

TOWN OF LANCASTER – BOARD OF HEALTH

Meeting Minutes

April 28, 2022

Members in attendance: Chair Jeff Paster, John Farnsworth, and Katherine Holden

Also in attendance: William Brookings, Health Agent, and Debra Dennis, BOH Administrator

Documents:

- April 28, 2022, Agenda
- Minutes- June 17, 2020, November 18, 2021, February 24, 2022, and March 24, 2022
- Tobacco Violation Hearing-Ammad Mekka, Sunoco/Main Street documents

Chairman Paster called the meeting to order at 9:31 AM.

Roll Call Attendance: John Farnsworth here, Katherine Holden here and Jeff Paster here.

Chairman Paster congratulated Katherine Holden for serving on the Board of Health and commented how she did a great job. He said it was a pleasure to work with her. John Farnsworth, William Brookings, and Debra Dennis echoed Chairman Paster's comments.

Permits

- **507 Sterling Street, D-box**-Bill Brookings said this is a D-box replacement that was triggered by a Title 5 inspection report. **Katherine Holden made a motion to approve with the Health Agent signing and John Farnsworth seconded the motion. No discussion. Roll Call Vote: John Farnsworth yes, Katherine Holden yes, and Jeff Paster yes.**
- **584 Fort Pond Road, D-box**- Katherine Holden made a motion to approve with the Health Agent signing and John Farnsworth seconded the motion. **No discussion. Roll Call Vote: John Farnsworth yes, Katherine Holden yes, and Jeff Paster yes.**
- **710 George Hill Road, D-box**-William Brookings said this D-box replacement was triggered by a Title 5. **Katherine Holden made a motion to approve with Bill Brookings signing it and was seconded by John Farnsworth. No discussion. Roll Call Vote: Katherine Holden yes, John Farnsworth yes, and Jeff Paster yes.**

Title-5 Inspection Reports

- 507 Sterling Street-Bill Brookings said this is a conditional pass that needs a D-box.
- 84 Sterling Street-Bill Brookings said this is a pass.
- 304 Bull Hill Road-Bill Brookings said this is a pass with a discrepancy of number of bedrooms pending.
- 710 George Hill Road-Bill Brookings said this is a conditional pass based on replacement of the D-box. **John Farnsworth made a motion to approve as presented and**

Katherine Holden seconded. No discussion. Roll Call Vote: John Farnsworth yes, Katherine Holden yes, and Jeff Paster yes.

Discussion

95 Holiday Lane-Bedrooms-Bill Brookings gave the background of the project. He said on March 24th they were given a permit for a two bedroom. There is discussion with the owner as to maybe wanting to have a three bedroom. Chair Paster said we need to table this is bring the owner in and ask questions about the bedrooms.

10:00AM Public Hearing -Tobacco Violation Hearing-Ammad Mekkao, Sunoco/Main Street Auto, 214 Main Street. Main Street aka Rt-70.

Chair Paster called the public hearing to order at 10:03AM.

Present: Ahmad Mekkao, owner and Joan Hamlett, Director of the Tobacco Control Alliance, and Lancaster's Tobacco Control Agent.

Chair Paster read the report on a compliance check that was conducted on March 11, 2022, which states that Sunoco Auto on Main Street sold tobacco product to a person under the minimum legal sales age. This is the first violation, which the fine is \$1,000.

Joan Hamlett said it is actually the third violation in a thirty-six-month period, however, due to issues with the pandemic and staff shortages, apparently, *the emails* did not reach Mr. Mekkao.

On March 20, 2021, there was a sale to a minor with a re-inspection in June. These were treated as warnings because the information did not get to the right email to issue the violation, making this technically a first violation.

Joan Hamlett said in November of 2019 the governor raised the tobacco sale age to twenty-one effective January 1, 2020. This state statute requires the Board of Health's to issue a fine of \$1,000, the Board can increase but cannot reduce the fine amount.

The only issue before the Board, was the retailer responsible or not responsible? A not responsible finding would be based on protocol or procedure that was not followed, or if there was doubt the sale took place.

Chair Paster said if we find that the owner is responsible then the Board would be obligated to assess a fine of \$1,000 with a three-day suspension at the Board's discretion.

Joan Hamlett shared the document pertaining to the sale of the tobacco product to a minor. Joan detailed the procedure employed. The youth enters the store, no id, nothing in their pockets except for the money given them for the purchase. Joan said they count the money prior to going in the store, and each time they come out of the store. If they return with a product, there is labeling process.

Joan stated they are now iPad tracked by the Department of Public Health. The information is entered into the state database.

Joan submitted that they pulled into the parking lot and opened the iPad to put the inspection information. GPS tracking locates the parking lot of the store. The youth went inside and asked for product, Backwood Cigars. The Cigars were sold to the youth without asking for an ID.

Joan Hamlett said the procedure is for the youth to enter the store, to go straight to the register and ask for the product. They do not buy anything else or walk around the store.

Chair Paster said Mr. Mekkao was issued the violation and asked for an appeal hearing.

Ahmad Mekkao said he talked to his employee, the employee said he definitely did not sell anything to the youth. Mekkao said this employee has been with him for twenty years. He said his employee knows the difference between a sixteen-year-old and someone twenty-seven years old.

Mekkao said they have a purchase and sale system and anytime we sell a pack of cigarettes we must ask for an ID and it must be scanned. Mekkao said in Lancaster they must wear a mask and we cannot ask them to remove it. Mekkao said he has been in business for thirty years and this is his first violation. He asked the Board members to use their judgement because he would definitely not sell to a minor. He said he does not know how they can make a sixteen-year-old look like a twenty-seven-year-old.

Chair Paster asked Mr. Mekkao if the employee asked for an ID. Mekkao said they always ask for ID if you are less than twenty-seven years old. Chair Paster asked, according to the employee he asked for an ID, he received it, scanned it in, and then sold, you say cigarettes, but the violation is for cigars. Chair Paster asked if it was Mr. Mekkao's contention that the youth who was working with the Tobacco Control Agency was playing a game.

Joan Hamlett clarified policy and procedures of the alliance, that the youth have nothing in their pockets and that this youth does not have an ID. The record says she was not asked for an ID, was no licensed to be scanned because she did not have one at all because the youth was not of age to have one. As policy, if we have a youth that does have an ID, we have them leave it at home, if they bring it, they must put it in the glove compartment until the inspections are over.

Chair Paster reiterated there was no ID. Mr. Mekkao said we do not ask for ID unless the person looks under twenty-seven years old. Joan Hamlett responded the State law requires that you card everybody and not sell to anybody under the age of twenty-one. Joan submitted that we are a nonprofit tobacco control service provided to the Town of Lancaster. Joan said her job is to educate the retailers to make sure that they have all the information they need to pass these inspections. Joan said violations are not a benefit to the Tobacco Control Alliance, she said they do not receive the fine.

Joan Hamlett stated the law says on your very first violation you get \$1,000 fine, you did not with the other two previous violations. You were not penalized for them on the record in the in the state database.

Chair Paster said the Board must determine whether Mr. Mekkao, as the owner, is responsible. The Chair acknowledged the Board appreciated Mr. Mekkao attending.

Chair Paster said the Tobacco Alliance makes these visits on a routine basis everywhere in many towns. There was no reason to believe that any kind of game or deception was being practiced

nor a reason to believe that the station employee had any reason to think he was not required to ask for an ID, reiterating that everyone is required to be carded regardless of age. The business is responsible for this violation.

Member John Farnsworth said it was sad that the Board is put in a position where we must penalize a local business. Regarding the mask mandate, it was rescinded on February 24th. Farnsworth said he has trouble believing that the Tobacco Control Alliance would send out people for the purpose of entrapment.

Chair Paster said he agrees with Member Farnsworth concerning fining a local business, but he does not appreciate businesses not being responsible for state regulations, especially regarding the sale of tobacco.

Chair Paster closed the hearing at 10:17AM

John Farnsworth made a motion that the Board finds Ammad Mekkao owner of Sunoco/Main Street responsible for the sale of tobacco products to a minor, Katherine Holden seconded the motion. Katherine Holden amended the motion to levy the \$1,000 fine but not the suspension. John Farnsworth agreed to the amendment. No discussion. Roll Call Vote: Katherine Holden yes, John Farnsworth yes, and Jeff Paster yes.

Chair Paster said a letter will be sent tomorrow to the owner and payment will be due within seven days.

Discussion Continued

Discussion with the Board to determine if the Board agrees with what is stated or interprets the code pertaining to Title 5 regulation and a residential kitchen

William Brookings, Health Agent, authorization by the Board of Health as designated signatory in lieu of Board of Health member.

Present: Michelle Salvatore

Michelle Salvatore said she wants to be able to open a residential kitchen to bake muffins. She informed the Board that the Food Service Inspector Bridgett Braley would not allow this. She said she is trying to make between ten to twenty orders of a half dozen a week.

Katherine Holden said there are two issues one is she is subject to inspection from the Health Agent and the other is regarding what the impact is since she has a septic system with town water. Member Holden said she does not feel that the wastewater generated by this business would be detrimental, she said she thinks it might be something that the Board has leeway on a case-by-case basis to allow.

Bill Brookings, Health Agent said the state's view is that a residential kitchen with the additional flow would be beyond what the system is designed for which is a four-bedroom dwelling. It is designed for normal domestic use. He said when you talk about additional flow other than a single-family dwelling is it a grease generator. If it is viewed as a grease generating operation, it would require an external grease trap. It is how you how you view the use. Is it above and beyond the four-bedroom design?

Bill Brookings said the Food Service Inspector would deny the residential kitchen because the septic system is not designed for the right use.

Chair Paster said he is not sure there is any basis for an exception in this case. He said he would like a business to become successful if that can happen within the existing regulations.

Michelle Salvatore said there will not be a major impact on the flow. We have a 1500-gallon tank and we have it pumped annually which it was what the previous owner was doing. Most people have a 1000-gallon tank and have it pumped every two years.

Member John Farnsworth asked what the actual volume of her baking would be. Michelle Salvatore said ten orders of a half dozen muffins.

Bill Brookings said it might be wise to bring DEP into this conversation. Bill suggested, we have our view, and the homeowner has there's. Bill said his understanding is that residential kitchens are considered additional flow, so if we can get something from the state that says otherwise great, but if not then we will have to go with what Nashoba Agent Bridgett Braley is saying.

Member Farnsworth asked about washing the pans. Farnsworth asked if the baking pans are washed or seasoned, which would not create a substantial additional flow. Farnsworth concurred with Bill Brookings that the Board should contact the state.

Chair Paster agreed with Agent Bill Brookings to send the information to the DEP and get feedback as to whether the guidelines Agent Bridgett Braley has invoked is in fact appropriate for this case.

Michelle Salvatore discussed an email she received from Westminster that was written from David Boyer at DEP stating two main concerns that should be considered. One, will the activity generate higher strength wastewater than the Title 5 system was designed for and two, will the activity generate increased flows.

Chair Paster said he would like to take the correspondence that the Board has so far, have Michelle look at it and add any additional information that she thinks is relevant and forward it to Mr. Boyer. Let him know we have had a discussion about this, and the Lancaster Board of Health would like comment based on the information provided. Michelle Salvatore thanked the Board.

William Brookings, Health Agent, authorization by the Board of Health as designated signatory in lieu of Board of Health Member-

Chair Paster said in the past the members have authorized the Health Agent to be signatory when a Board member is not available. Bill Brookings said in the past he has been designated to sign when a single signature is required such as a portable toilet permit. When anything needs discussion and there are questions it would absolutely go to a meeting. **Katherine Holden made a motion to designate Bill Brookings as the designated signatory in lieu of a Board of Health member and John Farnsworth seconded the motion. No discussion. Roll Call Vote: Katherine Holden yes, John Farnsworth yes, and Jeff Paster yes.**

679 George Hill Road-Chair Paster said on March 30, 2022, we sent a letter requiring them to tie into town sewer by February 23, 2021. Based on finally getting a response from the Sewer District Commission and Weston & Sampson Report

Air quality monitors - process for determine locations and installation- Member John Farnsworth said he has been making all the decisions. The sensors came in. Farnsworth said he has not gotten a lot of response. He said all the towns community properties have Wi fi and he thinks he will deploy five out of the ten we have.

Member John Farnsworth said he reached out to the elementary school but has not gotten any response. Chair Paster said at this point we need to send a letter to the Town Administrator saying that we have attempted to get consensus on the locations of these devices, attach the list of our suggestions and a decision is needed by the Town Administrator or the Select Board to go forward with the plan to have these installed. Member John Farnsworth said he will discuss this with the new Town Administrator Kate Hodges.

Chair Paster recommended the Board send a letter to the Town Administrator.

October 11 Flu clinic and Health and Wellness Fair-

Chair Paster said the Board has a clear path to execute on this fair. The next step is to try to reassemble a list of potential vendors and health facility vendors for the fair. Chair Paster said since we are using fund that Orchard Hills donated, he wants to have Orchard Hills as the sponsor of the clinic on all of the lawn signs and banners.

Next meeting date will be May 26, 2022@9:30am.

Minutes

June 17, 2020 -Katherine Holden made a motion to approve as amended and John Farnsworth seconded the motion. No discussion. Roll Call Vote: Katherine Holden yes, John Farnsworth yes, and Jeff Paster yes.

November 18, 2021-Katherine Holden made a motion to approve as amended and John Farnsworth seconded the motion. No discussion. Roll Call Vote: Katherine Holden yes, John Farnsworth yes, and Jeff Paster yes.

February 24, 2022- Katherine Holden made a motion to approve as amended and John Farnsworth seconded the motion. No discussion. Roll Call Vote: Katherine Holden yes, John Farnsworth yes, and Jeff Paster yes.

March 24, 2022-Katherine Holden made a motion to approve as amended and John Farnsworth seconded the motion. No discussion. Roll Call Vote: Katherine Holden yes, John Farnsworth yes, and Jeff Paster yes.

General Business

- Correspondence folder-none

Adjourn

281 **John Farnsworth made a motion to adjourn and was seconded by Katherine Holden. No**
282 **discussion. Roll Call Vote: John Farnsworth, Katherine Holden yes and Jeff Paster yes.**
283
284 **The meeting was adjourned at 11:18AM.**
285
286 **Respectfully submitted**
287 **Debra Dennis**