

REGULAR MEETING OF THE BOARD OF HEALTH
February 24, 2016

A Regular Meeting of the Board of Health was held at the Town Hall on Wednesday, February 24, 2016, at 6:30 p.m. Board members present: Peter DeTerra, Jeannine Lopes and Lindsay Gordon. Also present: Patricia Fowle, Health Agent.

Chairman DeTerra called the meeting to order at 6:30 p.m. and asked for a motion to approve the minutes of the Regular Meeting of January 27, 2016. Motion to approve the minutes was made by Ms. Lopes; seconded by Ms. Gordon. The vote was unanimous.

First on the agenda was Mr. Christopher Medeiros of Island Provisions, Inc. d/b/a Mackatan General Store, 39 Causeway Road requesting permission for the use of three picnic tables on the property. A letter received today from Mr. Medeiros was read asking the Board to remove the item from the agenda without prejudice. The Board agreed to the request.

The Chairman welcomed members of the Fairhaven Green Committee-Ann Richard, Deirdre Healey and Jennifer Forbes who were present to discuss the curbside cart recycling program after its one year debut. A spreadsheet of monthly collection data for both curbside recycling and trash was reviewed. After nearly one year recycling rates have gone from 12-13% to 25-26% and trash is down about 1000 tons. The discussion then focused on two items: how to involve more of the residents to ensure all were recycling and how to ensure collected materials were not contaminated with non-recycling items. The health agent stated these two issues are common in most communities. Data shows working with the collection contractor to discern which residents do not recycle ever and where a lot of the contaminated loads are works best. Few communities ticket for non-compliance as it becomes a political issue. "Oops" tickets or hangers seem to work very well. They are left on the recycle cart with instructions on how to recycle correctly without including contamination items and they are a good means to inform residents that recycling is mandatory. The Green Committee offered to assist in educating residents and businesses that recycle along with continuing their efforts to raise awareness of the town's programs at town events. In other matters, The Green Committee purchased two recycle barrels to be used at one of the town's parks this summer. The intent is to get people to acknowledge that disposing of waste includes recycling. The Green Committee will also be meeting with the board of Public Works to discuss the cart system for curbside trash. The health agent will contact the contractor ABC Disposal, Inc. to see if a list of addresses can be produced where recycling never occurs. Also the health agent will look into "oops" tickets or hangers.

Lastly before the Board was Attorney George Leontire of Beaugard, Burke and Franco, New Bedford. Mr. Leontire represents Mark Salzberg, owner of a mall at 67 Huttleston Avenue. A brief description of the property was given. Currently there is a vacant store in the mall. Two potential lessees expressed interest in opening a convenience store on the site selling beer, wine, tobacco products and the like. The lessees were informed there are no available tobacco sales permits from the Board of Health because of the Board's Regulation Restricting the Sale of Tobacco Products, specifically Section E.11 which places a cap of 18 tobacco sales permits in Town. All 18 have been issued and there is a waiting list of one (1). Mr. Leontire stated he had searched the state's tobacco control programs website for other similar restrictions in other communities and could find none. He stated the Board of Health has broad powers to regulate health matters. However, limiting the number of stores that are allowed to sell tobacco is limiting commercial trade and that is against federal law. The Board has overstepped its

authority on this matter. The health agent explained that this is a model regulation that has been adopted by a number of communities, the closest being Wareham. The regulation was unanimously adopted by the Board in November, 2014 with all required notices and procedures in place and went into effect on January 1, 2015. The regulation is public health regulating tobacco, not commerce. The regulation allows for a plentiful supply, is reasonable and enforceable and is part of a reduction in density strategy which includes placing a cap on the number of tobacco sales permits issued, cigar sales regulating, banning of flavored tobacco products and regulating electronic cigarettes. Data has shown that of the roughly 16% of under 18 year old smokers 14% purchased the product from convenience stores and gas stations. Mr. Leontire disagreed greatly on this rationale, stating in the end the Board is regulating commerce. Board member Jeannine Lopes stated the Board knows the Town and the issues facing young people and the use of tobacco. The intent of the Board and the adoption of the regulation is to indeed limit the use of tobacco particularly in youth and protect the health of Fairhaven's youth. Mr. Leontire stated he disagrees with Ms. Lopes' statement and will fight the matter to the SJC if necessary. He questioned if Town Counsel had reviewed the regulation. The health agent stated it is a model regulation that was well reviewed by the state and is in use by many other cities and towns. Mr. Leontire said he would like to speak to an attorney handling this regulation. The health agent will forward the information to Mr. Leontire.

Board review/approval:

Mr. DeTerra abstained from discussion. The Board reviewed a septic system upgrade plan for 254 Huttleston Avenue as prepared by Al Ewing, PE of Fairhaven. The owner of the property self-reported the need for an upgrade of the three bedroom dwelling. There is only one area on site that the system can be placed. The system is a 1500 gallon septic tank to a 1000 gallon pump chamber to a 26'x28' leach bed of contactor 100 units. A one foot (1') waiver to groundwater per 310 CMR 15.212 is required.

Motion to approve the plan with the one foot waiver to groundwater was made by Ms. Lopes; seconded by Ms. Gordon. The vote was unanimous with Mr. DeTerra abstaining.

Health Agent's Report:

1. A meeting with DEP representatives Maria Pinard, Dan Kamieniecki, Dan DiSalvio and Dan Gavin and Town Administrator Mark Rees and the health agent occurred at Town Hall on Monday, February 22 to review the history and Air Quality Permit issued to Fairhaven Shipyard. A number of questions from two shipyard neighborhood residents had been forwarded through the health agent to DEP for response. DEP would like to hold a listening session as requested by the residents but to do so collaboratively with the Board of Health and town administration. The 6 questions posed to the DEP were reviewed and are part of these minutes. The health agent will coordinate the date and time of the meeting with the respective parties.
2. The Board had hoped to review and perhaps amend its contract for public health nursing by reviewing other local Board of Health's contracts with public health nurses. The Chairman stated that while at a seminar he spoke with health agents and a Board of Health member from three other communities regarding contracts and costs for hiring a public health nurse for Fairhaven. Costs are prohibitive at this time. The Board took in the information.
3. In early February the Board received the monthly turbine mitigation stop report from Fairhaven Wind for the month of January. February to date has had 4 stops ranging from 10 minutes to hours due to wind direction and speed and mechanical problems.
4. The Greater New Bedford MRC of which Fairhaven is a member, has applied for a \$10,000 NACCHO grant to educate and train community groups, teachers and residents on the signs of opioid abuse.

Written pamphlets on opioid addiction and addiction assistance are now being provided by the Board to the public.

5. In the Fall of 2015 Ms. Lopes had expressed interest in prohibiting the sale of “fake weed” or K-2 in Fairhaven. Wareham has a working regulation that is in effect. A copy was provided. A survey of local retailers shows that only one store sells the product and they currently are not open. If the Board was interested in adopting such a regulation, now would be a good time to do so before the product becomes widely available. Recent data has shown that the product is easy to make and can be deadly. It is of particular concern to the Board because its main audience has been Middle School and High School aged youth. The Board expressed great interest and told the health agent to look further into the matter with the Wareham health director.

6. A tick control proposal was received from Vector Disease Control International. For \$2,500 the company will survey and map out where disease bearing ticks are located in Town. The Board rejected the offer stating they know ticks are everywhere. The money, if available, would be better spent on education and personal preparedness for the public at large.

7. The certified individual who used to place the mosquito control material into the 1700 catch basins in Town is no longer employed by the Town. The health inspector has expressed an interest in becoming certified and so the work. The Board concurs but asked the health agent to check with the Board of Public Works first as they have provided the labor in the past.

Other matters:

1. The front of the house at The 99 Restaurant & Pub will be renovated soon. No kitchen or service area of the bar will have any changes. A new bakery/café is looking into taking over the space of the former Simmy's at 58 Washington Street.

Invoices were signed.

The date of the next regular meeting of the Board will be selected once the date of the Board and DEP collaborative public meeting has been confirmed.

There being no other Regular business before the Board, Ms. Lopes motioned to adjourn; Ms. Gordon seconded. The vote was unanimous at 8:00 pm.

Respectfully submitted,
Patricia Fowle, Health Agent