



# Town of Barnstable

## Board of Health

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### BOARD OF HEALTH MEETING MINUTES

#### SPECIAL MEETING Tuesday, September 29, 2015 at 3:00 PM Town Hall, Hearing Room, 2<sup>ND</sup> Floor 367 Main Street, Hyannis, MA

A special scheduled and duly posted meeting of the Barnstable Board of Health was held on Tuesday, September 29, 2015. The meeting was called to order at 3:00 pm by Chairman Wayne Miller, M.D. Also attending were Board Members Paul J. Canniff, D.M.D and Junichi Sawayanagi. Thomas McKean, Director of Public Health, and Sharon Crocker, Administrative Assistant, were also present.

#### **I. CRITERIA FOR GRANTING A VARIANCE FROM LIFEGUARD REGULATIONS.**

Dr. Miller read into the minutes the modifications the Chamber of Commerce suggested:

Lifeguard Modification Deregulation – Proposed Changes  
Submitted by: Chamber of Commerce

Current deregulation

- Pool hours no later than 9:00 p.m. *The pool may be open later if there is a lifeguard or qualified swimmer in attendance at pool site.*

Proposed Change

- Pool hours no later than 11:00 p.m. *The pool may be open later if there is a lifeguard or qualified swimmer in attendance at pool site.*

Current deregulation

- The Board of Health again voted in favor of removing the lifeguard and qualified swimmer requirements for only those semi-public swimming pools associated with facilities containing 50 units or less until September 8, 2015, which meet the following criteria:

Proposed Change

- The Board of Health again voted in favor of removing the lifeguard and qualified swimmer requirements.

#### Current deregulation

- Under Signage
  - Maximum occupancy of pool is limited to 20 persons

#### Proposed Change

- Under Signage
  - Maximum occupancy of pool is limited to 15 persons

Current criteria for granting modification or variance from the recommendation of the State sanitary code regarding swimming pools and lifeguard requirements:

(Currently)

- Insurance
  - The insurance policy of the pool must name the Town as co-insured in the amount of \$1,000,000.

#### Proposed Change

- Insurance
  - The insurance policy of the pool must name the Town as co-insured in the amount of \$2,000,000.

Dr. Miller said he will be looking at the proposed pool guidelines in three ways:

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- 1) The size of the pool. The larger the pool, the more potential for an increase in the number of swimmers,
- 2) Assessing the number of people the unqualified lifeguard is capable of watching (referring to qualified swimmers, etc.), and
- 3) Assessing the unqualified lifeguard's ability to retrieve someone in danger.

Dr. Miller acknowledged it is not always true that a larger pool has more swimmers, but it does create the potential.

Mr. McKean mentioned the State Code 435.23 does refer to providing one lifeguard for each 25 bathers as a guideline.

Dr. Miller said many criteria will be looked at and referenced to the State Code 435.27 Bather Load Capacity *“For the purpose of computing bather load capacity, those portions of the swimming pool five feet or less in depth shall be*

*designated as "non-swimmer" areas. Portions of the pool over five feet in depth shall be designated as the "swimming" area", etc.*

Dr. Canniff commented that the Chamber's proposed increase of insurance coverage to \$2 million was not that essential to him.

The Board stated the qualified swimmers alternative has been available for over 30 years and the deregulation has been offered for the past five years.

Mr. Sawayanagi and Dr. Miller stated there is a balance needed between the safety of swimmers, the business risks of establishments, and with the citizen's personal responsibility when swimming. Some believe there is more of a risk of danger with a qualified swimmer on site, because the citizen may depend solely on the qualified swimmer as the safety net for the parents leading the parents to become too relaxed - not upholding their own responsibility of care.

#### Meeting opened for Public Comment.

Skip Simpson, Anchor-In, asked if the Board of Health's proposal was based on one bather for every 25 square feet of pool.

Dr. Miller said he learned our occupancy limits are actually self-imposed limits and the Board, thus, can not enforce the limits.

Dr. Miller said, as mentioned above, the size of the pool...will be viewed as reflecting the potential number of swimmers as in the guideline of the State Code.

Dr. Canniff asked Mr. Simpson how he keeps track of the number of people in the pool when it is not staffed. Mr. Simpson said at his location, it is very easy to just walk over and look out to see. He also said no liquor is sold on the premises but the customers can bring it in.

Peter Martino, Heritage House, said his business does have an all-property alcohol license and as part of his liquor license, he is responsible for determining the limitations, etc. of when and where liquor will be. He believes this is totally separate from the pool. He protects his establishment from issues with liquor already. Peter also noted the state regulations list no restrictions on hours of operating a pool. Mr. Martino said he agreed with the Chamber of Commerce's decision to take out any reference to liquor in their proposed changes as both feel it is a separate issue and health should not regulate the liquor.

Alexis Gulden, Captain Gosnold Condominiums, said she read an article which stated the best three ways to safeguard a pool: 1) supervision, 2) barriers, and 3) signs; and, our regulations do cover these. She asks the Board not to make the regulations any more strict than they currently are.

Dr. Canniff asked the Resort and Conference Center whether they have liquor at their pool; to which they responded, liquor is allowed in the pool area.

Jill Gulden, also from Captain Gosnold Condominiums, spoke. She stated establishments have been very responsible in making sure no wild parties or carelessness occur as it would interfere with other customers' enjoyment of the property and would result in lost business. Therefore, the businesses do not allow it.

Wayne Kurker, Hyannis Marina, said they also have a liquor license allowing liquor in the pool vicinity. He would like the regulations no more stringent than the State regulations.

Dr. Miller stated the Board already has stricter ones in place and would be expecting to move forward from this point – not reverting all the way back to State regulations. He stated that if there is liquor at the pool, it would (currently) eliminate the establishment from applying for deregulation of lifeguards. He believes it is important to have some supervision when alcohol is involved

Wayne Kurker said they have qualified swimmers but have difficulty keeping up on the CPR training in the summer with frequent change in personnel.

Jill Gulden, Captain Gosnold Condominiums, said this was the first year she found it much easier than in the past 30 years to obtain training. She suggested contacting Sylvester Consultants who teach CPR and are flexible with times and locations, as well as the local fire departments.

Christopher Kehoe, Chair of Board, Hyannis Chamber of Commerce, submitted a revised 'Lifeguard Modification Deregulation – Proposed Changes'. The revision -- Under Signage

- Maximum occupancy of pool is limited by state statute. (changed from original...15 bathers)  
(See Exhibit #1)

Dr. Miller said the Board will take into consideration: 1) the Chamber's proposed changes including their revision, 2) elimination of liquor from regulation (as suggested by Mr. Martino), and 3) pool size when applying conditions.

The Board will draft their new guidelines for presentation at the October 13<sup>th</sup> meeting. Then, they will have a vote on the overall guideline/regulation.

Christopher Kehoe, Hyannis Chamber of Commerce, wanted it noted that we are the only town on the Cape, and he believes in the State, with lifeguard regulations.

Dr. Miller noted that Yarmouth does have pool regulations even though they don't include lifeguards, as well as Attleboro and he believes two others.

Peter Martino, Heritage House, feels the Board is holding the hotels to a higher standard than the town provides at their beaches.

Steven Hurley, Hyannis Holiday Motel, stated he has 72 units and at this time of year, there are no swimmers; yet, he has to keep two qualified swimmers on the payroll just in case someone wants to swim. He hopes this will be taken into consideration. Mr. Hurley also expressed great thanks to the health inspectors for their diligence on their job.

Scott Donahue, Cape Crossroads, stated they have 160 units (50% owners/50% renters) and have one lifeguard and one qualified swimmer. They ran advertisements from March 2015 through the summer and not one response. They are looking to replace the two qualified swimmers they currently have. They put ads on Craig's List, at Cape Cod Community College, the YMCA, and the Red Cross and they pay \$15/hour, yet had no luck in the search.

Upon a motion made by Mr. Sawyanagi, seconded by Dr. Canniff, the Board voted to adjourn. (Unanimous, in favor.) Adjourned 4:20 p.m.

## **Exhibit# 1 Revised Chamber of Commerce Proposal**

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