

# WAKEFIELD BOARD OF HEALTH MEETING

**William J. Lee Memorial Town Hall  
1 Lafayette St, Wakefield, MA. 01880  
Wednesday, October 11, 2017 7:00 PM**

---

**PRESENT:**

Laurel Gourville, Chair  
Elaine Silva, Vice Chair  
Alison Mehlman, Secretary  
Ruth L. Clay, Health Director

**NOT PRESENT:** all present

## ----- TOPICS OF DISCUSSION -----

The Wakefield Board of Health held their monthly meeting on Wednesday, October 11, 2017.

**Call to Order**

Chairperson Gourville called the meeting to order at 7:00 pm.

**Approval of Minutes**

Mehlman moved to approve the minutes of September 13, 2017 as presented. Silva seconded. Motion passed 3-0-0.  
Mehlman moved to approve the minutes of September 18, 2017 with changes Silva seconded. Motion passed 3-0-0.

**Discussion with Artisan Vapors**

Faizan Ahmed, the owner of Artisan Vapors, came to the Board to request that vaping be allowed in his store. He noted that the store was already a store that one had to be 21 years old to enter. It was noted that in Wakefield through the Board of Health regulations there is no legal distinction between cigarettes and vaping. Dj Wilson of the Massachusetts Municipal Association noted the Attorney General regulations that do not allow sampling in vaping stores, which is allowed under state law for retail tobacco stores. Mehlman noted the Board's previous experience with smoking in a retail tobacco store. Members of the Board said it was very unlikely they would approve a variance to their regulations to allow vaping in the store.

**Health Director's Report**

Clay asked if there were any questions or comments about her written report. She asked about a potential change in how inspections of food establishment are performed to include one announced inspection for those establishments who are scheduled for three or four per year. She noted that was an idea that came from the Regional Food Advisory Group. The Board decided that they did not want to make it a policy; the Director could do as she fit.

**WAKE- UP report**

Written report included in packet.

**Hearing: Appeal of Crystal Feet**

Gourville noted that police reports reviewed at the last meeting led to the revocation of the business and practitioner permits of Wei Zhou for Crystal Feet. Jack Milgram, attorney for the owner of Crystal Feet, Wei Zhou, noted that he had reviewed the

**for revocation  
of Bodywork  
Establishment  
and  
Practitioner  
Permits**

letter of September 20, 2017 from Clay and the various incident reports from the Wakefield Police Department as well as Supplemental Reports from Detective DiNanno. He said that it appeared to be all the reports provided and thanked Town Counsel for providing un-redacted copies of the reports. Looking at the letter of September 20, 2017, the permits were revoked due to illegal acts performed at the premises. It is his client's position that there is no proof of illegal activity as no one has been arrested as a result, the Wakefield Police Department has not applied for application for a criminal complaint, and there has been no finding of probable cause. He said that the illegal activity is not specified but he is assuming it is for alleged sex for a fee.

He didn't think a complaint could be made as there was not probable cause. He noted that one needed to establish a fact pattern: 1) masseuse would have to make an offer for and offer for money; 2) the client offered money and it was accepted; 3) there was sexual activity. There were allegations of touching but nothing in the report about sex and therefore the elements could not be met.

Town Counsel Mullen said that the letter to Crystal Feet and the police reports are clear. He did not know whether an application for complaint had been filed. He noted that the Board of Health is not a court of law and was making an administrative finding and there was clearly a violation of Section 12.6. There was payment of \$40 followed by intimate touching.

Milgram noted that his client wasn't in the facility when the alleged touching occurred and the \$40 was for a massage. He said if this was a court of law, the law is clear about what type of evidence would be necessary. Case law makes clear that the court looks for evidence of oral conversation, printed material or electronic communication (e-mails discussing sexual activity). Nothing showed his client had any knowledge of the activities or involvement. She wasn't there and there was no printed material. He stated he was assuming that the Board did not have information that he did not have. He said that Ms. Zhou has been in business for ten years in different communities, went through a thorough background check, and was given a permit. He himself has been in this business for many years. He went to the establishment and it looked very nice and that someone had spent a lot of money renovating it. Nothing looked shady to him. He said if this couldn't be resolved at this level, he will continue the legal process.

Town Counsel Mullen agreed that Zhou wasn't in the establishment but that she did not need to be as one of the permits was for her establishment. He said there was communication noted in the police report as the attendant mimed.

Silva said that Zhou was responsible whether she was there or not.

Clay noted that the practitioner did not have a permit from the Board of Health.

Gourville said the permit was not revoked for a crime but for not following the Board of Health regulations. The purpose of the regulations is to be clear about boundaries. She felt the police report was believable and showed them that the regulations were broken.

Mehlman said she would accept the police report as true and whether or not the actions were criminal was beside the point. Clearly something inappropriate had happened.

Milgrim asked how often does the health agent call the police.

Mullen noted shame on the Board if the Director doesn't report to the appropriate department when she thinks there may be an issue.

Clay answered that she frequently calls the police as part of the course of her duties. She also noted that the police did not investigate due to her concerns but due to the concerns of neighbors. Her referral to the police was the end of July; the investigation was the middle of September.

Milgrim said it would be unusual for an officer to go in and say that everything was fine. He called the Police Department that day and spoke to a male officer who said "we don't want these types of facilities around here."

Mehlman asked Migrim if he was suggesting that the police made it up. Migrim answered "it wouldn't be the first time." Milgrim said the health agent's conduct was "totally inappropriate."

Motion made by Silva, seconded by Mehlman to stay the revocation of the Bodywork Permit of Crystal Feet and reinstate the Practitioner Permit to Wei Zhou. Board approved 3:0:0.

Milgrim asked how many Bodywork Establishment permits has the Board issued. Clay answered there was Crystal Feet and two others pending. Milgrim said "so just hers, and you revoked it quick enough."

**Public  
Hearing:  
Revision of  
Regulations  
Restricting the  
Sale of  
Tobacco  
Products**

DJ Wilson explained that the proposed changes in regulations would mean that there would be no new stores near schools. He noted that it would not affect existing businesses. He suggested that personnel in Town Hall be aware of the new regulations so that they can explain it to potential new businesses. Mehlman suggested that the Board adopt Option B which is a cap with reductions in the number of permits based on the current density of tobacco retailers in Wakefield at this time. The Board agreed to have the wording include the number would be capped at the number of retailers at the time of the Public Hearing. It would also include a section for a buyer exemptions as well as prohibition of new retailers within 500 feet of a school or 500 feet of an existing retailer with Tobacco Product Sales permit. Board also said that they want proposed sections F and G combined into one section.

Motion made by Mehlman, seconded by Silva to draft revisions to the Sale of Tobacco regulations as noted above. Motion passed 3:0:0.

**Business  
which has  
arisen since  
the posting of  
the meeting**

Clay noted that she found the wrong wording in a section of the Board's Food Establishment regulations. Mehlman noted that as the Board voted on the correct wording it would just be a Notice of Correction to change the wording and did not require a vote from the Board.

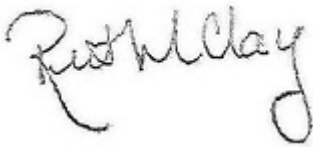
Next meeting will be October 29, 2017.

Meeting adjourned at 9:10 PM.

**Meeting  
Handouts**

1. Agenda
2. Draft Minutes from September 13, 2017
3. Draft minutes from September 18, 2017 Minutes
4. Copy of September 15, 2107 letter to Wei Zhou
5. Copies of Wakefield police reports concerning Crystal Feet and 111 Albion St
6. Copy of September 16, 2017 letter from Attorney Jack P Milgram
7. Copy of business certificate for Sei,Inc.
8. Current list of Municipalities that Restrict New Retailers Near Schools, That Limit the Number of Tobacco Sales Permits
9. Draft regulation wording for five sections of potential wording for capping the number of tobacco retailers

Respectfully submitted,

A handwritten signature in cursive script that reads "Ruth Clay".

---

Ruth Clay, MPH  
Health Director