

## HAMILTON BOARD OF HEALTH

WEDNESDAY, JUNE 29, 2016

**Present:** Board of Health members: Lindle Willnow, Susan Wilfahrt, Health Agent Leslie Whelan

**Meeting Opened:** Lindle Willnow called the meeting to order at 7:08 p.m. at Hamilton Senior Center

### **Hearing – Amend Regulations – Tobacco Sales Ban under 21 and Flavors**

Lindle Willow moved to amend the by-law restricting the sale of tobacco products and nicotine delivery products, specifically to ban the sale of tobacco products for persons under 21 and flavored tobacco products. Susan Wilfahrt seconded the motion. VOTE: Unanimous. The Board decided to implement this change on October 1, 2016.

### **Martha Driscoll and Anthony Passaretti, 85 Linden Street – LUA request to reduce setback between crawl space and leaching field**

This agenda item was withdrawn.

### **Discussion – Rooster Noise Complaint Letter**

Whitney and Peter Shepard, 76 Woodbury Street, expressed concerned about a problem with a neighbor who has had roosters for many years and impact on the Shepards quality of life. The Shepards have tried to work with the neighbor but have found this person recently unresponsive. On June 9<sup>th</sup> Ms. Shepard called the police and the animal control officer visited the neighbor who said she was sorry the rooster upsets her neighbor but she has the right to raise chickens. Since that time nothing has occurred so Ms. Shepard made investigatory phone calls, and wrote letters to the Board of Health and Town Manager Michael Lombardo. She also sent a certified letter to the neighbor that was received on Friday of last week.

Ms. Shepard quoted a message the neighbor left on her answering machine, “since the animal control officer came out I have decided to actively pursue a suitable home for the rooster, and will continue to pursue that option.” The Shepards are hopeful that the neighbor will follow through although that has not happened historically. Ms. Shepard asked the Board of Health for help with the process for the neighbor to find a suitable home for her rooster.

Ms. Shepard specified that she had lived in Town since 1994, was a proponent of right to farm by-law, and she is not pursuing a rooster ban. The rooster is a nuisance and is causing sleep deprivation and mental anguish since it is noisy from 4 a.m. and all day long. She opined that it is depriving the Shepards right to a peaceful use of their property.

Ms. Shepard explained that she had contacted 8 of 12 people in Town on a permit list for keeping chickens and asked them if they owned a rooster, and if they owned one and a neighbor complained what action they would take. She described how the majority responded that they did not have rooster because it would be disrespectful, annoying, or a nuisance for neighbors. The dominant answer from the permit holders regarding what they would do about their neighbor if they had a rooster is they would not have a rooster.

Ms. Shepard reiterated that they are asking the Board of Health for help. Lindle Willnow said he is a rooster abutter and his neighbor who owns a rooster is aware of noise that the rooster makes. That property owner keeps the rooster inside a coop until later in the morning which helps the situation. The rooster is heard more when neighbors are outdoors. Mr. Shepard stated that in the summer they have the windows open for the breeze and the rooster crows every 30 seconds starting at 4 a.m.

Willnow said the excessive noise can be a nuisance to public health. The avenue for enforcement is to revoke the keeping of chickens permit but if the property owner has less than 10 chickens no permit is needed. Also mentioned was the unsanitary condition. The Board of Health would have to seek a legal opinion about how violations of the right to farm by-law would be enforced and process to impose penalties.

Discussion ensued about the Shepard letter to the abutter with the rooster being filed and if the Shepards filed a complaint created by the particular neighboring property, a formal warning could be given to the property owner with the chickens, and if the property owner is not compliant penalties could be issued. Also, the property owner could be invited to a BOH hearing. Discussion addressed how the right to farm by-law does not apply to this situation. The Shepards asked the Board of Health for help in pursuing the noise nuisance issue associated with the neighbor's rooster. Ms. Shepard stated details about how the town of Concord manages the keeping of roosters and if neighbors are bothered then roosters are not allowed.

The Board of Health Agent discussed content of a letter it could send to the property owner with the rooster about how it understands this person is finding a new home for the rooster. But if it continues to be an issue by the time of the BOH's next meeting this

resident will be invited to a duly advertised public hearing to enforce regulations. Discussion addressed how the Shepards' neighbor would be given a week to take action to find a new home for the rooster. If no action is taken, the neighbor will be notified to attend a public hearing with the Board of Health. Discussion was on how consideration could be given to amending the by-law regarding roosters. Ms. Shepard agreed to contact Health Agent Leslie Whelan on July 8 if the rooster is not gone, a BOH letter will be drafted and next step will be a public hearing.

**Discussion – Mosquito Control Update**

The Board of Health reviewed information on presentation to occur in Rockport.

**Discussion – Cruelty to Farm Animals – Public Health Initiative**

The Board of Health choose not to take a position relative to the initiative.

**Discussion – Municipal Classification Study – Administrative Assistant**

Discussion ensued about the Town being in contract negotiations with administrative assistant union and all administrative assistants were classified the same in recent municipal classification study. Discussion addressed how the Board of Health's Administrative Assistant Nancy Stevens serves as an office manager and if this position was classified as such it would acknowledge Stevens excellent work overseeing department of part time employees. The current study's salary structure does not have a higher administrative position than assistant. Discussion noted that job descriptions for administrative assistant positions at Town Hall will be reviewed.

**Discussion – Board of Health Member Vacancy**

Discussion was on putting a notice in the Hamilton Wenham Chronicle and on Hamilton's Facebook page about the need for a third member to fill the Board of Health vacancy. The Board noted that this person would not necessarily have to be an engineer or have a medical background.

**Review – Minutes dated May 25, 2016**

Willnow moved to approve the minutes as amended. Wilfahrt seconded the motion.  
VOTE: Unanimous.

**Meeting Adjourned:**

Willnow moved at 8:26 p.m. to adjourn. Wilfahrt seconded motion. VOTE: Unanimous.  
The Board's next meeting will be on Wednesday, July 27 at the Senior Center.

**ATTEST:**

cc: Selectmen, Planning Board, Town Clerk, Conservation