

MONTAGUE BOARD OF HEALTH MEETING
Wednesday, October 30, 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: Dennis Lacourse (Franklin Hampshire Tobacco Coalition Compliance Officer), Tom Kolcat (Regional Manager- Cumberland Farms), Kevin Rizzo (Area Manager- Cumberland Farms), David McMillian (Store Manager-Cumberland Farms)

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

- Review September 18, 2013 Minutes:

Al Cummings motioned to accept the Montague Board of Health minutes for the meeting of September 18, 2013. Seconded by, Christopher Boutwell. Motion passes.

- Director's Report September 2013
 - a) Jay Watroba of Grand Ave had an issue with his sewer backing up into a Crescent Street resident's back yard. The issue was a rock blocking the line which now has been removed. Jay Watroba has built a casement around the area with a cover so that it can be checked more easily going forward.
 - b) A gentleman came into the office that wants to bottle coffee in Montague and sell it wholesale. He has been directed by Gina to seek a wholesale license from the MDPH.
 - c) A new mobile pushcart vendor inquiry regarding selling soup.
 - d) The Receivership program is in full swing with all properties being re-inspected and written reports completed. The Attorney General's office has been informed of where we are in the process of the program and follow up will continue to be made.

Christopher Boutwell motioned to accept the Montague Board of Health Director's report for the month of September 2013. Seconded by, Al Cummings. Motion passes.

- Nurse's Report (Carolyn Merriam) for the month of September 2013
 - a) The flu vaccine reimbursement program will happen through Medicare and Medicaid.
 - b) The flu clinics are in process.

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

- Health Inspector Report (Carolyn Merriam) for the month of September 2013
 - a) Carolyn is doing a second round for food inspections and is in the process of doing the schools.

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

- **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: Dennis Lacourse (Franklin Hampshire Tobacco Coalition Compliance Officer) and Tom Kolcat (Regional Manager- Cumberland Farms), Kevin Rizzo (Area Manager- Cumberland Farms), David McMillan (Store Manager-Cumberland Farms –Turners Falls, MA)

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

Al Cummings motioned to open the Tobacco Sales to Minors by Cumberland Farms hearing at 5:45 PM. Seconded by, Christopher Boutwell. Motion passes.

- Cumberland Farms

The retailer had a 2nd illegal sale to a minor on June 23, 2013 and 3rd illegal sale to a minor on July 20, 2013 offense. The retailer appears unable to learn from their offense so the Board has to take that into consideration.

June 27, 2013 at 4:32 PM Dennis Lacourse on behalf of the Mount Tom Tobacco Free Coalition conducted a compliance check with a 17 year old male who carried no ID. He entered the store approached the counter and purchased a small grape cigar (grape cigarillo) for \$2.66. The young female clerk did not ask for an ID and did not inquire about his age. He exited the store without concealing the item. The 17 year male then brought the product to Dennis who labeled the items.

July 20, 2013 at 9:22 AM Dennis Lacourse on behalf of the Mount Tom Tobacco Free Coalition conducted a compliance check with the same 17 year old male. He had in possession his youth driver's license. A youth driver's license states when person will turn 21 yrs old and the information contained on the ID is oriented vertically. He entered the store and approached the counter and purchased a Dutch Master grape cigarillo for \$2.55. The young female clerk did not ask for an ID and did not inquire about his age. He exited the store without concealing the item. The 17 year male then brought the product to Dennis who labeled the items.

Cumberland Farms is trying to be a responsible retailer and every month each employee takes a "we card" test. This test helps to remind the employees what the laws are and what their responsibilities are as employees. We have a couple of employees we have had to retrain due to incidents. Cumberland Farms believes that everyone makes mistakes and that retraining is a way for an employee to improve while noting the severity of the offense. Cumberland Farms now has the ability to scan ID's which helps eliminate human error that happens by manual inputting information into the register. David McMillan has been tracking the ID key since the first offense. The id key is reading in the 98% range which was not the case at the time of the first offense. There is onsite coaching by managers regarding the tobacco regulations.

June 4, 2012 – 1st violation

June 27, 2013 - 2nd violation

July 20, 2013 – 3rd violation

Christopher Boutwell motioned to close the Tobacco Sales to Minors hearing with Cumberland Farms. Seconded by, Al Cummings. 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 Health discussed and determined that sales to minors did occur. Due to the fact that the violations fall within 36 months of the first violation there is a fine of \$200 and a suspension of license for 7 consecutive days. (Fine of \$200 and suspension of tobacco sales license for 7 days). A third violation occurred which means there would be a \$300 fine and 30 day suspension of license combined with the second violation fine and permit suspension. (\$500 fine and a 37 day suspension of license). Michael Nelson's opinion is that since the Montague Board of Health did not speak to Cumberland Farms between the second and third violation the Board need only consider the 2013 violations at this time. In doing so this would lead to a fine of \$200 and a 7 day license suspension –dates to be decided by the retailer.

Al Cummings motioned that Cumberland Farms will work with Gina within the next 30 days to set a date for the seven day suspension. The store is required to remove all tobacco products from the location.

Seconded by Christopher Boutwell. Motion passes.

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

- Duane Jenks request for perc variance for M 49 L 16 & M 49 L 37 on Federal Street.

Duane Jenks did not appear for the perc variance and the Montague Board of Health has no paperwork in hand as of yet. Gina suggested that this perc test be done during the perc season (March 1, 2013 – May 31, 2013) due to wetlands.

Al Cummings motioned to table the request for a perc variance for Duane Jenks. Seconded by, Christopher Boutwell. Motion passes.

- Dylan Field request for perc variance for lot on Dry Hill Road

Guest: Dylan Field

The lot currently is owned by Laurie Powers and Dylan Field is in the process of purchasing the lot which consists of 9.7 acres. The lot is Map 45 Lot 60 and is located on Dry Hill Road. The purchase and sale of the lot is contingent on the results of the soil evaluation and perc test.

Al Cummings motioned to issue a perc variance for Map 45 Lot 60 on Dry Hill Road for Dylan Field. Seconded by, Christopher Boutwell. Motion passes.

- **Other Business:**

The state is going to electronic death certificates Funeral Directors to have limited access to the state database. The Board of Health, by law, appoints the burial agent annually. Currently, it so happens that our appointed burial agent is also the assistant town clerk. This may not always to be so. The Montague Board of Health needs to appoint a burial agent for the Town Clerk's office. Gina has a memo that will be signed by the Board of Health to appoint Mandy Hampp.

Al Cummings motioned to allow Gina sign the memo allowing the Town Clerk's office to handle the burial permits. Seconded by, Christopher Boutwell. Motion passes.

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

Meeting adjourned: 6:40 PM

Approved by: _____

Date: _____