

# Halifax Board of Health Meeting Minutes Wednesday, August 05, 2015

On Wednesday, a meeting of the Halifax Board of Health was held at the Halifax Town hall.

**Present at the meeting were:**

John DeLano – Chairman  
John Weber – Co-Chairman  
Alan J. Dias – Clerk  
Cathleen Drinan – Health Agent  
Peggy Selter – Administrative Assistant

The Board of Health meeting opened at 7:00p.m

**1. Requests to be on the Agenda:**

- a. Bob Baglini, BETA Engineering – Mobile Home Park Estates
  - i. [The Board requested Mr. Baglini attend the next meeting to discuss the engineering of Mobile Home Park Estates.](#)

**2. 7:30 - Hearings: [Hearings opened at 7:31pm](#)**

- a. Discussion to consider the possibility of adopting “[Prohibiting Smoking in Work Places and Public Places Regulations](#)” and “[Tobacco Sale and Product Regulations.](#)”
  - i. [Draft# 1](#) Copy of Prohibiting Smoking in Work Places and Public Places and Tobacco Sale & Product Regulations – In attendance for the hearing:
    - [Sarah Mccolgan, Massachusetts Health Officers Association, Tobacco Control Program](#)
    - [Kathleen Wilbur, Program Manager, Southeast Tobacco-Free Community Partnership](#)
    - [Steve Ryan, Executive Director of New England Convenient Store Association](#)
    - [Lisa Lally, Tedeschi’s Food Shop’s](#)
    - [Joe Tonello, owner, Harmony Two Liquors](#)
    - [Tina Tonello, owner, Harmony Two Liquors](#)
  - 1. [The Board addressed the hearing attendees and outlined the proposed tobacco product regulations hearing and informed them that they did receive a letter from Cumberland Farms and CRR expressing their opinion on the proposed regulations.](#)
  - 2. [The Board opened the floor to speakers in favor of the proposed regulations.](#)
    - a. [Ms. Sarah Mccolgan, Massachusetts Health Officers Association, Tobacco Control Program introduced herself and](#)

stated that MHOA also received a copy of the Cumberland Farms letter expressing their opinion and requested a copy of the letter from CRR.

Ms. Mccolgan stated that Halifax isn't doing anything unusual with the regulations being considered. These regulations are being promoted across the state by the Massachusetts Health Officers Association and there are many other surrounding towns considering the tobacco product regulations with provisions appropriate to their town, just as Halifax is making provisions appropriate for Halifax.

Ms. Mccolgan commented that kids are buying the flavored products, and though it's true that Halifax has had 100% compliance, the state only spot checks establishments selling tobacco and nicotine products once per year.

Ms. Mccolgan also stated that the FDA is looking at two things, smokeless tobacco and combustible tobacco products and only inspect establishments selling tobacco products once per year. Ms. Mccolgan argued that kids are buying flavored tobacco because the industry targets them with specific appealing flavors. She also supported the idea of banning the sale of flavored tobacco products. She stated that these products are adult products and they should be in an adult marketed environment and not be targeted or sold to children.

Ms. Mccolgan discussed the possibility of raising the age to purchase tobacco and nicotine products in Halifax to age 21, and stated that raising the price of cheap cigars, e-cigarettes and roll your own machines will do a great service to Halifax.

Ms. Mccolgan reviewed her notes and shared the information she had on tobacco sales percentage rates and commented that by implementing tobacco and nicotine product regulations now would be a step ahead of the game, because eventually they will be Mass. compliance across the state.

- b.** Ms. Kathleen Wilbur, Program Manager, Southeast Tobacco-Free Community Partnership introduced herself and, stated that Ms. Mccolgan touched on most of the topics and she would keep her statement brief.

Ms. Wilbur stated the regulations are strong and are protecting the town. She works with kids in other community youth groups and when looked at from a youth perspective, there are trends. When the youth were asked about flavor attraction and if they would try a flavored nicotine product, the youths stated that they were more likely to try the flavored product than the non-flavored product. Ms. Wilbur stated the regulations, as proposed, are strong to protect the youth in Halifax and commented that 8% of the youth start their addiction under the age of 18.

3. The Board opened the floor to speakers opposed of the proposed regulations.
  - a. Ms. Tina Tonello, owner, Harmony Two Liquors introduced herself and commented that alcohol is also an adult product being sold to adults, and it is difficult to tell a parent that they can't bring kids into the store. She believes this to be over regulating tobacco and nicotine products.
  - b. Mr. Steve Ryan, Executive Director of New England Convenient Store Association introduced himself and stated that establishment owners understand and meet the responsibility of selling tobacco and nicotine products and if we take these products off the shelves in Halifax, we are sending the consumer business to another community. The consumer will then also make other purchases outside the community, causing profit loss.

Mr. Ryan commented that there is no information indicating that these tobacco products are being provided to underage people and that it is difficult for the establishment owners, it's as if they are being accused of engaging in illegal transactions.

Mr. Ryan stated that when you look at a business, they know how to do their jobs, so we are asking that you not move in the direction of the regulations being proposed.

    - i. The Board asked "What is NECSA?"
      1. Mr. Ryan answered "New England Convenient Store Association."
    - ii. The Board asked "Why is it against the proposed regulations when there is a ground swell of support to ban? What's the reason?"
      1. Mr. Ryan stated that the Board of Health is concerned about the health of their town. Mr. Ryan commented that he thinks the Board of Health has given one side of the story and it's his objective to give the other side. Mr. Ryan stated that the Board of Health's justification to force business owners to remove products from their shelves isn't there. He concluded that the business owners are being forced to make these changes and not serve adult customers when there is no evidence they've done anything wrong.
  - c. Ms. Lisa Lally, Tedeschi's Food Shops introduced herself and stated that if the store lost flavored nicotine products the managers would lose money as they work on commission, so this change does affect business and that they have procedures in place to not sell to underage people.
  - d. Mr. Joe Tonello, owner, Harmony Two Liquors introduced himself and stated he has been in business 20 years in October and

has never been caught in a tobacco or liquor sting and that they are being over regulated. Mr. Tonello commented that it's a catch 22 on all these regulations. Halifax's process to permit is outrageous and absurd, there are property taxes, excise taxes, permits and fees to absorb, who is going to pay to regulate? Hire another Health Agent?

e. Ms. Tonello commented that if products continue to be taken away, there will be no stores left in the community. What's next? Ice, soda? Where does it stop, where do we draw the line and not make it so difficult for business owner's to do business. Business owners have done nothing wrong.

f. Ms. Mccolgan commented that the proposed regulations are not talking about removing all tobacco products, only flavored nicotine products in an effort to protect kids.

Ms. Mccolgan, Ms. Lally and the Board again conversed on the subjects of annual state compliance check inspections, the BARS Program which does compliance check inspections twice each month to store or restaurant locations selling cigarettes and/or beer, some surrounding towns (Duxbury, Carver, Marshfield, and Plympton is currently discussing it) who have or are considering adopting the tobacco and nicotine product regulations.

Ms. Mccolgan stated that this is fairly new, the state is promoting the regulations and eventually they will become a state law. Right now, each town is choosing the provisions they believe are best suited for their town. There are approximately 351 communities in the commonwealth participating in the tobacco and nicotine regulations, approximately 100 communities banned tobacco and nicotine products in establishments that contain pharmacies, as of mid-June, 117 communities banned blunt wraps and though there are some communities that are not passing bans, most of the communities are.

g. Mr. Tonello asked if the states definition of "flavor" included menthol.

i. Ms. Mccolgan stated that the definitions are all listed in the regulations and "flavor" does not include menthol.

h. The Board inquired if, when tobacco products were removed from the prominent areas, such as the register area, are there facts on how this affected business?

i. Mr. Ryan replied that he does not believe it was problematic, they were still able to sell their product.

i. The Board noted that Halifax was one of the first to regulate smoking in restaurants and this didn't affect their business.

- i. Mr. Ryan responded that the restaurant is a food business not a tobacco business, so, there is no loss in sales, whether or not they sell their products responsibly.
- j. The Board replied that they were not remarking on whether or not it would drive retail stores out of business, they were just pointing out that Halifax was one of the first to regulate smoking in restaurants and it didn't affect their business.
  - i. Mr. Ryan commented that these are local businesses and if they can't sell their products, then the consumers will buy it somewhere else. The retail owners are following the rules, so what is the point in changing the regulations forcing consumers to take their business elsewhere.
- k. Mr. Tonello stated the consumer will go to Hanson or Bridgewater, this is not solving the issue, and retail store owners need to be competitive. Customers purchasing tobacco products are 2/3 less from what they were 10 years ago, this will limit the income of the store even more.
- l. Ms. Mccolgan stated that this is a defective product and when used as intended can kill you. If we knew the effects of nicotine products 50 years ago, that we know today, the product wouldn't be legal. These regulations are not for banning tobacco, just flavored nicotine directed towards our young people. We are not looking to do or adopt anything neighboring towns across the state are not asking to adopt.
- m. The Board commented that smokers of any age don't appear to understand that smoking will create health issues. It's surprising that people smoke knowing the dangers and the fact that nicotine contains chemicals and is addicting; it becomes a habit. It's amazing when smokers give up that habit, it takes courage and fortitude.
- n. Ms. Tonello commented that these are adults who can make the decision to smoke or not to smoke and we can't regulate everyone's addiction. The product is legal and we, the retail store owners, are doing the right thing and will until State & Federal authorities say we can't.
- o. The Board commented that they will take all information discussed and feedback received tonight under advisement. When the Board has made a decision whether or not to vote or revise the "Prohibiting Smoking in Work Places and Public Places Regulations" and "Tobacco Sale and Product Regulations," the public will be notified, so that everyone is aware of what the Board will act on.

A Motion was made to take the information discussed and the feedback received at tonight meeting under advisement and vote on another date.

**Motion: John Weber**

**Second: Alan Dias**  
**Unanimous vote on the motion**

- b. Discussion to consider amending the current “Supplemental Rules and Regulations to Title V” (John DeLano recused himself from voting due to a conflict of interest, but did explain what would be discussed.) – Terry Carmen, owner of 229 Hudson Street was in attendance.
- i. Board discussed the amendments being considered in the Supplemental Rules and Regulations to Title V.
- **1.06 Design Criteria:** Add to regulation a # 12) New construction- Maximum Feasible Compliance on all proposed septic systems.
    - a. Goal is full compliance. Wherever feasible, a proposed system shall be in full compliance with the Halifax Supplementary Rules and Regulations to the State Environmental Code: Title 5, 310 CMR 15.000.
    - b. When full compliance with the Halifax Supplementary Rules is not feasible, and when, in its opinion, the strict enforcement would do manifest injustice and does not jeopardize public health or the environment, the Halifax Board of Health can issue variances which allows the system to be installed.
      - i. When variances from the Halifax Supplementary Rules are issued, the maximum feasible compliance with the State Environmental Code: Title 5, 310 CMR 15.000 must be met at that site.
  - **1.08 As-Built Drawings and Certificates of Compliance:** Add to regulation (or other monitoring schedule, as required by law) to # (5).
  - **1.11 Variances:** Add to regulation a # 1.11
    - a. (1) When full compliance with the Halifax Supplementary Rules is not feasible, and when, in its opinion, the strict enforcement would do manifest injustice and does not jeopardize public health or the environment, the Halifax Board of Health can issue variances.
      - i. (a) When variances from the Halifax Supplementary Rules are issued, the maximum feasible compliance with the State Environmental Code: Title 5, 310 CMR 15.000 must be met at that site.
    - b. (2) Process for Seeking a Variance from Halifax Supplemental
      - i. (a) Every request for a variance shall be in writing, shall make reference to the specific provision of the Halifax Supplementary Rules to Title V, for which a

variance is sought, and shall include a statement demonstrating compliance with 310 CMR 15.000.

- ii. (b) No application for a variance shall be complete until the applicant has notified all affected abutters by certified mail, or first class mail with receipt, at his/her own expense at least ten days before the Board of Health meeting at which the variance request will be on the agenda. The notification shall reference the specific provisions of the Halifax Supplementary Rules to Title V from which a variance is sought, a statement demonstrating compliance with 310 CMR 15.000, and the date, time and place where the application will be discussed.

A Motion was made for the Health Agent to make amendments to the Supplementary Rules and Regulations to the State Environmental Code: Title 5, 310 CMR 15.000 and Board will discuss/approve/vote at a future meeting.

**Motion: John Weber**  
**Second: Alan Dias**  
**Unanimous vote on the motion**

- c. Alan Dias re-opened the discussion to consider amending the “Supplemental Rules and Regulations to Title V”
  - i. Board discussed their views on what mechanism to use for notification to affected abutters, such as, U.S. mail, certified mail, standard hearing or variance request.

A Motion was made to send abutter notifications via certified mail, or first class mail with receipt.

**Motion: John Weber**  
**Second: Alan Dias**  
**Unanimous vote on the motion**

### **3. Bring to Boards Attention:** (Folder)

- a. Steve Nelson, Alternative Sewerage Committee Member Reappointment – Board Reappointed Steve Nelson as an Alternative Sewerage Committee Board Member.
- b. Letter sent to owners of 395 Plymouth Street – Agent updated Board
- c. Carnival Fund Raiser - Alzheimer’s – Agent updated Board
- d. Decision on the late fee charge for Teeka Lynne’s Salon and Day Spa 2015 permit. John Weber recused himself from the vote due to conflict of interest.

A Motion was made a letter be sent stating the Board's decision regarding the owner's request to waive the 2015 late fee charge owed to the Board of Health was denied and those fees are due.

**Motion: Alan Dias**  
**Second: John DeLano**  
**Unanimous vote on the motion**

**4. Discussion Items:**

- a. Agent Report:** – [Agent updated Board on discussion items below.](#)
  - i.** 395 Plymouth Street – Plan was submitted to BOH by Gary James and is out for review
  - ii.** Housing follow-ups
    - \*Progress on two, waiting for two, new one just in.
  - iii.** SWMI presentation, along with DER and EPA coming soon, probably on 9-10 at the high school.
  - iv.** Cleaning up at dog kennels
  - v.** In-line hair traps at dog grooming businesses
  - vi.** HOOT alarm panel

**5. The Following to be signed:**

- a.** Accountant Payroll Signature Form - [Board Signed](#)
- b.** Performance Evaluation (John DeLano) - [Board Signed](#)
- c. Payroll for the Week Ending , August 08, 2015 - Board Signed**
  - i.** Cathleen Drinan
  - ii.** Margaret Selter
  - iii.** Lisa McKay
- d. Meeting Minutes: - Board Signed**
  - i.** May 20, 2015 Meeting Minutes
  - ii.** June 03, 2015 Meeting Minutes
- e. Expense Account# 01-512 – FY 16-02 - Board Signed**
  - i.** Cathleen Drinan – Postage Reimbursement - \$1.35
  - ii.** Express Newspapers – Invoice# A3847CL - Tobacco Regulation and Supplemental Title V Amendment Regulation Advertisements - \$35.00
  - iii.** WB Mason – Office Supplies – Invoice# I27164437 - \$282.00
  - iv.** Pitney Bowes – Postage - \$235.00
- f. Permits: - Board Approved**
  - i.** Our Lady of the Lake – 2015 Parish Picnic – Ken Corti
  - ii.** Karl Wells – Wells Landscaping, Inc. – 2015 Septic Installer's Permit
  - iii.** Mark Nardone – Bridge Home & Septic - 2015 Title V Inspector's Permit



- iv. Tracey White – Casoli Sand and Gravel - 2015 Title V Inspector’s Permit
- v. Mark DuBord – Mark DuBord & Son - 2015 Title V Inspector’s Permit

**g. Mail Folder: - Board Read**

- i. Thank you card
- ii. Letter from Cumberland Farms regarding the proposed Tobacco Regulations
- iii. CRR - A City Official’s Perspective on Tobacco Regulations
- iv. Yankee Conference
- v. **Zoning Board of Appeals:**
  - Notice of Public Hearing
    - a. Halifax Trails
    - b. Blackledge Farm
    - c. Holmes Street
    - d. Plymouth Street
    - e. Hemlock Lane
- vi. Plympton-Halifax Express

**Adjournment**

A Motion was made to adjourn the meeting at 9:00 p.m.

**Motion: John Weber**  
**Second: John DeLano**  
**Unanimous vote on the motion**

**Typed by,**  
Peggy Selter  
Administrative Assistant

**Signed By:**  
John DeLano – Chairman  
John Weber – Co-Chairman  
Alan Dias – Clerk

~You can receive an official signed copy of meeting minutes at the Board of Health Office~