

**Board of Health  
Meeting Minutes  
April 9, 2012**

Members Present:

Tom Kinzer, Co-Chair  
Bea Brunkhorst, Co-Chair,  
Sarah Thompson  
Anita Raj  
(arrived after meeting called to order)

Member Absent:

Kevin Wormstead

Staff Present:

Heidi Porter, Director  
Mary Firestone, Recording Secretary

Also attending:

D. J. Wilson, Tobacco Control Director, Massachusetts  
Municipal Association, 1 Winthrop Square, Boston  
Greg D'Agostino, 9 Bradford Road, Natick, MA  
Andrew Borella, Genetti's Wine & Spirits, 170 Great  
Road  
John Pearson, Shell Station, 358 Great Road  
Nancy Asbedian, 16 Lido Lane

The meeting was called to order at 7:07 P.M. Mr. Kinzer chaired.

Reorganization of the Board of Health:

Ms. Thompson moved that Mr. Kinzer and Dr. Brunkhorst continue as Co-chairs. Vote: 3-0

Minutes:

Review of the minutes of the March 5, 2012 meeting was tabled to the next meeting as Mr. Wormstead would have to be present for a quorum of members present at that meeting.

Hearing on Revision to Youth Access Tobacco Regulations:

Ms. Thompson moved to open the public hearing; Dr. Brunkhorst seconded the motion. Vote: 3-0

Mr. Kinzer explained the reasons for revising the tobacco regulations: (1) use of electronic cigarettes; (2) inappropriateness of the sale of tobacco products on the premises of health care (pharmacies) or educational institutions; (3) ban on sale of single cigars below a specific price point.

Mr. Wilson spoke on the reasons for changes in the regulations. The first reason is to expand the youth access regulations and to try to get ahead of industry on e-cigarettes. Even trade associations (e-cigarette manufacturers) agree that they should not be sold to kids. He distributed a list of towns which have adopted new regulations including bans on sale in health care institutions. In the matters of cigars, the regulation is intended to prevent kids from buying cheap cigars (as low as \$0.60 to \$1.25); kids are price sensitive. Boston is currently the only city or town with a regulation including a ban on single cigars below a specific price point. There has been no litigation on this issue as yet in Boston. He suggests letting Boston ride it out and get data points. Part of the governor's budget addresses the issue, but there is no state legislation yet.

Mr. Kinzer asked Ms. Porter if cigars were ever included in compliance checks at retailers. She said, "No, only 2 types of cigarettes, in accordance with federal guidelines for compliance checks".

Mr. Borella said that he stopped selling cheap, individual cigars; he asked why the Board thinks youths buy cheap cigars. He stopped selling cigars and wrappers because kids use them to roll marijuana cigarettes. He thinks the issue should be handled by parents not the Board of Health. Mr. Wilson showed the Board members examples of cigars and sheets of tobacco which are used for rolling marijuana cigarettes.

Mr. Borella asked about 'nicotine delivery products', e.g., drug stores selling Nicorette? Mr. Kinzer read from the regulations, that the restriction is: "not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration."

Mr. Pearson asked, "What's the difference?" He said that he doesn't sell e-cigarettes. If he can't sell one type of cigarette, he may need to reduce his staff. His explanation is that e-cigarette smokers use them where they can't smoke cigarettes. Mr. Kinzer said the distinction is that Nicorette gum and patch are appropriate in a medical context; they can be abused like any prescription drug. Mr. Pearson said that in his experience, e-cigarette users are those who can't smoke cigarettes. He said that he doesn't sell anything to youth. Some stores in the chain do sell e-cigarettes and he will get them if requested by a regular customer. Ms. Porter said that your permit would let you sell them to adults. The regulation intends to include them as part of the permitting process.

Mr. Pearson said that he does sell individual cigars to young adults, 18 to 35 years old. Many older adults buy cigars costing less than \$2.50 each or as packages. When they come in they'll usually buy other things. He will lose those customers, reducing sales and reducing payroll; it goes down the food chain. Mr. Kinzer asked, "But you refuse sales to youth?" Mr. Pearson said, "Daily I refuse sales to youth."

Ms. Porter said that when cigarette prices go up, sales go down according to the data. Kids with limited means buy the cheaper products. Mr. Borella said that he doesn't think the increase in price works --- buyers go to New Hampshire or order from the internet; the same as with alcohol, they buy it elsewhere. The revenue that should have gone to Massachusetts goes elsewhere. If there were consequences to parents when kids were seen smoking, that would have impact.

Ms. Thompson asked about single cigarettes. Mr. Wilson said that their sale had been banned for 5 years. She asked about e-cigarettes: the contents are not known, testing has not found consistency in the products. Mr. Borella said that he has sold them. Ms. Porter said that industry claims that they have a smoking-cessation impact. Ms. Raj said that with regard to consistency, they are similar to alternate medicine products. Mr. Kinzer said that some versions of the e-cigarettes can be reloaded; the user can put his own material into them. Mr. Borella said that they are often used by people in airports and hotels; smoking in a non-smoking hotel room can result in a \$400 bill for cleaning the room.

Ms. Thompson asked about the price of a 'good' cigar. Mr. Borella said, "\$4 to \$15, or \$45 for a Cohiba". Ms. Thompson asked, "A \$1.25 cigar currently exists?" Mr. Kinzer said, "This is not a problem we can fix, not for the world or nation, only Bedford. Good success in Bedford is possible through checking IDs, but it is relatively easily by-passable. It's the best we can do to protect kids. Clearly, regulations do not prevent the use of products by adults." Ms. Thompson said, "An elderly person may not be able to get the products."

Mr. Borella told of a woman who was buying alcohol products for kids to get around a police sting. It was demoralizing. Kids can get around barriers. Ms. Thompson asked who does the sting operations. Mr. Kinzer said, "We do for tobacco compliance, and the police do it for alcohol which is illegal for kids to possess."

Ms. Porter said, "According to data from Bedford's 2010 Youth Behavior Risk Survey, 12% of students had had a cigar within the past 30 days. 20% of respondents said that they had used cigars

during their lifetime. Cigarette use had declined due to the ban on the sale of “loosies” and the setting of a minimum cost for a pack.”

Dr. Brunkhorst asked whether Ms. Porter had consulted town counsel about the proposed regulations; Ms. Porter said yes and that no substantive changes had been recommended by town counsel.

Ms. Raj said, “Personally I think shopkeepers’ compliance efforts are good. We can’t solve the problems of the world. The culture in this town is that kids are always going somewhere. They walk around after school and visit the shops.” Mr. Borella said that there should be a limit to the money in the kids’ pockets; when he was raising kids, he checked their pockets. He raised his kids in Carlisle where families always knew if kids were out and about because there is usually nobody on the streets there.

Ms. Porter reviewed the correspondence received from commercial organizations, e.g., Massachusetts Food Association, Retailers Association of Massachusetts and National Association of Tobacco Organizations.

Mr. Borella expressed concern about who checks on tobacco sales, especially when he is not present. He has instructed his employees not to give information. He would like people doing checks to have official IDs. 6-8 months ago, someone was asking questions and wanted to go behind the counter; it seemed to be someone selling signs and had a memo with him. Mr. Wilson said that compliance checkers would not go behind the counter. Ms. Porter asked Mr. Borella to bring the memo to the Board of Health office.

Mr. Kinzer asked, “Have we heard enough?” Dr. Brunkhorst asked if the vote could be put off until Mr. Wormstead was present. Mr. Kinzer noted a dichotomy between items causing no objection and the cigar packaging issue, which could be separated. Dr. Brunkhorst asked, “Can we have different effective dates?” Ms. Porter said that we could get Boston’s experience data. Mr. Kinzer observed that there have been no complaints from pharmacies and educational institutions. Do we wish to keep it in draft and give different dates or separate them? What would we expect to learn from the Boston experience. Mr. Wilson said, “Compliance and litigation experience.” Mr. Kinzer said, “Bedford stores are checking IDs and people are beginning to figure out ways to get around them.” Mr. Kinzer said, “See if the changes gain momentum and affect local conditions --- if other town restrict sales, it will not be so easy to go elsewhere.” Dr. Brunkhorst asked, “Is there time to change the regulation before the date we’ve set?” Ms. Porter said, “We can change the date to June 1 for implementation and make it later for cigars.” She asked Mr. Wilson how to best clarify varying implementation dates. He replied, “Add a phrase at the end to change the implementation date.” Ms. Porter also recommended a change to the regulation on page 2, to strike the words “bans on flavoring”, with a later implementation date for restriction on cigars.

Mr. Borella said, “The regulation does not address roll-you-own materials.” Ms. Porter said, “We’ll address that next.” Mr. Wilson said that there is no indication that kids use the machines which make cigarette packs and cartons. We are surrounded by five other states with higher taxes. We can caution retailers that machines may be regulated in the future. Cities and towns cannot ban rolling papers because of a 1989 state law. Ms. Raj said that she would like to delay the vote until the next meeting so that she can familiarize herself with the issues and we can get Mr. Wormstead’s input. Dr. Brunkhorst said that there would be no harm in the delay.

Ms. Raj moved to close the public hearing; Dr. Brunkhorst and Ms. Thompson seconded the motion simultaneously. Vote: 4-0

Dr. Brunkhorst thanked the visitors for their input.

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Board members introduced themselves to former Board member Nancy Asbedian who indicated she was present to observe the meeting.

Ms. Porter introduced the need for nomination of Inspectors of Animals. Dr. Brunkhorst made a motion that in accordance with the Massachusetts General Laws, Chapter 129, Section 15, the Bedford Board of Health nominates the following three town employees as Inspector for Animals for the year ending April 30, 2013:

1. Mike Leskowski, Inspector of Animals, Bedford Police Department;
2. Joseph Knott, Health Agent, Bedford Board of Health; and,
3. Heidi Porter, Director of Public Health, Bedford Board of Health.

Ms. Thompson seconded the motion. Vote: 4-0

Board of Health Action Items ---Old and New Business:

*Update on BOH liaison assignments:*

Mr. Kinzer mentioned that he had attended a meeting of the Community Partnership Committee. Ms. Porter explained to new members the interests and membership of the Community Partnership Committee.

Ms. Porter said that there are currently 17 families-in-transition housed at the Plaza Hotel.

Mr. Kinzer said that the general tone at the Town Meeting was more negative than he has ever seen; more people are getting involved without realizing what the issues are.

Board members briefed new members on town committees on which the members serve. Dr. Brunkhorst discussed the Institutional Biosafety Committees at the businesses with Recombinant DNA permits; there are 10 biotech companies in Bedford, each paying an annual fee of \$500.

Director's Report:

In response to an Action Item from the previous meeting, Ms. Porter reported on the state mandate for physical education in the schools: 200 minutes per week, including recess.

The Carlisle Road septic to sewer issue has been closed out.

Ms. Porter worked with and educated fire and police personnel on recognizing hoarding issues. She also worked with the Council on Aging and Minuteman Senior Services on current hoarding cases.

She reported that an Intern provided outreach to the Bedford community on having emergency medical and personal information on the ready in the event first responders were to arrive and a person could not speak for themselves.

She explained the state of the healthy eating grants.

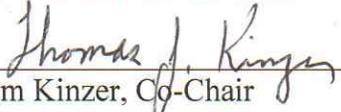
Dr. Brunkhorst said that the Board has to do a performance review on Ms. Porter; her performance will then be reviewed by the Town Manager.

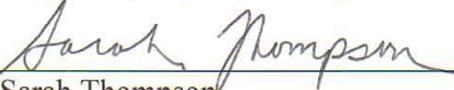
Ms. Porter said that the community nurse, Judi Jelloe, will retire at the end of June and administrative assistant Jean Squires will retire in mid-September.

Ms. Raj moved to adjourn the meeting; Ms. Thompson seconded the motion. Vote count: 4-0. The meeting was adjourned at 10:00 P.M.

Future meetings of the Board will take place on May 7, June 4, July 23, and September 10, 2012.

  
Bea Brunkhorst, Co-Chair

  
Tom Kinzer, Co-Chair

  
Sarah Thompson

  
Anita Raj

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Kevin Wormstead