



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
Beth Ceccarini	- Secretary

Meeting Minutes - September 22, 2021

Agawam Senior Center - 954 Main Street (Veteran 's Hall) at 5:00 p.m.

Attendance : all members present, City Solicitor Stephen Buoniconti, PVTC Officer: Donna Bowman, Mr. Hemal Batteriwala

Documents distributed at meeting :

-Board of Health Agenda
-Public Hearing Notice: Tobacco Violation for Feeding Hills Public Market

Meeting Called to Order : 5:03 pm

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

Citizen Speak Time : None attended the BOH meeting.

Tobacco Sales Violation Hearing : Feeding Hills Public Market ~ 634 Springfield Street, F.H.

A motion was then 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 5:17 p.m. The Chairman read the Public Hearing Guidelines to all present. First to speak was PVTC (Pioneer Valley Tobacco Coalition) Officer Donna Bowman. 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 are used to assist in these routine compliance checks. If an agent is under 21, they need parental permission and 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 which the officer gives them and a cell phone (In case of an emergency situation in the store). They are to go directly in the store and come directly out of the store to the Officer's vehicle. The vehicle is usually parked somewhere in front so the officer can keep an eye on the youth agent. The agent then gives the officer the evidence or the initial money brought in. If there is evidence (purchased tobacco/nicotine product), it is immediately bagged and tagged with store name and address, town, date and time of violation. The Tobacco Compliance Officer holds the evidence until such a time a hearing is requested.

On August 15, 2021 at 3:08 p.m. a compliance check was done at the Feeding Hills Public Market. The youth agent was given \$15.00 and entered to store to purchase cigarettes. The youth agent returned to the officer's vehicle with a pack of Marlboro Lite 100's for \$11.72 and the change from \$15.00. The elderly gentlemen working behind the counter did not ask the agent's age or ask for ID at the time of purchase. Atty. Buoniconti asked if that was the exact pack bought by the youth agent. Ms. Bowman replied "yes, it

was immediately placed into an evidence bag, tagged and brought here as evidence for you". Chairman Fernandez asked the officer to pass around the purchased pack for the Board to review. She then asked the officer if there was any required signage on the store front window or the door of the business. Ms. Bowman stated that she could not see the proper signage on the business but stated there had been required signage in the past.

Next to speak was the owner of Feeding Hills Public Market, Mr. Batteriwala. He stated that he did review the tape and he agrees that his father did sell the pack of cigarettes. He was out of the store tending to his wife. He informed the Board that his wife has medical conditions that need to be tended to from time to time. He stated that he needs to help her with her medication when she does not feel well. That takes him out of the store for 15 or 20 minutes at a time. He calls his father to come help instead of closing the store down. He feels that the \$1,000.00 fine and 1 month suspension or license forfeiture is too steep and would hurt his business into a possible closure. He stated that tobacco sales are what keep his business going. He asked the Board to either lower the fine or relax the suspension. Member Bertrand asked Mr. Batteriwala if his father knows the rules and regulations of selling tobacco. Mr. Batteriwala stated his father knows the rules and regulations because he needs to watch the store when his daughter in law has medical appointments. He also stated that help is hard to find so he uses his father frequently. Chairman Fernandez asked Mr. Batteriwala if he signed the annual application for renewal of permit knowing and understanding the Tobacco Ordinance and sharing with employees. He stated that he had signed the application form. Chairman asked the other members if further clarification was needed or more questions need to be asked, they replied no. She then called on the Health Agent to see if he would like to add comments or questions regarding the violation. He stated that there were violations at the store before and he gave the suspension due to the on-going issues with employees and lack of knowledge of the Ordinance. He told Mr. Batteriwala that he needed to educate his staff because the State fines that supersede Agawam's are much more expensive and costly to small businesses. He also feels that all businesses need to be run properly with the regulations set out by the State regarding tobacco sales. He told the Board that he cannot change any fines as the State mandated the amount. He did tell the Board they have discretion as to the amount of time on the suspension. Chairman Fernandez had a final question for Agent Theroux and that was if the businesses' suspension was only on the sale of tobacco products. Agent Theroux told her the rest of the store would be intact with food sales, lottery sales and the like but ONLY tobacco products were not to be sold during the suspension. A motion was made to close the evidentiary portion and open the deliberation portion of the hearing by Chairman Fernandez with a second by member Bertrand. By a 3-0 vote the evidentiary portion was closed and the deliberation portion of the hearing opened.

Chairman Fernandez asked Atty. Buoniconti for clarification about the actual suspension. Atty. Buoniconti told her that according to our Chapter 149 -1 when the Board determines that a sale of tobacco to persons under 21 has been violated there is no discretion about fines as they are spelled out in the ordinance 149-22 that already mandates the fines. 149-22 sub section B provides discretionary suspension action by the Board of up to 30 consecutive business days. He stated the Board can decide how long a suspension can be for but not the amount of the violation fine. Atty. Buoniconti stated that clearly a violation did occur and he would recommend upholding the violation with a fine but the additional suspension time was up to the Board of Health members

The Board members all agreed that the violation did occur with the sale of cigarettes to persons under 21 years old. They did discuss the hardship on the owner and consideration going from a 30 day suspension to a 15 day suspension. As deliberations ended a motion was made by Chairman Fernandez to close the deliberation portion of the hearing and render a vote with a second by Member Bertrand. By a 3-0 vote the motion was approved.

Chairman Fernandez made a motion to uphold the \$1,000 fine with a 15 day suspension of the Tobacco Permit on a date to be determined between the owner and Health Agent within the next two weeks. A second was made by Member Bertrand. By a 3-0 vote the violation was upheld with a \$1,000 fine and a 15 consecutive day suspension date TBD by Agent and owner in the next two weeks. A motion was then made to close the public hearing by Chairman Fernandez with a second by Vice Chair Safford. Chairman stated that the owner will receive a letter of decision and the summary of the findings as well as the dates of suspension after coordinating with the Health Agent. By a 3-0 vote the public hearing was closed. Mr. Batteriwala, Ms. Bowman and Atty. Buoniconti then left the meeting.

Old Business :

20 Ottawa Street : A receiver has been appointed to the property and has started to rehab the house.

The owner is in a facility under medical care. Her pet parrot has been relocated to the Southwick Animal Hospital. There is an inspection due on some of the upgrades in the next few weeks. After the inspection, they will review the next course of action.

79 Carr Avenue : The owner will be demolishing the garage before winter. He needs to have the rest of the unregistered vehicles off the property this week. So far he has kept to the schedule and is in compliance with the orders.

Sanitarian Position : Agent Theroux stated the position has not been filled as he is going through the old job description by updating the requirements and qualifications so the new Sanitarian can work in conjunction with him to cover most inspections for the Health Department. Hopefully the job will get posted in the couple weeks.

Body Art/Massage Parlors : City Solicitor Buoniconti told the Board that he hopes to have some kind of sample rules/regulations by about mid-October.

Heritage Village : Agent Theroux told the Board that Heritage Village did not open their pool this year. They are still working on the locking mechanism from the Correction Order from the previous Health Agent. He will be talking to Atty. Pikula in the next week about this issue that has been going on for years with no attempt at corrections in site. The Board agreed with him.

Trailer Park : Agent Theroux has done inspections at the Trailer Park but there are on-going issues with tenants wanting inspections. The owner is working on one of the trailers and still needs to get the Health Agent a progress report about the companies for cleaning the decedent's trailer.

New Business :

Agent Theroux told the Board there was a new mask policy in the schools issued by DESE that masks are required at all times indoors. He noted the School Department monitors policies set by DESE (Department of Elementary and Secondary Education).

He also told them the restaurants are going well with the lifted restrictions. Local businesses seem to be happy with the indoor/outdoor dining as well. Retail stores are also adapting well. Each business is able to set their own policies in regards to mask wearing so we have not gotten too many complaints from residents.

Agent Theroux told the Board he is going to Six Flags to do inspections on their food service stations on Friday ahead of the Fright Fest season. He did let them know he had a few complaints this summer he has had to address.

There were also many housing inspections to do this summer due to on-going housing court cases.

He also updated them with the mold issues in the Agawam Library. The roof was already in the works for repair. During that time, a pipe burst that wasn't found immediately that flooded some parts of the library. That coupled with the moisture and humidity of the summer resulted in the hastening of the mold issues. He and the Building Maintenance Director did an inspection and found the front two conference rooms had mold issues. They both agreed that the smell and visual mold was a concern. They walked through the rest of the library and it seemed to be ok. There were air quality tests done on rooms they thought were worse than others. Out of an abundance of caution to all workers the decision was made to close the library until the repairs were completed. Agent Theroux told them that there was no standard for mold in the Housing Code, but almost all is associated by leaks. As well as the roof repair they will seal up the foundation of the building. There will also be new landscaping at the library to help deter water that runs down from the High School parking lot and building. Upon completion of the work at the library another air quality test will be done as well as inspections to ensure the staff can return safely. It was determined that the staff will be placed at different school library locations and the senior center.

School Nurse Activities :

Public Health Nurse Sherry told the members that the schools are going to start a testing program called Test & Stay for a child identified as a close contact. Parental permission is required to be on file for each

student getting tested. The School Nurses will test the children. If the test results are negative, they can remain in school but are required to get tested for 5 days in a row after that. This is called a “Binax NOW” rapid test that will be offered to students with the possibility of school staff.

Nurse Sherry also let the Board know that our School Nurses Coordinator retired in late August. She and Personnel Dept. are in the process of updating the job description and hopefully will post the job soon. She also hired 2 nurses this summer. One position is a full-time nurse to fill the Jr. High School and a full-time float nurse that will be available to all schools.

Public Health Nurse : Nurse Sherry is in the process of setting up dates for the flu vaccines to house bound elderly and her yearly “flu clinics”.

COVID 19 updates:

Nurse Sherry noted that since the onset of the CORONA VIRUS there have been a total of 3,261 cases in the last 18 + months. There are 70 total cases as of today. In the community there are 67 cases (16 cases in the schools) and 3 in the elderly complexes.

Nurse Sherry stated the vaccination rate for Agawam, as a community, is 58%.

Broken down into categories by ages for the fully vaccinated is as follows:

12 - 15 years old	44%	16 - 19 years old	56%	20 - 29 years old	51%
30 - 49 years old	61%	50 - 64 years old	69%	65 - 74 years old	81%
75 years & older is at 70%.					

Nurse Sherry informed the Board that a grant by the State was approved this summer for a two-year Health related assistance program. West Springfield was able to write the grant that was approved. Collaboratively, Agawam and West Springfield will be sharing a full-time Public Health Nurse and an Epidemiologist. The Nurse will be stationed in Agawam and the Epidemiologist will be stationed in West Springfield. Both towns will have access to each.

Adjourned: Motion to adjourn was made by Vice Chairman Safford seconded by Member Bertrand. With a vote of 3-0, the meeting adjourned at 6:15 pm.

BOH/bc