



Town of Agawam Board of Health

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Gladys Fernandez-Largay, MD	- Chairman
Mary Jo Safford, NP	- Vice Chair
Mary Lee Bertrand, BSN	- Member
Michael Theroux	- Health Agent
Sherry Petrucci, RN	- Public Health Nurse
Lauren Kennedy	- Sanitarian
Melissa Brooks	- Secretary

Meeting Minutes – June 8, 2022 Agawam Senior Center 5:00 p.m.

Attendance: All members present.

Documents distributed at meeting: Board of Health Agenda, Body Works Regulation, and hearing paperwork

Meeting Called to Order: 5:00 p.m. by Chairman Fernandez

Citizen Speak Time: None attended the meeting

Approval of minutes: A motion to approve the May BOH minutes was made by Vice Chair Safford and seconded by Member Bertrand. Motion to approve minutes: 3-0.

New Business:

New Personnel: Michael Theroux, Health Agent, introduced Melissa Brooks who was hired to replace our former BOH Secretary, Beth Ceccarini.

Hearing – Tobacco Violation: Agawam Gulf, 18 Springfield Street

A motion was made to open the public hearing by Chairman Fernandez with a second by Vice Chair Safford. By a 3-0 vote the public hearing was open at 5:04 p.m.

The Chairman read the Public Hearing Guidelines to all present.

Chairman Fernandez states the request for the hearing was made at the request by store owner, Mr. Vinnie Shah. She also states there is a correction to the Pioneer Valley Tobacco Coalition's (PVTC) email. PVTC stated the violation took place at the Agawam Valero. However, the name of the establishment per the letter head from Mr. Shah, as well as the sign displayed outside the

building is in fact Agawam Gulf. Mr. Shah confirmed this information is correct.

Donna Bowman, PVTC Compliance Officer, was first to speak. She gave a brief overview of the coalition's responsibilities with regard to the way compliance checks are conducted. She stated that agents under 21, with parental permission, are used to assist in these routine compliance checks. They are trained using the Mass State guidelines for Tobacco Compliance. For these compliance checks, the youth agents need to remove any and all items from their pockets except the money given by the officer and a cell phone for emergency use only. They are not allowed to bring a purse or back pack. They are to go directly in the store, request to purchase a nicotine or tobacco product and come directly out of the store to the Officer's vehicle. The subjects are instructed to answer all questions by the store clerk truthfully. The vehicle is usually parked somewhere in front so the officer can keep an eye on the youth agent. However, sometimes the view is blocked or obstructed. If a purchase is made, the agent gives the officer both the evidence and the change. If a purchase isn't made, the agent returns the money to the officer. The evidence is immediately bagged and tagged with store name and address, brief description of the clerk, town, date and time of violation. The Tobacco Compliance Officer holds the evidence until such a time a hearing is requested.

On Saturday, April 16th 2022 at 2:49 p.m. a compliance check was done at the Agawam Gulf. The youth agent entered the store with \$20.00 and a cell phone. The youth agent asked for a pack of Marlboro Gold's. The clerk neither asked the youth for an ID nor their age. The youth agent returned to the officer's vehicle with the cigarettes which cost \$12.04, the cell phone and the change. The cigarettes were bagged and tagged as evidence. Chairwoman Fernandez asked if either of the Board Members had any questions for Officer Bowman. Chair Safford and Member Bertrand stated they did not have any questions. Solicitor Steve Buoniconti asked if the item was in the room with her. Compliance Officer Bowman answered in the affirmative and presented an evidence bag containing a pack of Marlboro Gold cigarettes. Solicitor Buoniconti recommended it be placed in to evidence. The item was handed to the Board of Health members. Solicitor Buoniconti then asked the age of the Youth Agent. Compliance Officer Bowman stated the Youth Agents are between 15 and 21 years of age. Chairman Fernandez asked if there were any further questions for compliant officer Bowman. Chairman Fernandez then called the party charged to testify. Vinnie Shah, owner of Agawam Gulf, formerly Agawam Valero, said his son and himself were out of the country. He knows his employee was there and (pointing to Compliance Officer Bowman) said he agrees with her statement. He thanked the Board for the opportunity to speak. Mr. Shah states that it's his first violation and that the penalty seems too stringent and serious for a first time violation. He requests a lower fine be considered because he doesn't promote or encourage anyone under 21 to buy tobacco products. He has never had a violation since he took over in 2012. \$1,000 fine would have financial implications for him. Health Agent Michel Theroux explained to Mr. Shah that the fine is determined by the State and is final. The only penalty that can be considered is the length of the suspension. Chairman Fernandez asked the Board members if there were any questions by the Board. Vice Chair Safford asked Mr. Shah if each and every one of his staff goes through the mandated tobacco training and he has the appropriate signage. Mr. Shah said yes to both. Chairman Fernandez asked Mr. Shah when he received his tobacco permit for sales, did he sign the declaration that he read the ordinance and that he's responsible for instructing any and all employees. Mr. Shah said yes, he did. She then asked if he has signs posted per the ordinance including not to sell

tobacco products to underage individuals per the ordinance. Mr. Shah again said yes. Chairman Fernandez asked if there were any more questions. There were none. Chairman Fernandez then asked the Health Agent if there were other violations on that day, had they received the same fine and the same number of days of suspensions. Mr. Theroux said yes, there were 4 locations who sold to minors. They each received a \$1,000 fine and a 3 day suspension. Mr. Theroux explained the suspension can be anywhere from 1 to 30 days. All 3 other places paid their fines and served their suspensions. Chairman Fernandez asked if there are any further questions. Solicitor Buoniconti asked Mr. Shah to clarify for the record that he's not denying anything that occurred. There was a sale of a tobacco product to someone under the age of 21 and that he's really just asking for some forgiveness or consideration about reducing the penalty. Mr. Shah said yes. Chairwoman Fernandez asked if there was anything else Mr. Shah would like to add. He said no. Chairwoman noted all the evidence has been presented, all questions have been asked and answered, request to close the evidentiary portion and open the deliberation portion of the hearing. Vice Chair Safford made a motion to close the evidentiary portion and open the deliberation portion of the hearing. Member Bertrand seconds the motion. With a unanimous vote, the evidentiary portion is closed and opening deliberation. Chairwoman Fernandez describes how they will proceed. They are only deliberating to see if a sale had taken place. That is their charge. Chairwoman Safford states it's indisputable because we know that it occurred along with the violation amount because it's a state regulation. Chairwoman Fernandez states the violation for a first offense is 1-30 days, a second violation starts at 14 days and they go up from there. Health Agent Theroux has set it at 3 days in the past and it seem generous. Solicitor Buoniconti asked Mr. Theroux about the other suspension served. He asked if he worked with the store owners to determine the days that the suspension would be carried out. Mr. Theroux answered in the affirmative and said they all chose the 3 least busy concurrent days. All chose Sunday, Monday and Tuesday. Mr. Buoniconti asked of Mr. Theroux if he would treat Mr. Shah the same way. Mr. Theroux said yes, he will work with Mr. Shah. Chairman Fernandez clarified that they are working with the owner and it's to be 3 consecutive days served. Chairman Fernandez asked if there are any other items to discuss during deliberation before they close and open for a vote. There were none. Chairwoman said the guidelines are there, the fine is set and all other violators were given the same suspension. Chairwoman Fernandez then asked to close the deliberation portion and to call for a vote on the decision. Vice Chair Safford motioned to close deliberation and Member Bertrand second the motion. Chairman Fernandez states the vote will be provided in writing formerly, that a violation did occur, there's a \$1,000 fine and 3 consecutive day suspension to be served which includes removing all tobacco items from the retail premises. The vote is to uphold, dismiss or table to schedule another hearing. Vice Chair Safford voted to uphold. Member Bertrand voted to uphold. Chairman Fernandez voted to uphold. The Board made a unanimous decision to uphold that a violation did occur. Vice Chair Safford made a motion to close the hearing and Member Bertrand second the motion. June 8th at 5:22pm the Board has decided and will provide the decision in writing containing the summary of the discussion and findings to Mr. Shah. The Health Agent will work with Mr. Shaw in the next two weeks to serve out the suspension and the method of payment.

218 Shoemaker- Health Agent Theroux states he went to the property with the Building Inspector, Bill Scott. The owners had a special permit for a car carrier site to only transport

vehicles from auctions. There was a list of conditions set for the special permit such as all the cars had to be operable. None of the conditions were followed. Pictures were presented showing a “junk yard” as opposed to a car transport area. A large structure was also constructed. Mr. Theroux issued an order on this property to clean up the property the debris the shed full of used tires, gas tanks, oil containers and receptacles around the property and the inoperable automobiles in the ground or in the woods. Also, that it is to be re-inspected at the end of the month. If it isn't up to code, along with the Building Inspector, they may have to pull the special permit and shut the whole thing down. Chairman Fernandez asked what that means if they have to vacate the premises. Mr. Theroux clarified it means they wouldn't be able to operate whatever it is they're operating. Chairman Fernandez asked how you force them to clean it and get out. Mr. Theroux responded he'd likely have to take them to Housing Court and the company is out of Portland Oregon. There may have been an owner who came here to apply for the special permit, but there's no name associated with the company, just the LLC name.

Old Business:

20 Ottawa-The Health Agent will be in Housing court Tuesday, June 14th for a hearing. The receiver is trying to cash out on his lien and the property would likely then go to auction. The bank is trying to take the property back but he doesn't believe the bank will do the work to sell it. It will likely take a long time to rehab the property. The hope is that it goes to auction someone will rehab it quicker. Mr. Theroux is going to speak to that affect and he would like to see it “go to auction.” He wouldn't like to see the bank take it over. Mrs. Carrier is still in rehab facility. None of her stuff has been touched so she can go through it to get her personal belongings.

Six Flags- the water park was inspected by Health Agent Theroux and Sanitarian Lauren Kennedy. They got all of their permits and they are open for business. Follow-ups to “check-in” will likely occur but otherwise, they are good.

Body Works Regulations: Sanitarian Lauren Kennedy made all spelling and grammar changes. She added to section 5, #5 proof of skin test (TB). It was suggested that an option for a T spot blood test in substitution of the skin test that would be 2 visits. The one time test would be less of a barrier. She also added to section 6, #3 the words “life support” to “Basic CPR” as opposed to BLS. To Section 7 #13 in regard to lotions they can use, Vice Chair Safford suggested that all containers should have factory labor date and can't be “topped off” with lotions from a different container. This is commonly known as good infection control policy. Vice Chair asked about the section under “purpose” of the exemption language in section 1 (read the section out loud). The State leaves out “Body Works” in their rules and regulations for their massage therapists. Since the States regulations for massage therapists is so stringent, a worker only has to tell a State Inspector that they don't perform massage, only body works. The worker is then able to bypass the regulation and is referred to the Town. Ms. Kennedy said that's why it's so important for the Town to have its own regulations because that's partly how the sex parlors are able to bypass the State Inspections. Mr. Theroux then stated a State Inspector would be in Town the following day to follow up on a complaint the Agawam Health Department received about a massage they received from a parlor that previous stated they don't perform massages, only body works. Vice Chair Stafford stated that although wordy, she liked the thorough definitions sections and

felt it not only useful, but informative. Mr. Theroux stated that he believed it to be required in regulations. Ms. Kennedy said she “cleaned up” the language to include parts that apply to the regulation and exclude techniques like reiki for example. Chairwoman Fernandez suggested that the City Solicitor Buoniconti or his office should review the definitions to see what they require to uphold the regulation should a violation occur. Mr. Theroux he would bring the final draft to the Solicitor’s office for review and comment. Hopefully by October, there can be a vote on it. Vice Chair then directed attention to Section 6, #13 regarding hand washing and a correction on the wording. Ms. Kennedy stated the correction had been made. Chairwoman Fernandez said from an infection control stand point, the word “hot” should be removed. It should state to wash with soap and water because hot water may cause skin breaks. Ms. Kennedy said that she had corrected it. Next, Ms. Kennedy discussed the clarification of requiring both a practitioner license and an establishment permit. Chairwoman Fernandez specifically pointed out section 3 under license requirement, it didn’t appear clear that both the establishment and the practitioner need to be licensed inclusively. Ms. Kennedy agreed to update the language in that section

School Nurse Activities:

Public Health Nurse:

Adjourned: Motion to adjourn was made by -----seconded by ----- With a vote of 3-0, the meeting adjourned at ----- p.m.

BOH/bc