

Office of the

Board of Health
City Hall
166 Boulder Drive - Suite 108
Fitchburg, Massachusetts 01420
978-829-1870

An organizational meeting was held on March 8, 2017 at 5:00 pm.

Present were: Ian Murray, Chairman; Stephen Curry, Director; Sandra Knipe, R.N.B.S.N. Member; DJ Wilson, Mass Municipal Assoc; Eric Jack, Tobacco Control; Stephanie Holinko, Food & Milk Inspector; Darren Plante, ABS Gas & Go;

ABS Gas & Go – Darren Plante: Mr. Plante is here to express his opinion and ideas for the BOH to consider in regards to the current Tobacco Flavor Ban. Mr. Plante stated he is not opposed to the City of Fitchburg implementing anything detrimental to minors and young adults. A few years ago when the current single sale cigar price of \$2.50 and multiple pack for \$5.00 was implemented the idea was to try and reduce sales to minors and young adults. Mr. Plante stated this was pushing sales to other cities and towns causing a hardship on small businesses and feels the current Tobacco Flavor Ban will do the same and force people to go elsewhere not only to purchase cigarettes, cigars and now flavor tobacco but also other items purchased at these businesses. Mr. Plante also stated with the loss of purchases from cigars and other sales his wholesale buying power has shrunk and this will eventually cause the wholesalers that he buys from to compensate for that loss on other products. There are other options available to act on and allow retailers the opportunity to show they want to take part in supporting the city and not have under age kids buying the products. One of his ideas is to implement the We Card ID program and BARS Program. The way it would work is the retailer would pay for two visits from this company twice a month for the next six months. An agent aged 21-25 would enter the store unannounced and attempt to purchase tobacco products if the clerk asks the agent for ID the agent then presents the clerk with a green card. If the clerk neglects to ask for ID, the agent presents the clerk with a red card. This way the clerk knows immediately how they performed. These reports would be sent to the retailers and the city directly by the company and this would show the amount of times the store has been checked and prove to the City of Fitchburg that the retailers are carding people that look under the age of 27. This will only be at the expense to the retailer, no cost to the city. The cost would be \$50.00 a month. Mr. Plante is asking for time to put this into place and allow for retailers to test it out. Ms. Knipe stated she appreciates Mr. Plante's hard work however why would a retailer want to pay money per month when there is already a system in place at no cost. Mr. Plante response is if a retailer wants to sell the flavored tobacco they would have to use this system and said there are other options out there that can satisfy everyone. Ms. Knipe asked if there are any other communities implementing this program, Mr. Plante stated there are not at this time.

DJ Wilson, Mass Municipal Assoc. stated this is not about flavored seltzer water, this is about an addictive property that people inhale that kill and is still the number one killer in the United States. The compliance check protocol has been in place for many years.

The standard protocol in the last twenty three years was not only get Board of Health's to put a permit in place but also to work with clerk magistrates who had never heard of this. We are now in a good role of having similar penalty systems across the state. There are more policies added not because we are trying to torture boards of health but because the industry is always coming up with something new such as e-cigarettes, grape cigars etc. Often time Boards of Health want to change language on permits and regulations and it's rare that they come across a policy that has been court tested and we can't touch the language without causing a lawsuit. As soon as the City of Providence put the same policy that is now in place in Fitchburg, they were sued immediately in Federal Court.

In June of 2009, the federal government, recognizing the damaging role flavored tobacco products play in encouraging youth initiation, banned the sale of flavored cigarettes, except for menthol flavoring. In July of 2009, the state of Maine extended that federal ban to include cigars. In January 2012, the Providence City Council enacted a city ordinance to mimic and extend the federal ban to include all Other Tobacco Products such as cigars, smokeless and chew tobacco, as well as to include electronic cigarettes, except in qualifying adult-only retail locations. Providence was sued in Federal Court and in February 2013 prevailed at the U.S. Court of Appeals. This is notable as we are in the same federal court district as Rhode Island. Therefore, this ruling extends to Massachusetts. This policy recognizes that cheap, flavored tobacco products are attractive to youth, resulting in reported increase of such usage in Massachusetts and nationwide. The policy prohibits the sale of all flavored tobacco products and flavored e-cigarette, except for in qualified retail tobacco stores and "smoking bars". This policy does not prohibit the sale of menthol tobacco products nor the sale of all e-cigarettes.

Mr. Plante asked Mr. Wilson how this ties in with his presentation. Mr. Wilson response was Fitchburg would never have been recommended to put this policy in place unless Providence won this lawsuit. The tobacco industry lost the lawsuit but it meant doing exactly what Providence did so there wouldn't be another lawsuit. This is why there is an exemption to menthol and adult-only retail locations. Massachusetts is in the same Federal Court district as Providence, therefore they use the same language. Mr. Plant would like the board to allow retail stores to try using the BARS Program or WE Card System for a period of time and then reevaluate the situation. Mr. Murray stated we have always had these regulations that you can't sell to minors and the compliance has not been good. The time to get better was a long time ago.

Fee Schedule Discussion: Mr. Curry would like to address the food portion of the fee schedule. Food service permit fees over the past years were based on how many registers and/or how many seats establishments have. Stephanie Holinko the Food Inspector has been revising this schedule to make these facilities fair to the permit holders using a classification system to rate each establishment. Ms. Holinko also put in place a plan review fee that would consist of; a renovation of an existing permitted establishment; change of ownership of an existing establishment; HACCP plan review of an existing permitted establishment; annual permit renewal late fee and incomplete application fee. The classification system would be as follows;

- Level 1: \$50/Annual fee
- Level 2: \$100/Annual fee
- Level 3: \$250/Annual fee
- Level 4: \$350/Annual fee

Mr. Curry suggests making a gradual move because there will be conflict with this new fee schedule. This new fee schedule will have to be approved by City Council. Mr. Murray stated there are several changes being made at one time and feels we should move to this system eventually, however these fees are a significant increase for some establishments to absorb. Mr. Murray suggested keeping Level 1 & 2 the same and changing Level 3: \$200, and Level 4: \$300.

Ms. Knipe made a motion to accept the fees as drafted by Stephanie as follows;

Level 1: \$50/Annual fee
Level 2: \$100/Annual fee
Level 3: \$200/Annual fee
Level 4: \$300/Annual fee

Mr. Murray is not comfortable at this time. Mr. Curry suggested raising the fees gradually. Mr. Murray wants to table this motion until the next meeting when all board members are present.

February Meeting Minutes Review & Approval: Ian Murray made a motion to accept the February meeting minutes. Motion was seconded by Sandra Knipe. All were in favor. Motion carries.

FY 18 Budget Discussion: The proposed BOH budget has been submitted to the Mayor and Finance Team. Changes from FY 17” to FY 18” Personal Services will be union changes and cost of living increases in salary. Other budget changes for FY 18” is the Animal Inspector stipend increase from \$2,000 to \$3,000.

Mass in Motion Grant will be finished in June. The PHDIG grant no longer receives grant money but is a revolving fund where other towns pay for the services. The Public Health Nurse, Dorothy McNamara receives a stipend for \$7800.00 annually as the new PHDIG nurse to cover the surrounding towns for nursing services. The School Nurse also in the BOH budget serves the parochial schools in the city.

The expenditures part of the budget Mr. Curry has asked for an increase in the Board & Secure of vacant buildings from \$10,000 to \$20,000. Mr. Curry has asked for an increase in travel and meetings from \$3,000 to \$5,000.

The last page of the budget is the Rubbish Contract which includes curbside trash removal & disposal. The contract is for \$1,633,800.00 which includes nineteen weeks of yard waste collection and includes school dumpsters however it doesn’t include bulk item charges at \$10.00 an item and doesn’t include a gas surcharge/credit. Mr. Curry is asking for the amount of what the contract is stated for in year seven of the contract.

Sandra Knipe made a motion to accept the FY 18 proposed budget. Motion was seconded by Ian Murray. All were in favor. Motion carries.

Next meeting is scheduled for April 6, 2017.

Sandra Knipe made a motion to adjourn. Motion was seconded by Ian Murray.

Meeting adjourned at 7:40 pm.