

BOARD OF HEALTH MEETING MINUTES

MAY 18, 2021, 6:00P.M.

LOCATION: REMOTE



PRESENT: Acting Chairperson Renee D'Argento, Member Stephen Themelis, Health Agent Kalene Gendron, D.J. Wilson of the Massachusetts Municipal Association, Director of Tobacco Control; Interim Assistant Trish DeLorey and Residents: Margie LaFleur, Phil Durno, Pat Harrington, Tony Beattie

Acting Chairperson Renee D'Argento opened the meeting at 6:00p.m. She announced that the meeting was remote participation only; meeting is being cablecast live and recorded by Pepperell Community Media.

ACTION ITEMS/NEW BUSINESS:

Presentation and Review of the Current Tobacco and Vape Product Sales Regulations given by D.J. Wilson of Massachusetts Municipal Association, Director of Tobacco Control

Acting Chairperson Renee D'Argento welcomed D.J. Wilson, the Director of Tobacco Control from the Massachusetts Municipal Association. Mr. Wilson thanked the Board for the opportunity to speak. He explained that he has been at his position for almost 26 years and has work together with Sara McColgan, Director of Massachusetts Health Officers Association Tobacco Control (MHOA) and Cheryl Sbarra, Senior Staff Attorney and Executive Director of the Massachusetts Association of Health Boards (MAHB); together they provide assistance, guidance and education to local city and towns in overseeing and developing tobacco and vape regulations. He reiterated that once a municipality decides they want to implement tobacco regulations, they are happy to write a draft to ensure that the latest regulations are implemented.

Mr. Wilson noted some major accomplishments have been established over the years, such as smoke-free restaurants and bars throughout the State; as well as no tobacco sales allowed in pharmacies and raising the minimum age to 21 years of age for the sale of tobacco and vaping products.

Mr. Wilson referenced, as part of the Municipal Tobacco Control Technical Assistant Program, the Tobacco Policy Summary List written by Senior Staff Attorney Cheryl Sbarra. The twenty-one items listed on this Summary List corresponded to the checklist found in the draft of the 2021 Sales Regulations for the Sale of Tobacco and Vape Products. Together with the Board, Mr. Wilson went over the 2021 Sample Sales Regulations which restricts the sale of tobacco and vape products. He remarked that these regulations are constantly being updated. D.J. Wilson reviewed the Checklists for Policy Decisions and described all eighteen items and confirmed when an item was governed by state or local regulations. Mr. Wilson also commented on the yellow and green highlighted sections of the 2021 Sales Regulations. He clarified that the yellow highlighted sections are language copied from the latest state law and the Dept. of Public

Health regulations; and the green highlighted sections are unique to local policy decisions and to be made by the Board of Health. A local Pepperell regulation would potentially allow the Board of Health to: collect licensing fees as well as any fines levied for violations; limit the number of tobacco and vaping licenses, as well as adult smoking bars; prohibit flavored and menthol products; prohibit vaping licenses; and retire tobacco licenses.

A lengthy discussion ensued regarding e-cigarettes and vaping products. D.J. Wilson noted that vape products and e-cigarettes became popular among high school students due to the various flavors attracting the youth. In 2019, the Governor closed all vape shops when EVALI, an acronym that stands for e-cigarette or vaping product use-associated lung injury, became a public health emergency. Later that year, rules on the vape products were lifted with strict restrictions in place to change the availability of smoking and vaping products. The state of Massachusetts implemented a ban on menthol cigarettes and flavored tobacco. This was enacted to limit youth uptake of nicotine products.

D.J. Wilson reviewed with the Board new policy and regulations that became effective at different times. Retailers and convenient stores and gas stations can sell unflavored or tobacco-flavored vape products with a nicotine strength that does not exceed 35 milligrams per milliliter. Adult only retail tobacco stores such as vape shops are subject to the same sales restrictions regarding flavored vape products but may sell any nicotine strength. Smoking bars must be adult only (21plus) are exempt from both the flavor restriction and the nicotine strength conditions, but all products purchased by a customer must be consumed on-site.

Mr. Wilson described in detail the implementation of a local tobacco and vaping regulation, including permitting, procedure of compliance checks and enforcement levels and fines imposed both on the local level and the state level as well. Mr. Wilson shared many stories regarding various cities and towns in Massachusetts and the challenges they face in compliance and enforcement.

Health Agent Gendron asked Mr. Wilson to explain the Boards of Health Tobacco Control Alliance and what that membership entails. Mr. Wilson clarified that the Tobacco Control Alliance is located in the city of Leominster and Joan Hamlet is the Director. There are approximately 25 to 30 cities/towns in the alliance and this alliance receives funding through the State. The alliance has its own inspectors and has to follow certain qualifications through the State. It was confirmed by the Board that Pepperell is not a member of this alliance. Mr. Wilson and the Dept. of Public Health will not allow a town to join until the Alliance renews their contract. Mr. Wilson described the advantages of being in the alliance; however, he also described how the Town of Pepperell is still covered by state laws and that the FDA does not announce random tobacco compliance checks.

Stephen Themelis questioned Health Agent Gendron on the number of tobacco violations we have had from any retailers in the Town of Pepperell in the past five to ten years. Kalene Gendron commented that she has seen the Federal Report and she does not remember the numbers being high, perhaps one incident here and there.

The Board thanked Mr. Wilson for his time and his presentation. Mr. Wilson said he will email the Board a copy of the latest tobacco and vaping sales regulations.

5 Tucker Avenue – ZBA Application Requests Comments on Special Permit:

Renee D'Argento reviewed with the Board a ZBA Application for 5 Tucker Avenue as applicant is requesting a special permit to allow the alter or change of a non-conforming structure. Plans indicate that there is currently a 1965 mobile home and a shed on the property. The applicant is proposing to remove the existing structures and construct a new single-family home.

Health Agent Gendron stated that she will submit written comments to the Zoning Board of Appeals on behalf of the Board; noting that the application states one mobile home currently exists on site; however, clarification is needed on how this property will be removed or demolished. Should any demolishing take place, they must ensure that the unit is clear from lead paint and asbestos. Confirmation is also needed to determine if this property is served by town water or sewer. She will also emphasize that best management practices must be adhered to in order to avoid nuisance conditions. The Board indicated that they had no additional comments and thanked Ms. Gendron for submitting these written comments to the Zoning Board of Appeals.

46 Main Street – ZBA Application Requests Comments on Special Permit:

Renee D'Argento reviewed with the Board a ZBA Application for 46 Main Street; applicant is requesting a special permit to allow for an accessory apartment consisting of 800 square feet in the existing garage. Health Agent Gendron stated that she will respond by offering no comments on behalf of the Board as this does not fall under their jurisdiction. Board members agreed and thanked Kalene for responding on their behalf.

Mosquito Control Opt Out Program - Update:

Acting Chairperson Renee D'Argento provided an update on the current Mosquito Control Opt Out Plan currently under review. She anticipates that the Select Board will vote to accept the Alternate Mosquito Management Plan at its next meeting of May 24th.

Ms. D'Argento explained that the Mosquito Opt Out Plan is almost finalized and that she reached out and received some language from Kyla Bennet of PEER. She noted that this language would be included under the section to provide how we would measure efficacy of our outreach and education program. She read the following proposed language:

Pepperell will keep track of the amount of tires, containers, and other trash that can collect water that are removed; record the number of culverts and/or ditches cleared, and record the number of mosquito nuisance calls received by the Town. Because we do not have baseline data on source reduction, it will not be possible to compare mosquito activity pre- and post-source reduction. However, we will be able to assess whether source reduction is working through the

complaints we receive about nuisance mosquitoes and by calculating the number of breeding sources removed from the environment.

Renee D'Argento informed the Board that she sent this language to DPW Director Ken Kalinowski and asked him if the above methods were possible for the DPW to perform. She has not yet received a response from him.

Pat Harrington of the DPW – Continued Discussion of Irrigation Wells

Pat Harrington addressed the Board to follow-up on his request for a moratorium on irrigation wells. He noted that during previous discussions the Board of Health indicated that they wanted more information on our aquifers; where they were located, who draws from them and how they are recharged. Mr. Harrington informed Ms. D'Argento that he had just emailed her two aquifer maps and an explanation of buffer zones. These maps were unable to be viewed by all attendees due to technical difficulties.

Pat provided a detailed description of the aquifer maps explaining that there were three primary aquifer zones within the Town of Pepperell; two of those zones overlap into Hollis, NH and Groton, MA. He noted that there were five wells within those three main aquifers; two wells on Bemis Road; two wells on Jersey Street and one well off of Nashua Road. There are three primary zones around each of these wells. The first zone has a 400 foot restrictive buffer zone where nothing can be built; it is a protection zone for the aquifer. The second zone is the primary recharge area for the well. The third zone expands further beyond and is another recharge source. These zones only cover approximately 20 percent of Pepperell.

Discussion ensued among attendees. Questions were asked on zone restrictions, how our water supply is recharged and how storm water management integrates with various zones. Concerns were also expressed on drought conditions and public education and methods taken to encourage water conservation.

Mr. Harrington reiterated that the DPW implemented a mandatory water ban and a moratorium on the sale of deduct meters to encourage residents not to water their lawns. Mr. Harrington suggests that a moratorium on permitting irrigation wells be temporarily in place until the town is not in danger of entering drought conditions.

The Board informed Mr. Harrington that a decision on his requests will not be made until there is a full member Board and after all members have reviewed the aquifer maps and have done further research on the topic.

PFAS Updates on Forum Scheduled May 27, 2021 7pm-9pm

Acting Chairperson Renee D'Argento reviewed a letter from Town Administrator stating that the Board of Public Works is scheduling a PFAS Information Forum for May 27, 2021 from 7pm to 9pm as requested by the Select Board. Representatives from MassDEP will provide similar information and answers to the public's questions at that time. The Town Administrator was also considering establishing a task force/committee to begin focusing on the medium and long term issues of managing PFAS. He also noted that MassDEP announced a new round of PFAS mitigation/planning grants today. The DPW will begin the process of applying.

Discussion ensued among the attendees. Questions were asked regarding the role the Board of Health will take relative to the scheduled PFAS Forum. Ms. Gendron noted she was asked to attend the Forum but she believes that MassDEP is spearheading the Forum and will provide the public with much information. The Health Agent noted that on behalf of the Board of Health, the PFAS matter is taken very seriously and we look forward to working together with the DPW, MassDEP and the Town Administrator. She envisions the Board of Health's role to support public outreach and education. It was reiterated that the public water supply is under the jurisdiction of MassDEP; and that the Board of Health's purview is private wells. Therefore, the Board will be involved in the education of private well owners and provide the information that MassDEP provides. It was also noted that the PFAS testing has been done on our public wells but at this time, private well owners will be responsible for their own testing.

Bill Warrant dated May 18, 2021 – Invoice for Animal Inspector's Hours and Mileage

Acting Chairperson Renee D'Argento reviewed with the Board two FY21 invoices from Robin Hebert the former Animal Inspector. Invoices included charges for mileage, totaling \$70.67 and labor from July 2020 thru April 2021; totaling \$535.76. On a motion made by Stephen Themelis, seconded by Renee D'Argento; it was voted all in favor to approve the bill warrant of May 18, 2021 for the grand total amount of \$606.43.

HEALTH AGENT COMMENTS:

Health Agent Kalene Gendron stated that announcements from Governor Baker's Office indicate that COVID-19 Restrictions are being lifted on May 29th and the State of Emergency Order is scheduled to be terminated on June 15th. There are a lot of people calling who are confused with the two dates and questioning the details of those dates; especially when it comes to graduations and proms taking place during this time of the year. Face covering order will align with the recommendations of the CDC.

FUTURE MEETING:

Kalene Gendron noted that the anticipated Board of Health meeting dates are June 1st and June 15th. Remote GoToMeetings under the Open Meeting Law were covered under the state of emergency order which is scheduled to expire on June 15th. She anticipates an announcement from the Town Administrator soon. Trish DeLorey will also reach out to Town Administrator to confirm the meeting plans effective June 15th.

ADJOURNMENT:

On a motion made by Stephen Themelis, seconded by Renee D'Argento, it was voted all in favor to adjourn the meeting at 7:34p.m.

Respectfully submitted by Trish DeLorey, Interim Assistant to the Board of Health