

Board of Health
Meeting Minutes
January 15, 2019 – 7:00 P.M.
Ashland Town Hall, 101 Main Street, Ashland, MA
Selectmen’s Meeting Room

Jon Fetherston, Chairman
Diane Mortensen, Vice Chairperson
Mark Oram, Agent/Director

Chris Daniele, Clerk
Ronald Etskovitz, Member
Koduvayur Narayana, Member

Members Present:

Jon Fetherston, Diane Mortensen, Chris Daniele, Ronald Etskovitz and Koduvayur Narayana

Others Present:

Mark Oram	Che Patel, Che’s Liquors
Laura Clifford	Saumya Sankhavaram, Decisions at Every Turn
Sergeant Ed Burman	Vinnie Patel, EZ Convenience Food Market
William Goldberg, Main St. Wine & Spirits	Elise Yannett, Attorney General’s Office
Adam Ponte, Esq.	Rianna, Student
Mahmood Ul Hassan, Marathon Mobil	Cheryl Sbarra, Attorney, MAHB
Rafiq, Marathon Mobil	Carly Caminiti, the 84 Movement
Amy Turncliff, Resident	Sarah McColgan, MHOA
Brian O., Speedway	Mary Cole, Tobacco Free Community Partnership
Neha Shabeer, Ashland High School	Sahil Muthuswami, resident
DJ Wilson, MMA	Piyush Patel, Lucky Farms
DJ Orr, Seasons Corner Market	Kasey Flynn, Market Basket
Barbara Therrien, Seasons Corner Market	Dr. Lester Hartman
Bertina Adams, Seasons Corner Market	Mark Dassoni, Resident
Kemishe Martinez, Seasons Corner Market	Melissa Evans, Town Tobacco Control Agent
Neel Patel, Sunnyside Liquors	Elliot Brown, Town Tobacco Control Agent
Joseph Gaied, Ashland Convenience Store	

Call to Order

Mr. Fetherston called the meeting to order at 7:00 p.m. and announced that the meeting was being video recorded by WACA-TV.

Citizen’s Participation

None.

Sergeant Ed Burman to discuss Narcan – Opioid statistics

Sergeant Ed Burman presented an update on the statistics related to Narcan use by the Ashland Police Department since his last presentation to the Board in March of 2018. Sergeant Burman noted that in 2016 the Ashland Police Department (APD) was the first department in Metrowest to start carrying Narcan and training all their officers. In 2016, the APD responded to 18 opiate overdoses, there were five deaths; in 2017, they responded to 14 overdoses, there were two deaths; in 2018, they responded to 10 overdoses, there were 2 deaths. To date, in 2019, there have been no opiate-related overdoses or deaths. Sergeant Burman noted that the State has now mandated that all police officers be trained to carry Narcan. Sergeant

Burman also noted that the Board of Health office has Narcan available and will train and provide Narcan to anyone who comes in for the training. Mr. Fetherston emphasized that we will have a trained person come to any business and train people at your place of business, to reach out to us. Sergeant Burman encouraged anyone seeking help should have no fear of being arrested, we are here to help. Sergeant Burman thanked Decisions at Every Turn (DAET) for helping to put every 10th grader through an opiate education program. The Board thanked Mr. Burman and all the First Responders for their work.

Public Discussion – Tobacco Regulations and Flavors

Elise Yannett of the State Attorney General's Office cited statistics from a Truth Initiative survey and discussed the work their office has been doing as it relates to what they believe is an epidemic of youth using e-cigarette products. The Attorney General's Office began an investigation of JUUL Labs over their marketing practices and age verification system. They have also filed Cease and Desist Orders against two online retailers who have since stopped selling online and shipping orders to Massachusetts. Ms. Yannett noted they will continue to hold people accountable and take action as they see fit. They have heard many stories of addiction to juuling and vaping from parents and are committed to protecting the youth of Massachusetts to increase educational programming and resources for treatment. Board Members inquired as to the State's willingness to assist in the event of a lawsuit being filed. Ms. Yannett noted that she will bring back the Town's concerns and added that their office could speak with the local town counsel if a lawsuit is filed. Ms. Yannett thanked the Board for taking on the issue.

Mr. Daniele read a letter in support of the proposed Regulation to restrict the availability of menthol, mint and wintergreen flavored tobacco products from Superintendent of Schools, James Adams.

Mr. Fetherston read a letter from Senator Ed Markey also in support of the proposed Regulation.

The Board discussed a legal opinion received from Town Counsel, Lisa Mead, which notes that Boards of Health have broad authority to regulate sale and use of tobacco, however, a potential for litigation may be considered. Attorney Mead's opinion looked at the Town of Yarmouth lawsuit and other pending municipal cases.

Attorney Adam Ponte, representing the Coalition for Responsible Retailing (CRR), discussed the affirmative vote taken in Somerville to ban all flavors. As a result, he has been retained by a number of Somerville residents and retailers to file a legal challenge against the Somerville Board of Health. Attorney Ponte noted he has submitted a letter to the Ashland Board of Health notifying them of this information, additional studies with citations were included with the letter. Attorney Ponte believes the ban is unlawful and in excess of any Board of Health's authority and gives a competitive advantage to combustible products. Attorney Ponte inquired as to whether the Board has discussed putting together a task force as previously suggested and believes the storeowners should have that opportunity.

Bill Goldberg, owner of Main Street Wine and Spirits, agrees that smoking is harmful. Menthol cigarettes comprise 20% of his total cigarette sales. Mr. Goldberg believes that menthol smokers will no longer come to his store; that he will lose tobacco sales revenue as well as sales of complimentary items. Loss of revenue will make it difficult to keep up with increasing labor costs. Mr. Goldberg asked the Board to not single out retailers for the legal sale of tobacco products to adults.

Neha Shabeer, an Ashland High School student, spoke about the effects she has witnessed on her fellow students who are addicted to Juuling, which include jittering and grades suffering due to missed class time.

Ms. Shabeer read statistics regarding Ashland High School students, noting that 25% of Ashland High School students bought tobacco products in a store where they live, others get it from older siblings.

Sahil Muthuswami, an Ashland High School student, discussed the harmful effect of menthol due to its mild flavor and cause more youth to become addicted.

Neil Patel, owner of Sunnyside Liquors, discussed the negative effect he feels the proposed ban will have on his business; he believes kids who want it will still go outside the town, and says in his store he sees adults of legal age, they will be the ones affected.

Bertina Adams, Manager of Seasons Corner Market, discussed their strict ID policy.

Barbara Therrion, Seasons Corner Market, discussed their employee training program and 100% compliance rate. Ms. Therrion noted $\frac{3}{4}$ of their tobacco sales are cigarettes, they also have a sales limit of five JUULs per customer.

DJ Orr, Director of Operations for Seasons Corner Market, noted that retailers do the best they can. Mr. Orr would like to see youth tobacco possession laws in place, and feels without this, stores are being blamed for legally selling to adults. He also believes that having a ban in Ashland will give other surrounding towns a greater advantage. Mr. Orr discussed his store's 100% compliance rate over the last four years in Ashland.

Rianna, a student from Algonquin High School, after hearing a radio commercial for JUUL, called the AG's Office; she attested to the addictive affect she has witnessed on her classmates. Many students purchase Juuls from other students. Ms. Mortensen inquired whether they would go to cigarettes if mint was banned, Rianna said they would not because of the connotation of cigarettes.

Carly Caminiti, of the 84 Movement, works with high schools across the state. They work to educate peers, she stated that tobacco is the number one epidemic that kills people. Ms. Caminiti discussed her discussions with young adults who, when asked why they vape, note that flavors is the number one reason.

DJ Wilson, Tobacco Control Director at Mass. Municipal Association, discussed the issue of non-criminal disposition and noted that he prefers the flat \$300 fine currently in place rather than the proposed phrase. Mr. Wilson noted that the word "restriction" should be used in place of "ban" in the event that an adult use only tobacco store has that opportunity in the future.

Dr. Lester Hartman, noted that he has attended 170 Board of Health meetings; he discussed the nicotine concentration in Juul and noted that the higher concentration was banned in Europe. The marketing is geared towards teenagers. Dr. Hartman discussed statistics from the Truth Initiative and noted access affects use and stated that 75% of where kids get vape products is from retailers.

Amy Turncliff, as a resident, parent, neuroscientist and public health advocate, thanked the Board for taking action in updating the Regulations to reduce public health harms and youth use of these products. Ms. Turncliff reviewed data from the 2018 National Youth Survey indicating there are 3.6 million e-cigarette users under the age of 18; 51% use menthol or mint flavored products. With 480,000 tobacco-related deaths, Ms. Turncliff believes we have a shared responsibility to reduce tobacco use and ensure a new generation does not become addicted to nicotine and fully supports the Tobacco Regulations restricting the sale of menthol tobacco products.

Che Patel, resident and owner of Che's Liquors, noted that menthol tobacco equates for 25% of his sales. Mr. Patel believes youth have other means of getting tobacco products and noted that he was able to purchase Juul pods online with no age verification required and it will be delivered to his home. Mr. Patel believes this ban will dampen his wine and beer sales and that regular customers may now go to a liquor store in Holliston. Mr. Patel noted that as long as he has owned his store, he has maintained a 100% compliance rate.

Cheryl Sbarra, Director of Policy and Law for the Mass. Association of Health Boards, provided the Board with additional research articles based on 82 studies which concluded that the removal of menthol from cigarettes is likely to reduce youth smoking initiation and improve smoking cessation outcomes in adult smokers. Ms. Mortensen inquired, and Attorney Sbarra responded, that the Board could choose to have separate definitions for nicotine delivery products to create separate regulations for combustible and e-cigarettes. The way they are now defined is more encompassing to include any products the industry could eventually develop.

Mary Cole, of the Greater Boston Community Partnership, spoke about how vaping has always targeted the youth, putting the products in convenience stores, next to candy. Ms. Cole believes we have a moral obligation to our youth; passing the menthol ban shows that you want to take initiative. Mr. Fetherston noted that Mary Cole did a terrific job at the Vaping and Juuling Seminar, the link to the video is available on the Board of Health website: <http://98.118.96.186/CablecastPublicSite/show/3222?channel=3>

Mark Dassoni, resident, noted that the tobacco use and policies don't truly affect you until something happens to someone in your family.

Ken Farbstein, Niotech Foundation for the Improvement of Addiction Treatment, discussed the Royal College Study, which shows a much less toxic product is sold in England. He believes the addition of menthol incites a deeper inhalation and higher nicotine dose. Mr. Farbstein encouraged businesses to find healthier alternative items for sale.

Ms. Turncliff read research from The Rand Corporation which stated that a young person who uses e-cigarettes is four times as likely to progress to tobacco cigarettes within 18 months as their peers who do not vape.

Mr. Daniele noted that the most important aspect of this process is the civility and listening to different perspectives. When we do take a vote, nothing will be taken lightly, all information will be factored in.

Mr. Fetherston noted that the Board will review all research and submissions; a potential vote will be taken at the January 22, 2019 meeting agenda. Mr. Fetherston noted that all are welcome to send comments, concerns, data and research to the Board prior to the meeting.

The Board took a five minute recess at 10:00 PM.

Mr. Fetherston called the meeting back to order at 10:05 PM.

Review of Minutes, December 12 and December 18, 2018

Mr. Narayana requested to edit the December 12, 2018 meeting minutes to list Members who were absent.

Mr. Narayana made a motion to approve the amended minutes as presented, Mr. Etskovitz seconded the motion. The motion was approved. 3-0-2.

Mr. Narayana made a motion to approve the December 18, 2018 meeting minutes as presented. Mr. Daniele seconded the motion. The motion was approved 5-0.

Discuss Future Agenda Topics and Meeting Dates

Ms. Mortensen noted that she gained much valuable information tonight and inquired as to whether Framingham is expecting to have a similar ban. Mr. Oram was not sure whether Framingham is planning to restrict menthol but noted there is strength in numbers.

The Board discussed the impact on businesses and how to incentivize people to find alternative products for sale to replace tobacco.

Mr. Etskovitz inquired as to how a potential lawsuit would affect the Town from a financial standpoint; Mr. Fetherston noted that insurance will protect us up to a point. Ms. Mortensen believes this should be taken into consideration, and inquired whether approving this Regulation will solve the problem of youth acquiring tobacco products. Mr. Etskovitz noted that youth are getting it somewhere, the only defense the Board has is to restrict access however we can.

Ms. Mortensen inquired, and Mr. Oram responded, that his recommendation is to eliminate menthol, mint and wintergreen and keep the tobacco flavor, and to look at expanding businesses to adult use only tobacco retail stores.

Mr. Narayana inquired as to the possibility of lowering the tobacco concentration, as they have done in England.

The Board discussed the advantage of having the support of neighboring communities; Mr. Daniele noted that two of the three Health Agents he spoke to are considering the menthol restriction.

Adjournment

Mr. Narayana made a motion to adjourn, Mr. Etskovitz seconded the motion. The motion was approved 5-0.

The meeting adjourned at 10:45 PM.

ASHLAND BOARD OF HEALTH
DOCUMENTS REVIEWED AT THE 1/15/2019 MEETING
(All items stored in the Board of Health files unless otherwise noted)

1. Data / Email from Sergeant Ed Burman regarding opioid statistics
2. Revised Regulation of the Ashland Board of Health Restricting the Sale of Tobacco and Nicotine Products and Delivery Systems
3. Letter to Mark Oram from Attorney Adam Ponte with attachments (JNCI Journal; Royal College of Physicians Report), dated January 15, 2019
4. Letter from James Adams, Superintendent, dated January 15, 2019
5. Letter from Senator Edward Markey, dated January 15, 2019
6. Legal Opinion from Lisa Mead, Town Counsel, dated January 14, 2019
7. Email from Ken Farbstein with attachments (Menthol Fact Sheet, Limitations of the Royal College of Surgeons Report)
8. Copy of Current Non-Criminal Authorization as of January 2019, from DJ Wilson
9. BMC Public Health-Menthol Cigarettes and the Public Health Standard; a systematic review, from Attorney Cheryl Sbarra
10. Big Tobacco Targets Kids Brochure
11. Summary of Comments on Proposed Tobacco Regulations from Somerville BoH Public Hearing, December 13, 2018
12. Draft Minutes, November 29 and December 4, 2018
13. Audio Recording of the meeting is available