

MONTAGUE BOARD OF HEALTH MEETING
Wednesday, September 18, 2013 – 5:30 pm – Downstairs Meeting Room
Town Hall, One Avenue A, Turners Falls, MA

Meeting Minutes

Present: Michael Nelson, Chair, Albert (Al) Cummings, Christopher Boutwell, Gina McNeely, Director of Public Health.

Guests: Mary Kersell (Franklin Hampshire Tobacco Coalition), Dennis Lacourse (Franklin Hampshire Tobacco Coalition Compliance Officer) and Bobbie Rae Margaret (Owner Scotty's

Michael Nelson opened the Board of Health Meeting at 5:30 PM

- Review August 14, 2013 Minutes:

Al Cummings motioned to accept the Montague Board of Health minutes for the meeting of August 14, 2013. Seconded by, Christopher Boutwell. Motion passes.

- Director's Report August 2013
 - a) Rich Becker – Still planning on doing a temporary food booth
 - b) Resident that wanted to make relish at the Pumpkinfest: it turned out that she would need a PH test by a lab and have a PH meter to check each batch before doing a direct sale.
 - c) Powertown Apartments – bed bug infestation taken care of.
 - d) Woodland Drive illegal apartment in a basement built without any permits has been condemned by Gina.

Christopher Boutwell motioned to accept the Montague Board of Health Director's report for the month of August 2013 with the additions that were missed this month, be added to next month's Director's report. Seconded by, Al Cummings. Motion passes.

- Nurse's Report (Carolyn Merriam) for the month of August 2013
 - a) Epi Pen training for Kusmeskus bus drivers
 - b) Blood Pressure appointments
 - c) 4 Flu vaccine clinics Survival Center, Senior Center, Pumpkinfest and Montague Public Safety Complex

Christopher Boutwell motioned to accept the Nurse's Report for the month of August 2013. Seconded by, Al Cummings. Motion passes.

- Health Inspector Report (Carolyn Merriam) for the month of August 2013
 - a) The board reviewed and voted on the Health Inspectors Report.

Al Cummings motioned to accept the Health Inspector's Report for the month August 2013. Seconded by, Christopher Boutwell. Motion passes.

- Receivership Program through the Attorney General's Office

Targets abandoned residential buildings for revitalization. Beginning with the BOH and Building Department writing orders to correct with specific deadlines. If property is not brought

into compliance the property will be turned over to the AGO and an attorney will become involved and the court may then appoint a receiver to rehabilitate the property. There have been 7 priority properties identified out of 20 in Montague. These seven have been brought to the attention of the Abandoned Housing Initiative from the Attorneys General Office.

- a) Two definite receivers interested in revitalization of the buildings
 - b) AGO and Town Officials conducted site visits of the properties and sent out orders to correct. If the order is not met then the Attorney General will send a demand letter. If nothing happens then a receiver will be appointed.
- **Hearing: Tobacco Sales to Minors** in violation of *Regulation of the Montague Board of Health to Restrict the Sale of Tobacco Products & Nicotine Delivery Products*.

Guests: Mary Kersell (Franklin Hampshire Tobacco Coalition), Dennis Lacourse (Franklin Hampshire Tobacco Coalition Compliance Officer) and Bobbie Rae Marguret (Owner Scotty's)

Michael Nelson, Chair of the Montague Board of Health announced the hearing being opened.

Al Cummings motioned to open the Tobacco Sales to Minors hearing at 6:00 PM. Seconded by, Christopher Boutwell. Motion passes.

- Cumberland Farms

Cumberland Farms was unable to attend the meeting. The retailer has had a 2nd and 3rd offense. The 3rd offense happened within the 7 days of the second offence. The retailer appeared unable to learn from their offense so the Board has to take that into consideration.

- Scotty's

July 20, 2013 at 9:30 AM Dennis Lacourse on behalf of the Mount Tom Tobacco Free Coalition conducted a compliance check with a 17 year male in possession of a youth drivers license (states when they will 18 yrs old and 21 yrs old). He approached the counter and asked for small cigars (black and mild cigars) \$6.58. The clerk was a female (teenager) who waited on him. The 17 year male then brought the product to Dennis who labeled the items. This is a second offense (June 27, 2013) in this case a male clerk sold the tobacco product.

Bobbie Rae Marguret has read the regulations herself, she has all employees sign off on the regulations, and she has immediately fired both employees that sold to minors. She has posted the store and invested money into an ID reader (bar and magnetic strip) to help her staff comply with the tobacco regulations.

Al Cummings motioned to close the Tobacco Sales to Minors hearing. Seconded by, Christopher Boutwell. Motion passes.

Christopher Boutwell motioned to open the Tobacco Sales to Minors hearing for deliberations. Seconded by, Al Cummings. Motion passes.

The Montague Board of Heath discussed and determined that a sale to a minor did occur. Due to the fact that the violation falls within 36 months of the first violation there is a fine of \$200 and a suspension of

license for 7 consecutive days. Given the steps the owner has taken: trainings, firing of employees, new signage and investing in the ID reader to waive the second violation (fine of \$200 and suspension of tobacco sales license for 7 days) provided that **IF** a third violation occurs there would be \$300 fine and 30 day suspension of license combined with the second violation fine and suspension. The expiration of this penalty would not be until 2017.

Al Cummings motioned to accept waiving the second violation and adding those fines and suspension to a third violation if one occurs within 36 months. Seconded by, Christopher Boutwell. Motion passes.

Bobbie Rae accepts responsibility but cannot stay in business if her license is loss. Even though the regulations say you “shall” enforce the regulations there is an option to adjust the fines and suspensions if warranted.

Al Cummings motioned to rescind his motion regarding the waiving of the second violation and adding those fines and suspension to a third violation if it occurs within 36 months. Seconded by, Christopher Boutwell. Motion passes.

Al Cummings motioned that Scotty’s has accepted responsibility for the violation and has paid their \$200 fine and the 7 consecutive day suspension of license will be waived for 36 months and will be added to the 3rd violation if it is incurred or will be voided after 36 months. The reason for this change is because of the retailer’s investment in the ID reader and steps to prevent sales to minors. Christopher Boutwell. Motion passes.

- **Other Business:**

James Senn regarding a cease and desist order issued by the board of health for open air spray painting at 20 Federal Street, Millers Falls, MA.

A complaint came in on June 24, 2013 that there was spraying at the Senn garage. Gina McNeely wrote an order to cease and desist to Senn garage. The order was delivered by Constable. July 1, 2013 Mr. Senn requested to come to the BOH hearing. Gina has spoken to DEP representative Saadi Motamedi whose opinion is that the spraying was not as impactful as Gina thought by her research of the air quality regulations. Mr. Motamedi’s opinion was that “intermittent” spray painting of items may not be hazardous if dust and odor are controlled.

Gina gave suggestions:

- 1) Mr. Senn constructs a temporary shelter to contain some of the odor and that the employees have appropriate protection.
- 2) Mr. Senn gets permission from the Fire Chief to spray inside his garage.

Mr. Senn has never had complaints and the neighbor who is complaining about this had an issue with Mr. Senn. Mr. Senn will buy an airless painter and does occasional touch up on his vehicles and as favors to neighbors. Gina has been here at the BOH for 13 years and has not had complaints regarding the Senn Garage or painting before. There is a particular person that is instigating issues with Senn Garage.

Al Cummings motioned to allow Mr. Senn to paint inside his garage with permission from the Fire Chief as well as outside painting with an airless gun as long as it does not emit toxins into the air. Seconded by, Christopher Boutwell. Motion passes.

Marion LaCoy, Twisters regarding waiving a portion of the Food Service fee due to change of business location.

Marion opened her shop at the Turners Falls location (Yelena's) and paid her permit fees for 2013. Then she moved in August to Avenue A (Twister's) and wanted to know if she had to pay the entire permit fee again or waive it for the rest of the 2013 year. The prorated amount would be \$44.00.

Christopher Boutwell motioned to approve a \$44.00 prorated fee for the months of September – December 2013 due to the relocation of Marion LaCoy's business (Twisters) to Avenue A. Seconded by, Al Cummings Motion passes.

Deborah Huisken, 32 North Taylor Hill Road requesting an extension to raise her leach field for two years (2014-2016).

The property has an apartment that was done without permits in 1987 and discovered in 2012. Since 1987 the septic system is under sized for the occupancy. There has been an emergency repair to the distribution box for the septic system with a year to upgrade the three bedrooms home. Debra has complied and done everything to date. This spring they went out to the site and found out that it is in the water table (38 inches). At this time it is not feasible for her to upgrade the leach field.

Christopher Boutwell motioned to give Deborah Huisken a 12 month extension (July 11, 2014), 14 months for a plan (September 1, 2014) and 16 months the system started (November 2014). Seconded by, Al Cummings.

Christopher Boutwell rescinds the previous motion.

Al Cummings motioned to give Deborah Huisken an extension that the entire system is installed and up to code by August 31, 2014. Seconded by, Christopher Boutwell. Motion passes.

Gary Konvelski, Gary's Coins and Antiques requesting an extension of the annual food permit for cotton candy.

Gary owns the antique shop up the street and wanted to do cotton candy for his store and for the Pumpkinfest. Gary Konvelski paid \$125.00 for an annual push cart permit on September 5, 2013.

Al Cummings motioned to allow Gary Konvelski to have a credit of eighty-five dollars towards the annual push cart permit in 2014 while prorating the rest of 2013 for a total of \$40.00. Seconded by, Christopher Boutwell. Motion passes.

Jason Watroba and Janet Dobias 24 Grand Avenue - discussion regarding sewer line at this location.

The situation is that in 1956 the Mackin family gave an easement to run a sewer line down the hill from Grand Avenue to the Crescent Street to a catch basin. The BOH was first notified of a sewer issue in 1996. The raw sewage leaks into Joan Felton's sideyard on Crescent Street. Jason has the 4 x 4 catch basin emptied about once a year. He wants to get a camera and look in the pipe to see what is

causing the blockage and have it routed it out. Gina would like to be present when the camera work is done. Jason said he will do what he can to make this right and resolve the health issue. There were 3 options that Jason has been given: 1) construct a complete on site waste water treatment system on his property 2) pump from Grand Ave up to the sewer line on Grand Avenue 3) completely fix the pipe which traverses the easement.

Al Cummings motioned to have Jason Watroba choose from one of the three options presented above and which one ends up being most feasible to remedy the sewage problem. Seconded by, Christopher Boutwell. Motion passes.

John Waidlich request for perc season variance at 156 East Mineral Road.
Guests: Betty Waidlich and Tom Waidlich

Tom wants to build a house on a 4 acre property at 156 East Mineral Road and wants to request a variance from the perc season. Gina McNeely noted that there is high ground water and there will be no problem to do a perc test or soil evaluation outside the season.

Al Cummings motioned to grant a perc variance for 156 East Mineral Road with a fee of \$50.00 payable to the Town of Montague. Seconded by, Christopher Boutwell. Motion passes.

Al Cummings motioned to close Board of Health Meeting. Seconded by, Christopher Boutwell. Motion passes.

Meeting adjourned: 7:45 PM

Approved by: _____

Date: _____