to create a bakery for use by Narragansett Star Café. Ms. Shubert countered emphatically that her dog is not allowed in the restaurant at all, her dog is now tied up at the rear of 5 Narragansett Boulevard and further, the dog's emotional health is affected because he has never been tied up and the Town, including the health agent, knew of her intent and approved plans for the abutting property at 5 Narragansett Boulevard to be used as a bakery. The chairman stated he knew nothing of the proposed bakery and all such plans must be reviewed by the Board before they are approved. When questioned the health agent stated a preliminary plan was brought in and reviewed months ago and there are no current building permits for any work in the structure according to the Building Department. Ms. Wagler, a new Fairhaven resident, chastised the Board for reacting with disrespect towards Ms. Shubert. Ms. Wagler stated she would welcome a restaurant with outdoor dining where she can go with her young family including her dog. Ms. Caton stated all parties need to come to some agreement as to what should happen next.

Mr. DeTerra stated he recommends that picnic tables be placed on the grassed areas of the site away from the main establishment for patrons with dogs as has been done in two other establishments in Town. Ms. Shubert stated she built the deck specifically for dogs and not for people. She would not accept the suggestion. Ms. Caton stated she was not interested in the recommendation. Ms. Shubert stated she knew of three other food establishments that allowed dogs on the premise but would not reveal which. Discussion continued.

Motion was made by Ms. Caton to direct the health agent to prepare a list of requirements for the Board to review that would allow the variance requested to be voted on by the Board; seconded by Ms. Lopes. Vote was unanimous.

Ms. Caton asked for the list to be prepared as soon as possible. Ms. Shubert asked if she could see the list after the Board received it and before the next meeting so there will be no more unnecessary delays in the response to the variance request. The Board concurred.

The health agent's report:

The 2010-2011 flu clinic financial receipts to date total \$7,230.85. A few outstanding receipts will be forthcoming.

Food establishment inspections were reviewed. Complaints received were reviewed.

Invoices and payroll were reviewed and signed by the Board.

There being no other business before the Board, motion to adjourn the meeting at 8:15 PM was made by Ms. Lopes; seconded by Mr. DeTerra. Vote was unanimous. The next meeting is Monday, July 25, 2011 at 6:30 PM.

Patricia Fowle, Health Agent