

HAMILTON BOARD OF HEALTH

MINUTES OF MEETING

October 1, 2020

Virtual Meeting via Zoom
Meeting ID 81265416076
Password 792145

Members Present: Christopher Small, Giselle Perez, and David Smith (Chair).

Others Present: Christine Lee (Public Health Nurse) and Leslie Whelan (Health Agent)

This meeting was called to order at 6:30 pm by David Smith. All were in attendance via Zoom. Roll call: David Smith – aye, Dr. Perez – aye, Christopher Small – aye, Christine Lee – aye, and Leslie Whelan – aye.

Review and approve Meeting Minutes of the Hamilton Board of Health Meeting on 9/3/2020 and of the Joint Board Meetings with Wenham on 8/26/2020.

Motion to approve the Hamilton Board of Health meeting minutes of 9/3/2020 and joint (Wenham) meeting minutes of 8/26/2020 made by David Smith.

Seconded by Christopher Small.

Vote: David Smith – aye, Giselle Perez, - aye, and Christopher Small - aye. Unanimous in favor.

Hamilton Convenience Store appeal of \$1,000 fine under State Law for sale of flavored tobacco products. Jack Patel (owner/manager) and Joyce Redford (Regional Tobacco Control Director)

Joyce Redford recalled her August 26, 2020 unannounced visit. Ms. Redford said the four year old regulations, which prohibited flavored tobacco products, had been well advertised. Ms. Redford had sent two letters explaining the restrictions regarding the law and fines before the enactment date. Upon her visit, Ms. Redford noted two double cartons of two pack containers of white grape cigarettos, which were on display at the convenience store. The price had been changed from two for \$.99 to \$9 as was required for cigars in Hamilton. Ms. Redford noted that several packs were missing. Ms. Redford filed a report with Leslie Whelan noting that the product should have been removed from the shelves four years prior. The violation would cost \$1,000. Reportedly, the product was mistakenly placed on the shelf by a part time employee.

Leslie Whelan was required by State law to issue the fine. Ms. Whelan indicated that, after reading the e-mails, it was plausible that the wrong item had arrived to the store but the owner or staff should have caught the error. Violations were \$1,000, \$2,000 and \$5,000 for first, second, and third offences within 36 months. A letter defining the flavored tobacco product law and fines had been issued in addition to the two mailings previously sent. State law also required seven new signs and each store needs at least five of them.

Jack Patel explained that the wrong product was sent and he knew he was not allowed to sell grape flavored tobacco products. Mr. Patel said he ordered southern blend cigarettos. The part time employee opened the store the day Mr. Patel was not working and put the product, which had been sent in error, on the shelf. The owner explained that due to Covid, the salesmen don't come to the store but rather take orders over the phone. To return orders, it would take three to four weeks. The product was sent back to the distributor.

Joyce Redford said she regularly inspected the store once a year for compliance and found no prior violations. Leslie Whelan said it was a blatant violation due to extenuating circumstances and that a warning might suffice as Jack Patel did not mean to order the product. Ms. Whelan suggested storing an inappropriate product in the back room so a coworker didn't display the item. Dr. Perez agreed with Ms. Whelan as there were no prior concerns. Dr. Perez suggested multiple random inspection visits. Ms. Redford responded that State law did not allow for a warning. Christopher Small agreed that the order should be modified.

Christine Lee was concerned that this error could happen in Hamilton. David Smith recalled that Jack Patel called the office and was deeply concerned. Mr. Smith suggested improved employee training to ensure the error did not happen again. Mr. Smith suggested that if the violation occurred again, Mr. Patel would be responsible for \$1,000 and \$2,000. Dr. Perez suggested that Mr. Patel submit an intention plan to ensure the violation would not happen again and outline what training would occur to be used as a written contract. Dr. Perez wanted more than one additional visit. Christopher Small suggested that Joyce Redford also work with Mr. Patel to go over the distributed visuals for employees. Leslie Whelan requested Mr. Patel provide a plan of employee training and she would write him a letter indicating that the fine was abeyance. The case would be tabled in the hopes it would not arise again.

Report from the Public Health Nurse, Christine Lee.

Currently there were 50 confirmed cases of Covid 19 in Hamilton. There were twelve probable cases and seven deaths. Two people were in quarantine. Tracing was more difficult due to college students going home. North Andover had gone from green to yellow to red due to Merrimack College outbreaks. The college reportedly sent students home to infect their families, including those families in Essex County. Christine Lee noted that people were becoming tired due to months of enduring the virus. Ms. Lee thought Halloween was a concern.

Christine Lee referred to hospitalizations. In May there were 500 Covid patients at MGH, there were 150 patients at North Shore Medical Center, and 80 to 90 patients in Beverly Hospital. The latest numbers indicated that there were six patients at North Shore Medical Center and three at Beverly Hospital. The positivity rate was below 1%. Hamilton and the surrounding communities were in the green. There had not been one local death since June. Positives did not appear to be turning into hospitalizations or deaths. Ms. Lee recalled that previous deaths had been associated with other diseases and compromised immunities along with the Covid virus infection.

Update/Discussion from Board on development of Covid 19 Metrics for HWRSD.

David Smith said society was litigious and recalled that the Board provided the School District with guidance for mode of learning last July. Even though there was no advice from the CDC or Department of Public Health in July, the Board worked cooperatively with the Schools to issue a guidance report to the Superintendent of Schools in mid-August. The Board further revised the report by extracting numbers in a matrix, which did not explicitly include the context of the report. The report was developed to the best ability of the Board absent of any basis. While the report was devoid of public health context, recently the DPH and DESE offered concern about the consequences of placing numbers without context regarding learning mode decisions. To avoid confusion of guidance, the Board of Health would make clear that the matrixes would be guidance and not binding on the School District.

Motion made by David Smith: I move that we repeal the guidance that was approved by vote taken on August 26, 2020 and then modified and reaffirmed by vote taken on September 14, 2020 and that we restate that same guidance verbatim to include an expressed statement that it is not binding as an order or as a mandate on the HWRSD as follows:

- 1) Each page of the document that comprise the guidance will bear the following disclosure: “This guidance is not an order or mandate from the Board of Health thus the HWRSD is not obligated to follow the guidance or to deviate from the guidance issued by DESE or DPH.”
- 2) At the end of the document add the following language: “The matrices are presented with the understanding that we are still dealing with a fluid situation and that we must be prepared to be flexible when making decisions on the mode of teaching and learning that we employ at a particular time. This is subject to changed based on new scientific evidence, DESE guidelines, DPH guidelines, CDC guidelines, and medical guidance. The HWRSD and superintendent may take these guidelines into consideration when deciding on the mode of education and learning but they are not required to do so. The guidelines are not intended to be a public order or mandate from the Hamilton Board of Health.”

Christopher Small seconded.

Members discussed that to protect the Board, the Town, and the Schools from potential legal issues, the document would be labeled clearly with precautions that it was not a mandate or order. The document would be a guidance document to be used in decision making. The administration of both Towns were concerned that potential litigation may be considered.

Vote: David Smith – aye, Dr. Perez – aye, and Christopher Small – aye. Unanimous in favor.

Update/Discussion from Board on Covid-19 DPH conference calls and related matters including planned Public Health Education Campaign.

The latest call included information regarding Halloween and that it should continue if proper protocol was in place. Schools moving from hybrid to remote would occur if the numbers increased for three consecutive weeks. A child who stayed home with a cold should not require a doctor’s note. A test for a case with symptoms or contact to a positive case should be a pcr

test. Other tests offered false responses. Members discussed business owners' rights regarding wearing or not of masks by customers and the new rules for restaurants.

Discussion of draft Board guidance on masks and face coverings.

Mask up Hamilton would start the following week. The ramped up public health education campaign would be found on the Town website and social media.

Covid 19 Community Impact Survey link and materials for dissemination

Leslie Whelan suggested members take the survey to express their personal concerns.

Report from Health Agent, Leslie Whelan

Leslie Whelan noted that this mosquito season was mild. There had been no EEE or West Nile Virus cases. Greg Bernard had been retained as a septic service person, which would free Ms. Whelan up to serve the Board more closely.

Schedule topics for next meeting

Meetings would be held every other Thursday at 5:30 pm. The next meetings would be held October 15 and October 29, 2020.

Documents submitted.

Minutes dated, 8/26/20 (Wenham joint meeting) and 9/3/20.
Health Agent Report, dated October 1, 2020.

Adjournment

Motion made by Christopher Small to adjourn at 8:20 pm.

Second by David Smith.

Roll call vote: Dr. Perez - aye, Christopher Small – aye, and David Smith – aye. Unanimous in favor.

Prepared by:

Marcie Ricker