

TOWN OF SHELBURNE  
Minutes of Meeting  
Board of Health  
Tuesday, July 21, 2015

A duly posted meeting of the Shelburne Board of Health was held on Tuesday, July 21, 2015 at 6:00 pm in the meeting room at Shelburne Town Hall, 51 Bridge St., Shelburne Falls, MA.

Present: Bob Gonzalez, Chair  
Deb Coutinho  
Dennis Lacourse, FHSTOPP  
Mary Kersell, FH-STOPP

Absent: Rob Hicks  
Administrative Assistant: Liz Kidder  
Audience: Pam Miner

**The meeting was called to order at 6:00pm.**

Deb noted that Rob Hicks had emailed that he was unable to attend the meeting tonight.

**A motion to approve the minutes of the April 7, 2015 meeting and public hearing was made by Deb and seconded by Bob.**

Vote: 2 in favor, 0 opposed, 0 abstentions

**Poll of audience** – none present.

**Special Permit Applications** – none presented.

**Public Hearing Tobacco Violations** –Pam Miner informed the Board that she is the owner of Happy Trails, not Joyce Griswold whose name was on the violation notice.

**A motion was made by Deb Coutinho and seconded by Bob Gonzalez to open the Happy Trails Permit Suspension Hearing.**

Vote: 2 in favor, 0 opposed, 0 abstentions.

Deb Coutinho read the reported tobacco sale violation that had occurred at the Happy Trails store. The reported violation, #0647, occurred on May 22, 2015 and involved the reported sale of a tobacco or nicotine delivery product to a minor. The Board's records indicate a similar violation occurred on November 24, 2015, notice #0483. The Shelburne Regulations "Restricting the sale of Tobacco Products and Nicotine Delivery Products" state in Section O.1.b, "in the case of a second violation within 36 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco and Nicotine Delivery Product Sales Permit *shall* be suspended for seven (7) consecutive business days."

Deb noted that the purpose of the hearing tonight was to take testimony regarding this reported violation. If the Board determined that such a violation had occurred, the Board would identify for which seven day period the Happy Trails license would be suspended. Deb asked Dennis Lacourse the FH-STOPP compliance officer to provide his testimony. Dennis reported that on May 22, 2015 at 7:30 pm he conducted a compliance check at the Happy Trails Store with a 17 year old male. The underage male had been trained in how to conduct a compliance check. He had parental permission and he had nothing on his person except for what had been given to him by Dennis. In this case, this young man went into the store with some dollar bills. He purchased backwoods cigars for \$7.50 and when he left the store he kept the product in his hands and immediately gave the item to Dennis who tagged the product which is kept under lock and key until the hearing. The male indicated that the clerk was an older female who did not ask his age or for ID. Dennis showed the backwoods cigar package to the Board.

Approved: \_\_\_\_\_ Date: \_\_\_\_\_ 1

Pam Miner said she had been working that day, acknowledged that she had sold the product to the young man and that she had already paid her fine to the Town Clerk. She asked about why she was not informed of the violation at the time but was informed of the violation through a call a couple of days later. Dennis explained that is standard protocol in order to protect the young male. Pam Miner explained that she had tried to estimate his age but now they are going to ID everyone who looks 40 or under. Pam said she is now 2 years free of tobacco and has no problem with trying to keep tobacco away from people at as young an age as possible.

**A motion to close the hearing was made by Deb and seconded by Bob.**

Vote: 2 in favor, 0 opposed, 0 abstentions.

**Bob made a motion to open the deliberation on the Happy Trails hearing.**

Vote: 2 in favor, 0 opposed, 0 abstentions

Deb noted that she believes the sale to a minor took place since Pam Miner openly admitted the sale. Pam Miner said she is already on board with checking ID in the future. Deb explained that since it is a second offense within 3 years, the board needs to suspend the sale of tobacco products for 7 days. Deb and Dennis explained that she has to pack all her tobacco stock up and remove it from the premises. Deb will come and check before the suspension begins to confirm she has carried out that requirement. Deb suggested noon on a Sunday to noon on the following Sunday. Bob Gonzalez suggested to Pam Miner that she consider putting up a sign stating that the store will card everyone in order to take the guess work out of the situation. Pam said she would consider that suggestion.

Deb made a motion to suspend the license of Happy Trails Wine and Liquors for seven days beginning on the 26<sup>th</sup> of July at noon until noon on Sunday, August 2, 2015.

Vote: 2 in favor, 0 opposed, 0 abstentions

Deb asked Dennis if the signage needs to be removed and he said no the signage does not need to be removed.

Pam noted that Happy Trails is moving to the former "All Around Tile Building". Dennis recommended Pam consider getting a scanner that could scan a driver's license, would verify that it is a legal license and that the buyer is not a minor.

A motion to reconvene the BOH meeting was made by Deb and seconded by Bob.

Vote, 2 in favor, 0 opposed, 0 abstentions.

**Tobacco 21 FH-STOPP** – Mary Kersell reviewed new proposed regulations that would replace the Town's current regulation and increase the minimum age for tobacco sales to 21 years old. The Board reviewed the changes to the regulations and decided to cap the number of businesses selling permits to sell tobacco products at 5 stores. If a store is sold, the tobacco control permit can be transferred to the new storeowner unless there are any outstanding fines or violations or suspensions. The way the regulations are written, one business cannot transfer the business to another individual in order to avoid the loss of a license.

Mary will edit the draft regulations, run them by the MAHB lawyer for review and send us a new copy of the regulations. The date for the hearing was discussed. There is normally a six week time period after passage of the regulations before they go into effect. This time frame allows for education of the store owners affected by Dennis Lacourse. The Board decided to hold the hearing on Sept. 15<sup>th</sup> at 6pm. Mary will email a copy of a public hearing notice and how to run a public hearing.

**Review of phone messages, mail and emails** – the Board reviewed a reminder from Joe Judge to keep their conflict of interest certificate up to date, notifications of positive tests for WNV and several notices of food recalls.

**Cooperative Public Health Service Program update** – disposal boxes for sharps are going to be available for town departments and police departments. Deb will work on placing them. Deb carries disposal boxes in her car in case it is needed.

**Planning Board updates** – Liz reported the Planning Board has received an offer of assistance from Peggy Sloan of the FRCOG to help the Town revise/update their cluster bylaw. The Planning Board members are researching the differences between traditional cluster and Natural Resource Protection Zoning bylaws. There may be meetings in the future for a member of the BOH to attend to discuss approaches and experience in the use of shared wells and/or septic systems.

**MAPHCO – mini-grant program update** – the Mini-Grant funds have been spent and the grant money has been received from the FRCOG.

**Emergency Management Committee update** – this committee has not met recently.

**Kinder-Morgan Pipeline Update**- Deb Coutinho recused herself and left the room. Bob Gonzalez reviewed the materials and said he would try to attend the meeting the next day. Liz Kidder reviewed copies of past letters written by the BOH and Planning Board regarding possible impacts from the proposed pipeline.

Deb Coutinho returned to the meeting room.

**Inspections**- Deb and Rob are doing well at getting all the food service establishment inspections completed for this year. Now that spring is finally arriving, Deb anticipates the scheduling of many septic and Title V inspections. At the request of the owner, Deborah Lockhart Phillips, 40 Main St. was inspected before the rental to a tenant connected with the Franklin County Home Care Corp. It had been inspected by Deb and Dick Calisecki and Deborah Phillips is now in compliance having fixed a long list of repairs. Deb picked up a tick for testing at Camp Apex.

**Permit requests** – Will Van Heuvelen, Wheelhouse Farm LLC, came in for a temporary food permit for an event on August 2, 2015 at 206 Peckville Road. Deb issued a temporary food service permit to the Boy Scouts for the Fourth of July.

**DPH reports** - none.

**DEP reports** – none.

**Invoices** - Liz has been sending out invoices for inspection fees as soon as the inspections are done. The majority of the fees have been paid.

**Trainings & Certifications** – none reported.

**Other Business not reasonably foreseen 48 hours prior to the meeting** – none presented.

**Schedule next meeting:** Sept. 15<sup>th</sup>, 6pm unless an unexpected need arises before then. This meeting will be the hearing on the revised Tobacco Control Regulations.

**Public Comment** – none

**Motion to adjourn the meeting was made by Deb and seconded by Bob.**

Vote: 2 in favor, 0 opposed, 0 abstentions

**The meeting adjourned at 7:50 pm.**

**Respectfully submitted by:**

Liz Kidder  
Administrative Assistant