



TOWN OF SALISBURY

BOARD OF HEALTH

JOHN W. MORRIS, DIRECTOR

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BOARD OF HEALTH MEETING MINUTES

November 7, 2023

7:00 PM Salisbury Town Hall

Board Members Present:

Ron Laffely, Jill Tapper, Sue Ring, Denise Petersen (Mr. Laffely will chair the meeting)

Board Members Absent:

Dan Richard

Staff:

John Morris-Health Director

Meeting called to order at 7:00 PM.

Minutes -Approval of meeting minutes from June 6, 2023.

(Ms. Ring) makes a motion to accept the **June 6, 2023** minutes as written. (Ms. Petersen) seconds that motion. 4 in favor, 0 opposed. Motion carries and is passed.

Old Business - NONE

New Business

Express Food Mart Appeal (Tobacco sold to minor)

(Mr. Morris) gives some background information on Mr. Ron Beauregard and his role with Healthy Communities, which handles tobacco control, of which Salisbury is a part. The Board has received a copy of his order dated October 25th of the sale made to a minor on October 24, 2023. Mr. Morris states the department received an appeal notice and has to determine if the evidence is credible and if a sale did occur which caused the violation. He states that if that's the case, the next issue is the fine which is a mandatory one thousand dollars for the first offense. The vendor can do it in payments or something reasonable. If the evidence doesn't justify the issuance of the violation, the fine will go away.

(Mr. Beauregard) approaches the podium and explains that as part of his job as the Tobacco Control Agent for Salisbury, he is required to do a compliance check with

retailers who hold tobacco products sales permits. He works with 345 retailers in 18 communities.

(Mr. Beauregard) explains that on October 24th he did his compliance check in Salisbury. The process was to send in a (20) year old college student/female to the establishment with cash. The student was advised to purchase Jule brand vape (pods??). Upon the purchase, she then brought them out to the car. The evidence was labeled and then entered into the state data base. Mr. Beauregard then went into the store; trying not to have a customer witness the conversations. Mr. Beauregard states that he knows the owner Mardy Tes as she also owns a business in Haverhill. He states that his commission has no authority to modify the fine.

(Mr. Morris) asks for info on how the people are selected who do the purchase. He states they are not identified by name or photo. It is confirmed that Mr. Beauregard was with the 20-year old female in the car when she went into the store and when she came out.

(Mr. Beauregard) explains that per the law you have to card anyone that doesn't look over age 40. He states that Ms. Tes is very respectful of this and she has the correct signage. He states the State has (5) different signs that need to be placed on the premises. He continues that they range from a toll free # for cessation, to having to be age 21 to be sold to.

Mr. Beauregard continues that he made his own sign for business owners that he shared with the Board; it states that everyone has to be ID'd "per the Fenway rule". He also does compliance checks to make sure the state training worked. He states it may seem silly to card everyone even if a person looks older, but it is better than being fined.

(Mr. Laffely) inquires where Mr. Beauregard's gets posted? Mr. Beauregard responds that it varies. Many owners put it on the front counter; he states it is helpful when the worker is getting a hard time from a customer.

(Mr. Laffely) states the sign is for the person selling the tobacco not the person buying it. And asks if it comes in different languages? Mr. Beauregard responds 'yes' in Spanish.

(Mr. Laffely) asks that if the commission is sending someone in for a sting operation, how old does the woman look? Mr. Beauregard says she looks her age.

(Mardy Tes), owner of Express Food Mart steps to the podium. Ms. Tes explains that worker David was the person that conducted the sale that day. She was told by David that the woman looked old enough to sell tobacco to; but turned out underage. Mr. Morris asks if he had ID'd the woman, Ms. Tes replied he did not. Mr. Morris states that is what caused the violation of a sale to a minor. **(Mardy Tes)** asks if the Board can forgive her establishment this one time as they've been in business a long time. **(Mr. Morris)** states this is a mandatory fine; the letter says the violator "SHALL" pay the first offense of \$1,000. He states this is a state law, not a local health department law/ruling.

(Mr. Morris) states that in 2020 there was a big push on vaping and the state came out with this law. It is not up to interpretation for the first fine; the Board may say you can pay it in 2 months or installments but the amount does not change.

(Mr. Morris) explains to the Board that first you have to determine if the violation/sale occurred. If evidence shows it did not occur then there is no reason to talk about the fine.

(Mardy Tes) states the situation did occur. **(Mr. Laffely)** recognizes her honesty and inquires about training people at the cash register/taking money? Ms. Tes responds that they do get trained and when an item is scanned, a message of '*CHECK THE ID*' for both beer and tobacco pops up.

(Mr. Morris) states to Ms. Tes that you/the establishment have signage, have trained your employees and something is flashing at the point of sale. Mr. Morris suggests that more internal training needs to be done. Ms. Tes states again that the girl did not look old enough to the clerk so he did not check the ID.

(Mr. Morris) states that someone did not follow the internal policy. He states that is an internal personnel issue, not a Board of Health issue.

(Mr. Morris) states the violation occurred; per Mardy the owner, the sale is not in dispute. Mr. Morris then recommends sustaining the order and fine and make a determination on whatever Mardy requests payment wise, i.e., immediately, monthly, etc.

(Mr. Laffely) asks how Ms. Tes will handle this in the future; so it will not happen again.

(Mardy Tes) responds that she will have to remind everyone again and promises that it will never happen again. **Mr. Morris** reads aloud for reference and for the record the regulations concerning future fines after the first fine. He also informs the Board that the State takes it very serious in selling tobacco products to minors.

(Mardy Tes) states she/the store have been in business in Salisbury for 9 years and the Haverhill store for 15 years and this is the first time this has happened. She states she has been very careful about this. Ms. Tes vows that this will never happen again.

(Mr. Morris) advises the owner to stay vigilant with the current employee's training schedule and training for new employees. He then explains what happens for the second offense and the payments that would be due.

(Mr. Laffely) states that the decision to be made tonight is how and when the fine is paid. No other decision has to be made.

MOTION

(Ms. Tapper) makes a motion to sustain the order in its' entirety. **(Ms. Petersen)** seconds that motion. 4 in favor, 0 opposed. Unanimous. Motion carries and is passed.

(Mr. Laffely) explains to Ms. Tes that she has to decide on how she wants to pay the fine and when; within a reasonable timeframe. Ms. Tes asks if she has to decide now? Mr. Laffely responds yes. **(Mr. Morris)** suggests she talk to Mr. Beauregard and see what other towns have done. Per the Board, subject now on hold while she talks to Ron.

Civil Cases Update

(Mr. Morris) discusses the quarterly reports concerning civil cases. He states that in the last (3) months, the department had to file (24) court cases; of which all concerned housing regulations. **(Mr. Laffely)** asks him to explain the procedure which leads up to housing court.

(Mr. Morris) explains that a property owner receives (3) notices; two by first class mail; and the 3rd would be sent certified. The owner then has to complete either a habitability form or an affidavit and have to justify it is used for personal or family use.

He continues that there seems to be a trend that people are forgetting to return the form or something else. He explains that he accumulates many cases and sets up the hearings together as it takes up a lot of his time. He states they usually get resolved once the person gets the first court notice. He states most recently there were (4) cases resolved after a criminal court arraignment was mailed. If the person doesn't show up to court a warrant for arrest is issued; which will only be dropped via a court appearance. Many owners will sign the green certified card and get the warrant but still don't complete the forms.

(Mr. Laffely) inquires as to what percentage of these non-returns are because they sold the property. **(Mr. Morris)** responds that out of the last (24), there was one. When a property is sold, there may be a lag time between the registry information getting relayed to the assessors. It could take up to (2) months. The Health Department doesn't do a deed search, only assessor records are used. Mr. Morris explains that if the inspection passes then a new certificate is issued; valid for 5 years. He estimates that there are 1700 properties in the system with about 300-350 being self-occupied.

(Mr. Laffely) then inquires about B&B's and if these owners realize they need a certificate. **(Mr. Morris)** responds that the Town notified every taxpayer and also local real estate agents. The state will not provide a list of Air B&B's; the Town is currently working on this issue.

(Mr. Laffely) asks Mr. Morris to describe when someone does or does not need the certificate. Mr. Morris responds that if an owner uses the property for personal use, like a second home; you file an affidavit. He continues that some may use the property for only a month and if they rent it out the rest of time; they get a certificate.

(Mardy Tes) again approaches the podium after her discussion with Mr. Beauregard. Ms. Tes makes a request to pay the amount in full in (90) days from the date of the incident, that being October 24, 2023. Mr. Morris states that would be a January 24, 2024 due date if OK with the Board.

(Ms. Ring) asks Mr. Beauregard if that is a typical time period (90 days). Mr. Beauregard's answer is inaudible from the audience chair.

(Ms. Ring) states there is no reduction as that is the state's regulation. **(Mr. Laffely)** confirms this is correct.

(Mr. Morris) quotes the word 'shall' in the regulation. He states that if it was meant to be negotiable, they would use 'may fine up to' – like any other law on the books. The Town's regulations have withstood judicial review.

(Mr. Laffely) states he understands what happened, he does not like the process and does not like the position the Board members are put in as he doesn't feel he has a choice.

(Ms. Ring) agrees stating it is hard enough to own a small business.

MOTION

(Ms. Tapper) makes a motion that the Board accepts the payment agreement starting from October 24, 2023 to January 24, 2024 to be paid in full of \$1,000.00. **(Ms. Ring)** seconds that motion. 4 in favor, 0 opposed. Unanimous. Motion carries and is passed.

COVID-19 and Flu Clinics

(Mr. Morris) states the first clinic was October 5, 2023 from 12-2:30 at the Council on Aging. The clinic ran overtime until about 4PM. Approximately 230 people attended. The clinic offered all types of shots; high dose flu, standard flu, RSV, Covid, shingles and pneumonia. He continues that there was a glitch in the computer system, due to the misspelling of some names; about (19) people were affected.

(Mr. Morris) states that COA Director Liz Pettis has discussed another clinic for November 16th from 10:30-12:30. The Town HR Department puts all the information up on the website, including a link for registering.

Mosquito Control Update

(Mr. Morris) updates the Board on mosquito control work in Salisbury. A total of 2,080 acres were sprayed and 1,083 catch basins were sprayed. The Board generally discussed the treatment of catch basins; a briquette is shot into the catch basin and it dissolves in 90 days. He also adds that a localized spray can be done within one neighborhood if enough residents want it.

Health Officer Reports –April 2023-September 30, 2023 (General discussion)

Nurse Report – June 2023-September 30, 2023 (General discussion)

Correspondence – None

Public Comments – None

(Mr. Morris) discusses status of the next scheduled meeting as one is not usually held in December. He notifies the Board he will be out first week in January. After discussion, the Board will meet in February.

MOTION


(Ms. Ring) makes a motion that the next Board meeting will be February 6, 2024. **(Ms. Petersen)** seconds that motion. 4 in favor, 0 opposed. Unanimous. Motion carries and is passed.

ADJOURN

(Ms. Petersen) motions to adjourn; Ms. Ring seconds. All vote in favor to adjourn, 0 opposed.

Regular public meeting is adjourned at approximately 7:42 PM


Date:



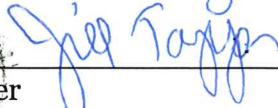
Ron Laffely



Denise Petersen

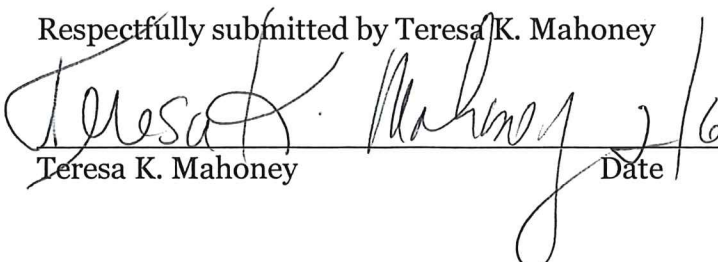


Sue Ring



Jill Tapper

Respectfully submitted by Teresa K. Mahoney



Teresa K. Mahoney

Date

2/6/24