



**TOWN OF SHREWSBURY**  
Richard D. Carney Municipal Office Building  
100 Maple Avenue, Shrewsbury, Massachusetts 01545

DATE: June 21, 2019

TO: Board of Health

FROM: Kerry Stockwell, Administrative Assistant

SUBJECT: Board of Health Meeting Minutes

ATTENDANCE: Stephen Vigeant, Maria Narducci, Jennie Fishman

ALSO IN ATTENDANCE: Karyn Clark, Phil Leger, Abby Graham, and Joshan Niroula - Worcester Department of Public Health (WDPH) / Central Mass Regional Public Health Alliance (CMRPHA)  
DJ Wilson – Massachusetts Municipal Association (MMA), Boston  
Mr. Patel – Turnpike Liquors, 166 Boston Turnpike, Shrewsbury

**AGENDA**

- 1. Call to order.** The meeting was called to order at 8:21 a.m. by Stephen Vigeant.
- 2. Review and approval of Minutes from the May 3, 2019 Board of Health meeting.**  
Maria Narducci made a motion to accept the Meeting Minutes from the May 3, 2019 Board of Health meeting. Seconded by Jennie Fishman. Unanimously approved 3-0.
- 3. Review and approval of Minutes from the May 20, 2019 Board of Health meeting.**  
Maria Narducci made a motion to accept the Meeting Minutes from the May 20, 2019 Board of Health meeting. Seconded by Jennie Fishman. Unanimously approved 3-0.
- 4. Review and Act on Tobacco Violations at Turnpike Liquors, 166 Boston Turnpike.**  
Mr. Patel of Turnpike Liquors came before the Board to explain the recent tobacco violation. The person in charge of the ordering was out of the country and another employee was put in charge of that task. The employee mistakenly ordered the cigars in packages of two at \$5.00 and wasn't thinking of the Local Tobacco Regulations. It was an error on the employee's part and in future, will make sure that all employees follow the Shrewsbury's Board of Health Tobacco Regulations, policies, and procedures.

Question: Does Turnpike Liquors have regular meetings with their staff?

Answer: Yes.

Question: Is there a mechanism to educate the tobacco retailers when there is a new policy in place?

Answer: Yes. Whenever there is a new policy, a letter would be sent out to the tobacco retailers outlining the changes and would be given a copy of the revised regulations. Additionally, a CMRPHA Tobacco Prevention Specialist would visit those establishments and walk them through changes. The tobacco language can be confusing and there are many moving parts and pieces. Blunt wraps are relatively new to the Shrewsbury Tobacco regulations.

Mr. Patel was asked that he be sure his establishment has a copy of the Shrewsbury Tobacco regulations and ensure that his staff is aware of them. The Board of Health is not recommending a suspension of the Tobacco Retailer license at this time and thanked Mr. Patel for coming in to speak on the matter.

**5. Review and Act on regulations that would restrict the sale of fruit and candy flavored tobacco products in the Town of Shrewsbury to adult-only retail tobacco establishments.**

Karyn Clark acknowledged that there was a conversation at the last Board of Health meeting with regards to amending the existing Tobacco Regulations to now include flavored restrictions. DJ Wilson, of MMA, is here today and will answer any questions the Board may have. There is no doubt that the flavored tobacco products are being targeted towards the youth. There have been discussion over the last few years about restricting the sale of flavored tobacco products to adult-only (twenty one (21) plus) establishments.

DJ introduced himself to the Board, explained why things have shifted a bit and referenced a list of municipalities that have un-exempted mint, menthol, and wintergreen in their original flavored tobacco and vape products to adult-only Retail Tobacco Stores.

In June 2009, the Federal Government banned the sale of flavored cigarettes (with the exception of mint, menthol, and wintergreen flavorings). In July of that same year, the State of Maine added to that ban to include cigars.

In January 2012, the City Council in Providence – State of Rhode Island, mimicked the State of Maine by enacting an ordinance to ban all Other Tobacco Products (OTP) to include chewing tobacco, cigars, and e-cigarettes (with the exception of adult-only retailers). Providence was sued in 2013 by the Federal Government and then prevailed in the United States Court of Appeals. Note: We are in the same Federal court district as the State of Rhode Island. The ruling extended to the State of Massachusetts and then some cities and towns started to adopt Providence's original policy. Their original policy acknowledges that the flavored tobacco products are geared towards the youth. There has been an increase in usage across the nation. Their original policy did prohibit the sale of all flavored tobacco products to include flavored vaping and e-cigarette products with the exception of adult-only tobacco retailers and smoking bars. Their policy exempts mint, menthol, and wintergreen as flavors.

The Towns of Needham and the City of Somerville had a bit of a tug of war. They voted to un-exempt mint, menthol, and wintergreen. The City of Somerville was sued by Fletcher Tilton in 2018 and the Town of Shrewsbury recently received a letter about that very lawsuit. Before a tobacco regulation can go into effect, the Attorney General's Office (AGO) has to review and approve it. There will be a listening session on July 15, 2019 in the City of Boston. There is larger usage in minority populations. The Tobacco industry is very concerned about rulings on flavored tobacco products, because it's a hit on sales. Hopefully, the more restrictive the regulations, the more it will drive people to quit smoking. If that happens, then Cessation Programs would need to be put in place. Many Cities and Towns have tabled the effective date of their revised tobacco regulations, because they are waiting to see what the Attorney General's Office has to say pending the Listening Session.

The sale of JUUL products are exploding in leaps and bounds, not only in sales but the devices themselves often ignite. There are real concerns about this particular vaping product. JUUL currently has about seventy five percent (75%) of the tobacco market. Menthol cigarettes represent about thirty percent (30%) of the market. Tobacco flavored vape products are not natural flavors, they have to be placed in there.

Steve Vigeant thanked DJ for the comprehensive background and mentioned that the Fletcher Tilton letter was helpful to the Board in understanding the lawsuit against the City of Somerville.

Karyn Clark thanked DJ for attending the Board meeting and providing a summary. DJ has been doing this for a really long time and there is no one better to elaborate as there are so many moving parts. In the Board packet, there are proposed regulations which would now include the restriction of sale for mint, menthol and wintergreen tobacco flavored products. Karyn has had conversations collectively with the Town Manager's Office, State Representative Hannah Kane, and Steven Vigeant regarding the Somerville suit. It was recommended that regulation with the menthol language be cross-checked by Town Counsel. It's a

flavor and the demographics being impacted is quite concerning. It's important to talk it through and she wanted to be sure that the Board has the most up-to-date information. It's helpful to keep the conversation going but equally as important to have the proposed regulations reviewed by Town Counsel.

Steve Vigeant acknowledged that the Board had received revised proposed regulations striking mint menthol and wintergreen since the last Board of Health meeting. The Board needs to decide when to hold a Public Hearing and it would include restricting the sale of all flavored tobacco products to include all mint menthol and wintergreen tobacco flavored products. The Board would receive testimony from a Public Hearing and then the feedback would be discussed at a subsequent Board of Health meeting.

Question: Is everyone on board with mint menthol and wintergreen not as an exception?

Answer: Yes.

Question: Would the exemption be just for mint menthol cigarettes?

Answer: No. It would be for all mint menthol and wintergreen chew, cigars, cigarettes, JUUL and any other flavor would not be allowed.

DJ Wilson suggested that a Public Hearing be held for discussion and feedback on the proposed regulations. He added that the Public Health Advocacy Institute (PHAI) has been handling litigation for years and would stand behind any municipality that is looking to prohibit the sale of any flavored tobacco product.

Question: Are any communities restricting to all adult-only establishments?

Answer: No. In approximately two (2) years, we will most likely see that come to fruition. Currently, there are no adult-only tobacco establishments in Shrewsbury.

Steven Vigeant asked the Board if they were in agreement with the exclusion of menthol and wintergreen from the exemption and move forward with scheduling a Public Hearing. All Board members were in agreement with the exemption and proceeding with obtaining feedback and public comment from a Public Hearing.

Maria Narducci made a motion that the Board of Health schedule a Public Hearing. Seconded by Jennie Fishman. Unanimously approved 3 to 0.

## **6. Review and Act on the Report from the Central Massachusetts Regional Public Health Alliance (CMRPHA).**

### Special Commission on Local and Regional Public Health

The Massachusetts Department of Public Health (MDPH) has drafted a report from the Special Commission on Local and Regional Public Health. This report outlines recommendations for improved effectiveness and efficiency of Local Public Health Protections in the Commonwealth.

### Food Code Pro

The City of Worcester's IT department is in the process of having conference calls with the folks who offer this product for cloud-based food inspections. Digital inspections will be the wave of the future. The goal is to have the Health Agents trained and up and running on that platform.

Karyn Clark asked the Board if they had any questions about the CMRPHA updates. Maria Narducci requested that she be removed from the Health and Homeland Alert Network (HHAN) Alerts as her term is ending on June 30, 2019. The CMRPHA will coordinate that.

### Environmental Health Data

Abby Graham provided some Environmental Health data since the last Board of Health meeting that took place in May. There was a total of one hundred and sixty one (161) inspections. Twenty eight (28) of those were reinspections. It's been a very busy month and a half. There are lots of Recreational Camps for Children and a large amount of pool and/or SPA inspections. Sunset Beach is operational now and there are lots of scheduled temporary food events on the horizon. There has been an uptick in nuisance complaints that include trash and tall grass.

### Mobile Food Training

The Health Agents attended mobile food training on June 20, 2019 at Cyprian Keys in Boylston. The presentation provided some helpful links that can be posted on the Town's website. There was some Cannabidiol (CBD) guidance which is regulated by the Food and Drug Administration (FDA). If something is prepackaged, there is a possibility it could contain CBD. The presenter touched on marijuana infused food and that the Local Boards of Health could adopt language to make the sale of this type of food more restrictive. Phil Leger felt that this is already being regulated but if the Board wanted to consider discussing that, they certainly can.

Question: Can I grow marijuana at home?

Answer: Yes, but it can only be up to six (6) plants. You cannot manufacture marijuana brownies. There is a difference between medical and retail. If something is labeled as medical, you can't sell it as retail and vice versa.

Question: Why would a Board of Health get involved?

Answer: Some Boards of Health like to have more local control. The Health Department is really busy already with various types of inspections and follow-up. The staffing is not there. Right now, the educational piece is sufficient. There have not been any complaints. The guidance refers to the FDA whereas Hemp Oil and Hemp C is more of a farm product which is regulated under both Federal and State laws. The question always comes down to who will handle the enforcement piece. This is something that the Health Agents can keep an eye out for when conducting their routine inspections.

### Semi-Public Swimming Pools and/or SPAs

All pools and/or SPAs that wanted to be open by Memorial Day, were inspected and permitted for the season.

### Temporary Food Events

Eleven (11) temp food vendors were inspected and permitted over the last few weeks to include the start of the Farmers Market. Food vendors who will be participating in the Spirit of Shrewsbury, have already started the application process. Pre-event planning is key to avoid last-minute applicants. There has been progress made over the years. Koby Owusu-Ansah is assisting with the inspection of some weekend events.

## **7. Review meeting schedule.**

The next Board of Health meeting is scheduled for July 26, 2019 at 8:00 a.m. A Public Hearing will follow.

At this time, the CMRPHA staff and the Board thanked Maria Narducci for her nine (9) year tenure with the Shrewsbury Board of Health. Her term will officially end on June 30, 2019.

## **6. Adjourn.**

Maria Narducci made a motion to adjourn the meeting at 9:08 a.m. Seconded by Jennie Fishman. Unanimously approved 3-0.

### **Referenced Material:**

- Board of Health Meeting Minutes – May 3, 2019
- Board of Health Meeting Minutes – May 20, 2019
- Turnpike Liquors Tobacco Violation letters – both dated May 16, 2019
- Draft Regulation of the Shrewsbury Board of Health Restricting the Sale of Tobacco Products – no date
- Fletcher Tilton letter – May 29, 2019
- Municipal Tobacco Control Technical Assistance Program – no date
- Municipal Tobacco Control Technical Assistance Program – Local Policy Restricting Flavored Tobacco and Vape Products to Adult-Only “Retail Tobacco Stores” – June 20, 2019
- Application for License to Transport Hazardous Waste – June 2019

- CMRPHA Updates – May 2019

Respectfully submitted,

*Kerry M. Stockwell*

Kerry M. Stockwell, Administrative Assistant to the Board of Health