

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 April 5, 2018 at 5:00 pm.

**Present:** Ian Murray, Chairman; Stephen Curry, Director; Sandra Knipe, R.N.B.S.N., Member; Dr. John Bogdasarian, M.D, Member, Joan Hamlett, Tobacco Control; Sam Gandor, Johnny's Service Station; Stephanie Holinko, Food & Milk Inspector; Jackie Cullen, River Styx Brewery; Mr. & Mrs. Timothy Fluharty, Liam Fluharty, Maille Fluharty, Declan Fluharty; Mr Issiah Morris; Todd Pickett, Animal Control Officer; Jackie Edmonds, Assistant Animal Control Officer.

**Meeting Minutes Review & Approval:** Sandra Knipe made a motion to approve the February 2018 meeting minutes. Motion was seconded by Dr. Bogdasarian. All were in favor. Motion carries.

**Massachusetts Opioid Abuse Prevention Collaborative (MOACP) Update:** Mr. Curry stated LUK has been terminated as the sub-contractor for this grant. A contract has been prepared with the previous MOAPC Coordinator, Jaclyn Cavaioli to continue deliverables and requirements of the grant for the remainder of the fiscal year.

Sandra Knipe made a motion to approve the new coordinator for the MOAPC grant contract, Jaclyn Cavaioli for the remainder of the fiscal year. Motion was 2<sup>nd</sup> by Dr. Bogdasarian. All were in favor. Motion carries.

**Request for a Dangerous or Nuisance Dog Hearing: Mr. & Mrs. Fluharty, Isiah Morris.**

Ian Murray opened the meeting at 5:15 pm. Mr. Murray stated the reason for this hearing is due to a written request from Mr. & Mrs. Timothy Fluharty of 33 Apple Tree Hill, Fitchburg, MA is petitioning this board that the dogs owned by Mr. Issiah Morris of 410 North St, Fitchburg, MA be deemed a dangerous or nuisance dogs according to Massachusetts General Laws 140 Section 157. The Board of Health is being asked to make a decision whether the dogs at 410 North St "Tiger" (Pitbull mix) & "Lucky" (Pitbull mix) should be deemed a dangerous dog, a nuisance dog, or to dismiss the complaint according to Mass General Laws C. 140 Section 157 subsection (4). Mr. Murray asks that everyone respect each other and anyone not respecting one another or becomes belligerent will be asked to leave. At this time Mr. Murray would like all persons who plan on giving testimony in this hearing to please raise their right hand and understand you are testifying under oath. Do you solemnly swear and confirm the testimony you are about to give is the whole truth. All affirmed. If there are any documents to be entered please introduce each document for the record as exhibits. At the end of this meeting the Board of Health must decide whether the dogs at 410 North St should be

deemed a dangerous dog, nuisance dogs or to dismiss the complaint according to Mass General Laws C. 140 Section 157 subsection (4).

Petitioner, Mrs. Fluharty showed several photographs and distributed exhibits for the record.

Exhibit 1: Photograph of a confirmed sighting on March 11, 2018 of the dogs back in the neighborhood of where the attack happened.

Exhibit 2: Report from Wachusett Animal Hospital.

Exhibit 3: Police Report on March 10, 2018.

Exhibit 4: Leominster-Fitchburg Animal Control Incident Report.

Exhibit 5: Photographs of “Emerald”, 1 Yr. Old Labrador retriever before and after the attack.

Mr. Fluharty (Petitioner) stated on March 10 around 11:30 am. He heard “crying” sounds coming from his dog “Emerald” (black Lab) inside their barn, this is a fenced in dog pen attached to the barn with access into the barn. Upon entering the barn he saw a dog (Pitbull mix with brown & white markings) run past him out of the barn into the pen and observed another dog (Pitbull black) outside of the pen as well still not knowing where Emerald was. Mr. Fluharty then saw Emerald wedged under the boat and covered in blood. It took excessive force to get him out from underneath and carried him to his car to get him to the Veterinarian and called the police Mr. Fluharty stated he did see both dogs in the neighborhood on his way to the Vets and stopped to take photographs of the dogs but the dogs ran into the woods and he was not able to photograph them. Mr. Fluharty stated the next day he was able to photograph the dogs as the dogs were again running at large in the neighborhood.

Mr. Morris stated he has never seen any aggression or witnessed any viciousness of his two dogs Lucky & Tiger (Pitbull mix) since he has owned them. Mr. Morris stated the dogs do get loose often since he has owned them. He stated on the day of the attack his dogs did get loose and were gone at the time of the attack and when the dogs returned home he didn’t notice any blood on them. Mr. Morris also owns a third dog named Bella. It was later determined Bella was never seen during the attack.

ACO, Todd Pickett stated he visited Mr. Morris’s residence on North St and asked him if he could identify they were his dogs and showed them the photographs of the dogs. Mr. Morris confirmed he was the owner of Lucky, a black and white Pit mix and Tiger a brindle Pit mix. Mr. Pickett (ACO) also stated he has picked up the dogs previously in the past and there were reports of these dogs running loose in the past.

Ms. Fluharty asked if Mr. Morris would be willing to look at the photographs (exhibit 1) that were taken of their dog Emerald after the attack. Mr. Morris viewed the photographs of Emerald and was extremely upset and stated he understood and agreed the dog should be put down.

Dr. Bogdasarian stated according to Mr. Fluharty’s testimony, Tiger was inside the barn when he discovered Emerald and Lucky was outside of the barn.

While lengthy discussion and reviewing the Exhibits provided, the members of the Board of Health asked numerous questions to both the Petitioners and Mr. Morris.

Dr. Bogdasarain made a motion that Tiger be humanely euthanized. Motion was 2<sup>nd</sup> by Ms. Sandra Knipe. All were in favor. Motion carries.

Dr. Bogdasarian made a motion that Lucky be deemed a Nuisance dog with the following conditions.

1. Lucky shall be humanely restrained;
2. Lucky is to be confined to the premises of the keeper of the dog provided that “confined” shall mean securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run area upon the premises of the owner or keeper; provided further, that such pen or dog run shall have a secure roof and, if such enclosure has no floor secured to the sides thereof, the sides shall be embedded into the ground for not less than 2 feet; and provided further that within the confines of such pen or dog run, a dog house or proper shelter from the elements shall be provided to protect the dog;
3. That when removed from the premise of the owner the premise of the person keeping, the dog shall be securely and humanely muzzled and humanely restrained with a chain or other tethering device having a maximum tensile strength of 300 pounds and not exceeding three feet in length;
4. Lucky shall not be chained, tethered or otherwise tied to an inanimate object including but not limited to, a tree, post or building.
5. Request an inspection from the ACO to ensure Nuisance conditions are complied with.

Motion was 2<sup>nd</sup> by Ms. Sandra Knipe. All in favor. Motion carries.

Mr. Murray made a motion that the appropriate restraints be put in place by April 12, 2018 Ms. Knipe 2<sup>nd</sup> the motion. All were in favor. Motion carries.

Mrs. Fluharty asked if they could be notified when all is completed. Mr. Curry stated he will write up the decision and she will be contacted.

Ms. Knipe made a motion that Mr. Morris is responsible for the euthanizing of Tiger within a twenty four hour time period and Mr. Morris must report to Mr. Curry when the appointment takes place. Motion was 2<sup>nd</sup> by Dr. Bogdasarian. All were in favor. Motion carries.

**Tobacco Violation Hearing: Johnny’s Service Station, Sam Gandor:**

Mr. Murray stated the reason for this hearing is due to non-compliance of regulations of the Board of Health specifically restricting the Sale of Tobacco products at Johnny’s Service Station, 339 River St, Fitchburg, MA. The Board of Health is being asked to make a decision whether fine, suspension or both or no action be taken against Mr. Gandor who holds permits for the Sales of Tobacco and Nicotine Delivery products at Johnny’s Service Station. This hearing is the result of a tobacco retail inspection/compliance check conducted on December 20, 2017 by the Massachusetts Tobacco Cessation and Prevention Program as part of the food

and drug contract with Massachusetts. The compliance check revealed that the sale of cigarettes to a minor, Mr. Gandor or his employees failed to check identification.

Ms. Hamlett, Tobacco Control stated Johnny's Service Station was up for a permit suspension in the past with six hundred dollars' worth of fines. At that time the Board decided to continue the six hundred dollars in fines and serve a 7 day permit suspension. Mr. Gandor did serve the permit suspension with periodic checks and he did comply. The six hundred dollars was waived provided there was no new violations between that previous hearing and June 1, 2018. Fitchburg is part of a dual enforcement program with the Massachusetts Tobacco Control Program and on December 20, 2017 the FDA came in and there was a sale in an FDA inspection in conjunction with Massachusetts Tobacco Control Program. Ms. Hamlett stated because of the dual enforcement this would be his next violation therefore they would reinstate the fines and a 30 day suspension to sell Tobacco Products.

Ms. Knipe asked Mr. Gandor why he keeps selling to minors. Mr. Gandor stated he doesn't sell to minors and because of the high turnover in hiring, his employees do make mistakes. He only sells a few packs of cigarettes a day and doesn't make any money on it therefore if he lost his permit for thirty days it would not affect his business.

Ms. Hamlett stated she recommends a 30 day suspension. If there are any further violations there will be a hearing to not renew the permit. He must remove all Tobacco Products from the premises and refrain from selling Tobacco Products from April 16, 2018 – May 15, 2018.

Dr. Bogdasarian made a motion that Mr. Gandor is responsible for the violation that occurred on December 20, 2017 and to move forward with a 30 day Tobacco Permit suspension. Ms. Knipe 2<sup>nd</sup> the motion. All were in favor. Motion carries.

**Marijuana Social Consumption Discussion: Vincent P. Pusateri, Esp. City Solicitor:**

Mr. Curry stated Mr. Pusateri is here to discuss the issue of Social Consumption, Edible Packaging, Marketing and any other issue related in connection with legalizing non- medical marijuana. Mr. Pusateri stated there is a possibility there will be a referendum in the city to permit on premises consumption of marijuana. The Board of Health will have full authority to regulate this type of activity. The Board can conduct hearings and identify specific health issues that could be related to the actual smoking, vaping, edible marijuana which could be health concerns. After lengthy discussion and questions from the Board members, Mr. Pusateri suggested continuing this discussion and getting this on the agenda in a future meeting.

**River Styx Brewery Variance Request: Jackie Cullen:**

Ms. Holinko, Food Inspector stated she has reviewed the Dog Draft/Variance Proposal with Jackie Cullen of River Styx Brewery with the following changes;

#3 All dogs must be licensed by the city or town in which the dog is kept and the dog **must** display the current tag showing proof that the dog has been licensed.

#6 Table service of food provided by or facilitated by the establishment is prohibited unless River Styx is granted special permission by the Health Department. Table service provided by

the dog friendly establishment.is allowed for only the service of beer, pretzels, pre-packaged chips, coffee and soft drinks.

#8 The establishment may not be used for catered meals or refreshments prepared on site. The site can be rented for private events only provided River Styx does not facilitate or order catered food. River Styx may facilitate the booking of a mobile food operation.

#13 If there is accidental contact with the dog, the River Styx employee shall immediately wash their hands before proceeding to any other task.

### **RULES FOR RIVER STYX BREWING CUSTOMERS WITH PET DOGS**

- Dogs may not eat from the table or out of the hand of an employee who is working behind the bar.
- Current registration tags must be displayed on the dog's collar required by the Fitchburg Board of Health.
- Dogs must be under the control of the owner or caregiver at all times.

Ms. Holinko stated River Styx needs to submit a disinfection policy for fecal/urine incidents.

Ms, Knipe made a motion to accept the Draft Variance Proposal with the exceptions of the amendments discussed tonight. Motion was 2<sup>nd</sup> by Dr. Bogdasarian. All were in favor. Motion carries.

Meeting adjourned at 8:30 pm.