



# Town of Barnstable

## Board of Health

200 Main Street, Hyannis MA 02601

Office: 508-862-4644  
FAX: 508-790-6304

Paul J. Canniff, D.M.D.  
Donald A. Guadagnoli, M.D.  
John T. Norman  
F.P. (Tom) Lee, P.E., Alternate

### **BOARD OF HEALTH MEETING MINUTES**

#### **Tuesday, May 28, 2019 at 3:00 PM**

#### **Town Hall, Hearing Room**

#### **367 Main Street, 2<sup>nd</sup> Floor, Hyannis, MA**

A regularly scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, May 28, 2019. The meeting was called to order at 3:00 pm by Chairman Paul Canniff, D.M.D. Also in attendance were Board Members Donald A. Guadagnoli, M.D., John Norman, and alternate Tom Lee. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

#### **I. Proposed Regulation:**

Restriction of the sale of flavored tobacco products, sale of flavored nicotine products, including the sale of flavored nicotine/tobacco products used in electronic and vaping products.

#### **Public Comment Speakers:**

- 1) Jeffrey Spillane, M.D., Thoracic Physician, Cape Cod Hospital and did a brief slide presentation.

Dr. Spillane stated he has a chemist degree, a medical school degree, and has been a thoracic surgeon for 27 years; and with three teenagers, he has a strong interest in this topic. He goes out to the schools and meets with the children on the subject. He said there's a misperception amongst them. The youth believe smoking cigarettes is "gross" and they do not see vaping as the same. Vaping appeals to them, is "cool" and is an alarming epidemic. E-cigarette sales will pass traditional cigarette sales in year 2021 per Forbes article.

He believes the decline in lung cancer rates now is due to the preventative changes which began in the 70's in advertising and perception. When cigarette manufacturers started targeting women, there was an increase in lung cancer in women. The tobacco industry is now pushing e-cigarettes to youth. Vaping is easy to conceal in classrooms, etc. FDA has declared it an epidemic. This is effecting our whole generation of youths, which will affect many levels of our country (i.e. our military candidates, etc.)

The heavy metals, etc, which allow aerisolation of the liquor into a vapor are not good for us. The youths are acquiring a "jule" cough, as the youth identifies it as. This is showing it is an irritant resulting in a violent reaction to the lungs trying to get rid of it. The schools are handing out cough drops like crazy due to the complaints. The use will lead to "popcorn lungs" – Bronchialitis Obliterans. In the year between 2017-2018, there were 1.3 million new youths vaping. Dr. Spillane hopes we will move on this now

ahead of the research which will follow down the road and will show the devastation of the smoking, "as always".

2) Adam Liss, Tobacco Treatment Specialist

Adam received his training in 2001 and has been helping smokers quit ever since. E-cigarettes have the potential to help people quit smoking which is good. He now is working with kids in school trying to help some stop. He sees all are using flavored tobacco and supports helping eliminate the availability to youths.

3) Rick Patel, C.B. Perkins

Rick believes the youth are receiving the e-cigarettes through retail convenient stores and stresses his adult-only tobacco retail store has been in business for 18 years and is strict in making sure 21 and older are the only ones in store.

4) Marisa Vidal, Program Manager of the Southeast Tobacco Free Community Partnership, a grant program through MA DEP of Public Health

Marisa applauds the Board's efforts to reduce the sale to youths stressing the flavored tobacco is the tobacco industry's way of enticing youth.

5) Jeff Oyer, Attorney, Fletcher Tilton PC

Jeff recommended coming up with other creative ways to discourage youths from buying (i.e., fines) or use something similar to how Sudafed is regulated (limiting amount sold to customer per day).

6) Cheryl Sbarra, Senior Staff Attorney, MA Association of Health Boards (MAHB)

Ms. Sbarra said the State's research states the youth are obtaining the e-cigarettes from the retailers. There is aggressive marketing from the tobacco companies. By limiting to adult-only retailers, it will help as there will be less places to obtain the product.

7) Erin Donovan, Attorney, representing six retailers (Cape Market, Inc, Hyannis Convenience, AJ Mart, Willow Street Market, Mid-Cape Service Market, and Mini Food Market.

Ms. Donovan's clients have expensive software and training on preventing the sales to minors and have done a good job of it. They feel the key is to do education to youths. A minor will go to the older sibling, etc., to obtain and does not feel the ban will be effective.

8) Saeed Chaudhry, owner, Willow Tree Market

Mr. Chaudhry has been in business for 15 years and has not had any violations in sales during that time in liquor or tobacco. Their software cost \$6,000 and is used in Los Vegas

and is very effective. He does feel it is important to stop kids from using the product but does not support this ban.

He also recommended a grandfathered method where those stores who have not violated the sales to youth for the past two years or so, be allowed to continue until / if, they do sell to a minor and then, will be prohibited from selling flavored.

- Also, Erin Donovan submitted some petitions which were signed for the Coalition of Responsible Retailing to supporting the businesses in continuing to sell.

The Board voted to close the public hearing.

Donald Guadagnoli spoke of how the issue in the schools is enormous. He knows there are benefits to the adults trying to reduce their smoking by moving into e-cigarettes but feels we need to protect our youths at this point. The youth do not get the impact of vaping to their health, nor the addictive behavior.

John Norman understands and sympathizes with the retailers. He hopes the neighboring towns will join in and pass similar regulations. He believes we need to move forward and make changes to protect the youth.

Dr. Canniff agreed with the comments and is in support of the proposed regulation.

Upon a motion duly made by John Norman, seconded by Dr. Guadagnoli, the Board voted to adopt an addition to Town Code 371-11 to add: Flavored , and add the definition of flavored (in Section C.), with an effective date of 6-29-19. (Unanimously, voted in favor.)

## **II. Septic Inspection Determination:**

Mike DiBuono, Septic Inspector, DiBuono Sewer and Drain, requests determination of septic system at 1016 Phinney's Lane, Hyannis, system failed on April 25, 2018, system conditionally passed on May 15, 2019, and needed tank leak fixed. Septic tank has now been sealed and requesting a "pass".

Mike DiBuono was present.

The Board expressed concern of liability for the Board if they accept one inspection over the other as the two inspections were done during a time when no one was using the property. If the original inspector is willing to open up the D-Box and re-evaluate it and considers it now to pass, it would remove the conflict.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to continue this item to the June 25, 2019 meeting. (Unanimously, voted in favor.)

## **III. I/A Monitoring Plan Reduction:**

Anthony Leone, owner – 23 Burnham Street, Marstons Mills, requesting reduction in I/A monitoring.

Anthony Leone, owner, was present.

The Board explained that the eight reports are not favorable and they cannot reduce the monitoring until there are eight good reports. The Board recommended speaking with the person the owner bought the system from and inquiring where the problem may be.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to keep the monitoring as is. (Unanimously, voted in favor.)

**IV. Food Variance:**

Daryl Kirby and Barbara Scalzi, Hyannis Athletic Association, operating the Harbor Hawks concession stand, The "TNT" Stand – 116 High School, Hyannis, McKeon Field Snack Bar, on town sewer, requesting a grease trap variance.

Ms. Daryl Kirby and Brad Pfeifer were present.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to grant the grease trap variance for their full menu. (Unanimously, voted in favor.)

**V. Temporary Food Permit Application- Weekly Events:**

A. Jeff Craddock, coordinator for the Tour De Barnstable event – at Cape Cod Maritime Museum on Sunday, June 9 from 10:30 –1:00 pm.

Jeff Craddock was present

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to grant a variance for the temporary food event. (Unanimously, voted in favor.)

B. Amy Mesirow, Cape Cod PRIDE Festival at the Town Green - 376 Main Street , Hyannis on June 22 from 12-5, for two food vendors and two mobile trucks (SoulFull Food did not submit an application.)

Amy Mesirow was present.

Upon a motion duly made by Dr. Guadagnoli, seconded by Mr. Norman, the Board voted to grant a variance to the temporary food event. (Unanimously, voted in favor.)

C. Elizabeth Wurfbain for Hyannis Main Street Business District Improvement event "Long Table" with change of venue on Sunday, June 23<sup>rd</sup>. Main Street will be closed off and tables will be in center of street.

Elizabeth Wurfbain explained that some vendors will be right in front of their establishment and will remove the dishes and return them right to the kitchen. Others will be using equipment to keep foods at the correct temperature and using tables for removal of dishes.

Mr. McKean asked for a revised diagram which will clearly layout the handwash stations.

Each vendor will be three feet away from the next vendor. Each vendor will be serving a four-course meal. It will be coordinated so all vendors are serving the same course.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to grant a variance with the condition that a revised diagram of the layout be submitted to Mr. McKean. (Unanimously, voted in favor.)

**VI. Septic Installer:**

Philip J. Pina, East Falmouth, MA

Upon a motion duly made by Dr. Guadagnoli, seconded by Mr. Norman, the Board voted to grant Mr. Pina a septic installer's license. (Unanimously, voted in favor.)

**VII. Hearing – Underground Storage Tank:**

Linda Whitcomb, Charles, Marie, Cara, Donna, owner(s) – 88 Greenwood Avenue, Hyannis, underground storage tank over 30 years old, continued from February 2019 meeting, provide proof of tank pump-out removing moisture and remnant oil, and update on tank removal and Charles Whitcomb applying to County loan program.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to assess fines of \$100 per week starting one week from today until the owner is in compliance. (Unanimously, voted in favor.)

**VIII. Proposed Policies:**

A. Markets and Farmer's Markets

No one is here from the public to support a change.

Upon a motion duly made by Dr. Guadagnoli, seconded by Mr. Norman, the Board voted to continue to the June 25, 2019 meeting.

Withdrawn B. Deadlines for Connections to Public Sewer, Phinney's Lane Project.  
Withdrawn C. Standard Operating Procedures: Notifications and Approvals of Building Permits In Locations Where Public Sewer Will Be Available – Phinney's Lane Project.

D. Authorize Director of Public Health, Thomas McKean, to sign Title V restriction and the easement for 135 Acre Hill Road, Barnstable.

Upon a motion duly made by Mr. Norman, seconded by Dr. Guadagnoli, the Board voted to authorize the Chair to sign the easement and to sign any easement (or any such document) which is voted in by the Board.

**IX. Correspondence:**

Correspondence from Jess Oyer, Esquire, Fletcher Tilton PC regarding flavored tobacco.

Motion to adjourn – 5:30pm.