

# BOARD OF HEALTH MEETING

June 30, 2015

Watertown Administration Building, Lower Level Conference Room

**CALL TO ORDER:** Dr. John Straus called the meeting to order at 7:09 PM.

---

**PRESENT:** Dr. John Straus, Chairman, Dr. Barbara Beck, Richard Arnold, Deborah Rosati, Director of Public Health, Kristel Bennett, Chief Environmental Health Officer, and Karen O'Reilly, Animal Control Officer/Jr. Sanitarian.

## **Minutes**

Richard Arnold offered a motion to approve the minutes of the May 20, 2015 meeting as presented. Dr. Beck seconded the motion. Voted unanimously.

## **Public Comment**

There was no public comment.

## **Arax Market – Variance Hearing**

Present: Owner Harout Bassmajian, Jack Bassmajian

Jack Bassmajian presented a request for relief from Watertown's Board of Health "Regulation Regarding Smoking and the Sale and Use of Tobacco and Nicotine Delivery Product" Section I 6 to allow for the sale of flavored tobacco. Jack Bassmajian advised the Board that they have been selling hookah tobacco for years; it is part of their culture. He indicated that the tobacco is molasses based; only one type is mint flavored. Many customers are upset that they will be losing the sales. The towns of Norwood and Needham are allowing the sale. The hookah tobacco is usually flavored, none is just tobacco flavored. Dr. Straus indicated that the Board cannot just allow one location to sell flavored tobacco as there was much consideration given to the regulations. Mr. Bassmajian indicated that because they sell food, they are prohibited from selling the hookah flavored tobacco but the tobacco retailers are allowed to sell flavored tobacco. Richard Arnold indicated that most of the neighboring communities are prohibiting the sale of flavored tobacco. There was also discussion about Arax opening a separate retail shop for tobacco.

Following further discussion, Dr. Beck offered a motion to put a stay on the prohibition of sales of flavored tobacco products for use in hookah and on the enforcement of traditional hookah sales, for a period of six months, to allow for further study and consideration. Richard Arnold seconded the motion; voted unanimously.

## **Glow Tanning, 71 Arlington St. – Administrative Hearing**

**Owner: Kevin Middendorf**

**Present: Nanour Bedoyan**

The Board acknowledged that Nanour Bedoyan who is an employee at Glow Tanning was representing the business. She indicated that Kevin Middendorf, owner, was caring for his

children, and that manager Jenna Wall was unable to attend. The Board thanked Ms. Bedoyan for attending but expressed their disappointment with the failure of Kevin Middendorf to attend this hearing.

D. Rosati indicated that Glow Tanning was issued a cease and desist order for operating the tanning facility without a valid permit. The permit was not applied for on time and expired on May 31, 2015. There are outstanding personal property taxes retroactive to 2009 which the owner, Kevin Middendorf, just agreed to pay under an approved payment plan with the Treasurer/Collector and Assessor's Offices. K. Bennett indicated that Glow Tanning also failed to apply for a permit in 2013. D. Rosati noted that all Town notices were being sent to an old address in Quincy, so that Mr. Middendorf was not receiving any notices.

The Board expressed concern with the business operating without a permit and failure to pay taxes, and indicated that fines could be assessed for not less than \$200 nor more than \$2,000 for non-compliance. When asked, Nanour Bedoyan indicated that they were closed for 3 ½ days which amounted to a loss of \$3,000 to \$4,000. K. Bennett also noted that there were late fees of \$125.00 incurred.

Following discussion, Dr. Beck offered a motion to issue the Tanning Facility permit through May 31, 2016 with the condition that Mr. Middendorf be advised of the Board's disappointment with his failure to attend this hearing, to apply for a new permit, and to notify the Town of a change of address. Seconded by Richard Arnold; voted unanimously. The Board determined that the loss of business and late fees that were assessed was sufficient penalty. They further indicated that a lack of compliance could result in the suspension or revocation of the permit to operate.

**Dangerous Dog Hearing**  
**Owner of Dog: Tom Shortt**  
**Complainant: Tami Pester**

The Board received a letter from Tami Pester of 95 King Street, requesting a hearing alleging that the dog owned by Tom Shortt of 58 Ralph Street, Watertown, is a vicious/dangerous dog. Deborah Rosati acted as the Moderator of the hearing, and informed the audience that the hearing would be audiotaped for the record, and this record would be available by disk following the hearing.

All parties who spoke at the hearing were under oath. D. Rosati acknowledged as part of the testimony, Ms. Pester's June 12, 2015 request for a hearing with her account of the incidents of May 27<sup>th</sup> and June 11. Ms. Pester and one witness spoke on her behalf, Mr. Shortt and two witnesses spoke on his behalf. Other testimony included that of Animal Control Officer, Karen O'Reilly.

Based on the Board's discussion of the testimony of the dog owner, the complainant, the witnesses, and the Animal Control Officer, the Board of Health made the following factual findings:

1. "Seamus" is a 2 ½ year old male Mastiff dog owned by Tom Shortt and kept at 58 Ralph Street in Watertown.

2. There were two separate incidents, May 27 and June 11, 2015, where “Seamus” freed himself and confronted Ms. Pester’s dog(s).
3. It is unable to be determined how “Seamus” became free on May 27<sup>th</sup>.
4. “Seamus” pulled off of his leash on June 11, 2015.
5. There are no Police reports on file relative to these incidents.
6. Ms. Pester’s dogs were knocked over during the confrontations, and Ms. Pester fell to the ground during one of the confrontations.
7. There were no other incidents of aggression reported against “Seamus” including at the Dog Day Care that he attends.

In consideration of the testimony presented and the provisions of Mass. General Law, Chapter 140, Section 157 (A) (1-4), Dr. Beck offered a motion to dismiss the complaint alleging that “Seamus” is a dangerous dog, with the condition that, as a result of “Seamus” becoming loose on two occasions, effective immediately the owners shall take all reasonable steps to ensure that “Seamus” is under their control at all times and shall comply with the provisions of the existing Watertown Animal Control Regulations. Seconded by Richard Arnold, voted unanimously.

### **Moda – Watertown Mall – Variance Hearing**

#### **Present: Mansour, Owner**

Mr. Mansour presented a request for a variance from the requirements of Watertown’s Board of Health “Regulation Regarding Smoking and the Sale and Use of Tobacco and Nicotine Delivery Product” Section I Prohibited Activities, Section I (3) and (6) to allow for the sale of flavored tobacco and to allow for the use of his existing walk-in humidor. Mr. Mansour operates a store that has tobacco products as well as food snack items as he is located in the Watertown Mall across from the DMV office. K. Bennett explained that the humidor is not allowed in retail food establishments but is allowed in walk-in tobacco stores. The humidor has been in this store for years and is a locked unit. Mr. Mansour indicated that he has removed the flavored tobacco and placed it in the locked humidor. Dr. Straus indicated that flavored tobacco is not allowed in a retail food store that the intent is to discourage young people from being tempted to purchase flavored tobacco, but there was an earlier decision on hookah tobacco this evening.

Following further discussion, Dr. Beck offered a motion to allow the continued use of the humidor as it is a pre-existing locked unit on this site, and public health protection is equally achieved as if the cigars were being locked behind the counter. Richard Arnold seconded the motion; voted unanimously. Dr. Beck offered a motion to deny the variance to allow the sale of flavored tobacco; second by R. Arnold; voted unanimously.

### **Appointment – Natalie Miller**

The Board was introduced to Natalie Miller who was an Epidemiology and Emergency Preparedness Intern for the Brookline Health Department and is now the Tobacco Control Coordinator. Richard Arnold offered a motion to appoint Natalie Miller as an agent of the Board of Health for the purposes of enforcing tobacco control regulations. Dr. Beck seconded; voted unanimously.

The Board discussed a new State-issued flavored tobacco list that was received from Ms. Miller. They recommended creating a memo about the State list and sending it to retailers that the list will be enforced as banned products when it is approved.

Ms. Miller reported that two retailers sold to minors during the last compliance check: Dyers Liquors and Arsenal Wine and Spirits. Tickets have been issued.

**Discussion on Amendment to Minutes**

The Board discussed a request to amend the minutes of the December 19, 2013, February 24, March 19, and April 16, 2014, to strike the occupant's name as referenced in a housing case at 164 Galen Street. The Board was concerned about amending documents that were already approved and have been public record. Dr. Beck offered a motion to deny the request to alter the minutes. Seconded by Richard Arnold; voted unanimously.

**Next Meeting:** Date in July TBD – will be a health priorities planning meeting only.

Adjourn: Meeting was adjourned at 10:10 PM.

Respectfully submitted: Deborah M. Rosati, Director of Public Health

Approved: July 23, 2015