

TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-24451
Telephone (508) 398-2231, ext. 1241
Fax (508) 760-3472

Board of
Health
-
Health
Division

BOARD OF HEALTH MINUTES February 25, 2019

MEMBERS PRESENT: Hillard Boskey, MD, Chair
Mary Craig, Vice Chair
Charles Holway, Clerk
Debra Bruinooge
Eric Weston

MEMBERS ABSENT: None

OTHERS: Bruce Murphy, MPH, Health Director
Amy vonHone, Assistant Health Director
Jess Oyer, Fletcher Tilton PC / CRR
Jeffrey J. Spillane, MD, FACS
Dan Ojala, Down Cape Engineering
Steve Cook, Project Manager
William Surpernant, Owner
Please See Attached for Further List of Attendees

I. Public Comment - None

II. Listening and Educational Session – Tobacco Board Discussion

Informational session with Dr. Spillane, Thoracic Surgery, Cape Cod Health Care. Dr. Spillane stated that while cigarette smoking among our youth had dropped over the last 10 years, vaping has sprung up among them in the past 2-3 years. Predominately due to the fact that vaping/e-cigarettes has been promoted as a non-harmful alternative to smoking. Our youth did not like the lingering smell of tobacco cigarettes on their clothes or property. Vaping gives them the opportunity to choose their flavor in addition to a non-lingering odor. The expelled vape has a sweet aroma that dissipates quickly.

Dr. Spillane stated the long term effects of vaping are unknown due to effects taking 15-20 years to see. There is definitely a danger involved when a liquid is heated to the point of a producing vapors then taken into the lungs. Dr. Spillane sees vaping as an epidemic and with any epidemic it will take a years to feel the effects. Kids of Middle School ages are the ones most at risk. They are the ones who are using, Juuling together, as a status symbol among this age group.

Jess D Oyer, Esq. with the Law Firm Fletcher Tilton PC. Mr. Oyer, Esq. represents The Coalition of Responsible Retailing or CRR. The CRR agrees with the Board that there is an issue with youth using these products. Where they differ is on how to address the issue. The regulations which the Board is suggesting does not specifically target the youth use, it targets the community on a whole which stands to be very harmful to local businesses.

The proposed regulation would completely restrict an entire line of products of mint or winter green that are less harmful than traditional combustibles. Such as chew, snuff and dip and e-cigarettes. Taking these products off the shelves and restricting to 21 and older stores could potentially push adult users back to combustible products. The purpose of harm reduction products is to help adult users to reduce the use and possibly quit entirely all nicotine based products. CRR is asking the Board to consider this when making a determination of the proposed regulation.

Another alternative to removing e-cigarettes and flavored tobaccos from retail stores is to remove them from counter tops and enclose the cases behind the counter. If the Board feels the mere sight of these products entice our youth this would be an alternative to complete banishment. Thus allowing retail stores to continue to sell these products and adults access to harm reduction products.

Linda Devin stated education is key to changing the behavior of our youth. Regardless of a regulation our youth are going to do what they want. Once a behavior has started it is very difficult to change. Need to educate prior to a problem rather than after the fact.

Dr. Spillane addressed the Board as a concerned parent asking, has this type of regulation actually made an impact? If so then why then would the Tobacco Industry invest so much of their revenue in promoting Jull? Dr. Spillane stated the head of the FDA has declared it an epidemic so it is an epidemic. Believes the Board has an obligation to send a message to the children of Yarmouth that the town does not support this type of behavior.

Ryan Doyle has two boys in the DY schools and younger. He stated he has educated his children of the dangers of smoking yet they are still willing to use. He has taken away their devices and they find new ones. He stated that kids as young as 14 have been able to go into the stores and buy them. He hopes the town will do something to deter the ability of kids getting their hands on the devise. Seems to him that no matter what it is these kids want or need to achieve those ends, they will get it regardless of the proposed regulation.

Shelly Nunes a resident of the Town of Yarmouth and a current smoker trying to quit. She is due to have surgery and was told by the doctor that e-cigarettes were not an acceptable alternative to quitting. Not enough science behind the product for him to say it was safe. This being said she does not feel taking it off the shelves would necessarily keep it out of the hands of children. This could acutely open up a whole new product for the black market.

Christine Greely, Chair of The Yarmouth Substance Awareness Committee, Yarmouth Resident, a retired school administrator. She is not here on any of their behalves. She wants to speak on social norming, what is allowed equals what is ok. The use and abuse of vaping in our schools on and off cape is alarming. Feels that we as a community need to stand up and not condone such a product being sold in our town and

is hopeful the Board will move forward with the proposed regulation to restrict the sale of e-cigarettes and flavored tobacco in our town.

Jon Shore, Executive Director of The New England Convenience Store & Energy Marketers Association (NECSEMA) represents many of the retail stores here in Yarmouth. Mr. Shore wanted to point out that retailers stand with the Board and Law Enforcement when it comes to keeping these products out the hand of kids. Far too often retailers are grouped into part of the problem instead of part of the solution. In 2018 retailers had a 97% success rate in keeping these products out of the hand of our youth. Tobacco represents for most stores 50% of their income. Retailers take very seriously the threat of loss of license or suspension which could be imposed by the Board should they be in violation. His focus is on the menthol, winter green and mint tobacco due to the fact the financial impact of removing these products from retail shelves is 30% of a tobacco business revenue comes from these proposed products alone. While the focus has been on vaping he asks the Board to remember these products are attached to this proposed regulation as well.

Mohammed, has a small business on Old Townhouse Road and is fearful of the ban proposed by the Board. He already does not sell Juul products and sees menthol and mint flavors as two different products. Very few products have mint yet there are many that are menthol. If the town bans all three he will go out of business. This when he only sells menthol and mint flavored tobacco. He sees these customers that were coming into their store will go to surrounding towns. His business will be hurt financially and he believes the ban will create a black market within the town.

Elli, his father owns a gas station and retail store called Cape Cod Farms, 252 Main Street in Yarmouth. Stated that for them to make back to 50% of revenue lost from cigarette sales, as suggested by the Board, it is almost impossible to do with products that produce pennies on the dollar. People have the right to make decisions on what they want to do. If eating McDonalds every day was my choice yet it is bad for my health, would the Board ban McDonalds in our town? He believes there should be a vote from the people of the Town of Yarmouth asking them if they want the freedom to buy cigarettes or not.

DJ Orr, Director of Operations of Colbea Enterprise is currently looking at real estate in the area to open a convince store. He too feels the new regulation proposed would not deter our youth from obtaining tobacco or vaping products. Mr. Orr stated our youth are more tech savvy than we and are capable of obtaining what they want. The question he wants to pose to the Board is "Are convenience stores really the problem the Board should be looking at?" The problem is our kids: the educating of parents and kids of the dangers of vaping and tobacco products. Mr. Orr believes that law enforcement should have the right to remove Juul products from underage users.

Cheryl Sbarra, Director of Policy and Law from the Massachusetts Association of Health Boards and their Senior Staff Attorney. Stated she knows it is not the retailers who are marketing tobacco products to our youth but it is the tobacco industry and manufactures. The industry is marketing within the convenience stores. National surveys show that 70% of the vaping products getting into youth hands comes from brick and mortar stores. Waiting for the FDA to do something about this marketing target could take up to 10 years to see changes if not longer. Harm reduction argument is like comparing apples to oranges. Adult smokers to the youth epidemic.

Richard Boyle with Cumberland Farms. His children were raised in the DY school system and were exposed to many different addictive risks just as we all were during our time in school. He agrees with the best defense is in the home. Mr. Boyle feels it would be utopia if we all could achieve that right away. The relationship between Cumberland Farms and the Town of Yarmouth is one of 50 years and the impact of the proposed regulation by the Board would greatly impact that relationship. Customers have a right under our legislative laws to make those choices for themselves.

III. Discussion – Proposed Tobacco Regulations

Health Director stated the Board has just wrapped up its second listening and education meeting allowing both sides of the issue to speak. The Board needs to decide if they want to move forward with the Tobacco Regulation Draft in front of them or if they would like to have another listening session before moving forward. The Draft proposes banning all vaping devices from our local convenience stores and adding mint, menthol and winter green tobacco products to the already banned flavored tobacco regulation within the Town of Yarmouth. If the Board does choose to go forward then the issue would move to a public hearing over the next two Board of Health meetings. Meetings to be held March 11, 2019 and another held in April 2019.

MOTION: (Deb Bruinooge) Have another listening session on March 11, 2019 with an all call going out again to include the middle school. A representative of the Police Department, representative from the Middle School, more educational speakers and other parents within the DY school system

Seconded: Mary Craig, Vice Chair

Discussion: None

Vote: Unanimous

IV. Hearing – Variance Request – 1329 Route 28, South Yarmouth – Septic Repair

Assistant Director, Amy VonHone stated the owner of Doyle's Restaurant, William Supernant, was in the process of refinancing which required an inspection of the septic system. At which time the inspector failed the system. Variance set back to a drainage structure in Route 28 that leads to Bass River wetland is what brings this system upgrade before the Board. The septic system is designed for a total of 165 seats on a plot of land which is quite small for this size system. Assistant Director stated that the variances being requested in her opinion are routine based on the Title 5 regulations which have changed over the years. The size system which is now required under Title 5 is much greater than before hence the variance request to squeeze the system onto the limited space.

Dan Ojala, land surveyor and engineer with Down Cape Engineering, helping the Doyle's Restaurant with permits for septic system upgrade. Request to the Board is in addition to the variances laid before them a time extension until May of next year to have the work completed with safe guards in place until such work can be done. Mr. Ojala stated this request is due to the financial constraints endured by owner William Surpernant. They are hoping to begin work in February 2020 with a two week closure to complete the work. In the interim there would be an over flow alarm installed in the tank with regular pumping scheduled as preventative measures.

MOTION: (Mary Craig) To approve the variance request at 1329 Route 28, South Yarmouth. In addition the motion would include that Cape Cod Septic pump the system immediately, check again in July with pumping done as necessary by Cape Cod Septic. That an over flow alarm be installed as well as a liner on the Route 28 variance location. That the inspections include an engineer as well as the Health Department representative. Work to be completed by end of May 2020.

Seconded: Debra Bruinoogge

Discussion: None

Vote: Unanimous

V. Parkinson's Support Group 2019 Schedule

Update to the Board by Health Director, Bruce Murphy. Public Health Program put on by the Board at the Senior Center. That the Parkinson's Support Group acknowledges the Board of Health for their support in putting on these programs.

VII. Approval of Minutes – January 28, 2019

MOTION: (Hillard Boskey, Chair) To reject minutes

Seconded: Mary Craig, Vice Chair

Discussion: Minutes to Reflect Recommendation to the Selectmen that revenues collected from the housing program be allocated to an additional position for housing program.

Minutes to be resubmitted for approval at next Board of Health Meeting.

Vote: Unanimous

VIII. Adjournment

MOTION: (Mary Craig) To adjourn meeting

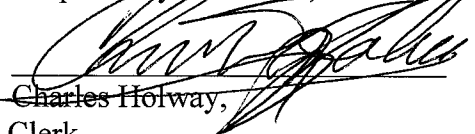
Seconded: Deb Bruinoogge

Discussion: None

Vote: Unanimous

There being no further business, the Chair adjourned the meeting at 6:20 PM.

Respectfully submitted,


Charles Holway,
Clerk

Minutes Taken by Christine Slack