



BOH MEETING MINUTES 08-09-2021

Council Committee Room, 140 Main Street
Joseph Tennyson, MD, Chair
Jim Griffin, Vice-Chair
Phillip Short, Member - Absent

Also in attendance: Director John Garside and Clerk Tina Nolin

Meeting called to order 6:30 pm

Reading and Approval of Minutes

- Minutes for July 12, 2021 meeting: Vice-Chair Griffin motioned to approve and place the minutes on file. Chairman Tennyson seconded the motion; the Board vote was 2-0 to approve the motion to accept the minutes.

New Business

- **Marlborough Tobacco Control Update**

Olivia Dufour, MetroWest Tobacco Control Manager, presented an update to the Board on the various tobacco control activities in the city over the past six months and those happening over the next six months.

Tobacco Control's main focus has been on education inspections, centering on the enforcement of state and local laws and regulations, including the 2019 tobacco law that went into effect June 1, 2020, that banned flavored tobacco, including menthol, throughout the commonwealth and officially raised the age to 21 years across the state, no exceptions and no grandfather clause. The law also included a limit on nicotine content in vape products sold at non-adult-only tobacco retailers. Specifically, smoke shops (retail tobacco stores that only allow those over 21 years of age to enter) may have any nicotine content in their vape products. In contrast, local convenience stores, gas stations, etc., may sell only vape products containing 35 mg per ml (3%) of nicotine content.

In FY21, Tobacco Control was out in the city doing educational inspections, making sure all sellers of tobacco knew and understood the new state law, had removed all the flavored products, including menthol, from their shelves, had appropriate nicotine content in their vape products and had the required signage in the store. These educational inspections also included reviewing the new fine structure with all establishments should they be cited for violating the law in the future.

Previously under Marlborough's Local Board of Health regulations, the fine structure for a tobacco regulation violation included \$100 for the first offense, \$200 for the second offense, and \$300 for the third offense. On the other hand, the State has a fine structure of \$1,000 for a first offense, \$2,000 for a second offense, and \$5,000 for a third offense. It also includes an increasing permit suspension structure. Due to the big jump in the fine structure, we as the Tobacco Control wanted to make sure that establishments are very clear on the law and the implications should a violation occur.

So back in November of 2020 we sent out an educational mailing and followed up in midsummer of 2021 with the educational inspections. We visited every licensed tobacco establishment between January 2021 and the end of March 2021, reviewed the law and product, and gave them an educational packet.

The majority of the violations were signage violations, meaning there were missing some of the required signage. There were a few flavor violations, and all of these establishments did a great job of getting it off the shelves in a timely manner. Low-level violations included not having their permit appropriately posted. By the reinspection, virtually all retailers had fixed the issues they had and were in compliance.

The next steps for Tobacco Control in Marlborough will be compliance checks. The checks make sure people are not selling to minors (under 21 years of age). So we send in an undercover youth buyer with no ID who attempts to buy a tobacco product of our choosing. In a perfect world, the undercover person walks into the store, asks for the tobacco product, the retailer asks for their ID, they say, "I do not have it on me," and the retailer tells them they can't sell to them. In the event of a sale to the undercover person, the new fine structure will kick in, along with potential permit suspensions. Additionally, the establishment will receive a letter from Tobacco Control and the Local Board of Health. We are looking to start those as soon as possible and conclude by the end of the year or in January of 2022.

Vice-Chair Griffen asked if there is still an appeal process for those who are served violations and asked what, if any, leeway there was on fines and suspensions. Ms. Dufour explained there is little to no leeway regarding fines. However, there is more flexibility regarding the permit suspensions as they tend to be in a range of 0-7 days for the first offense, 8-14 days for the second offense, 15-30 on the third offense, with a permanent revoking of the permit on the fourth offense. Offenses remain on an establishment's record for 36 months and then are wiped clean.

If an order is sent to an establishment, it would be a Cease and Desist order signed by Olivia and the director of the Health Department, so it is clear that both are on board with what is being done.

- **Discussion & Update of Novel Coronavirus (COVID-19)**

Director Garside updated the Board on the recent activities of the Health Department regarding COVID-19.

COVID-19 Cases

Historically 4875 cases since February 2020, 4717 have recovered, 122 have died, and 36 active cases. Marlborough's 14-day incident rate is 6.2 cases per day per 100K people (7/21/21 to 8/5/21), and our positivity rate is 1.45. Marlborough is at 55 cases per 7-day per 100K people (CDC metric), Middlesex County is at 74 per cases per 7-day per 100K people, which puts us in the "substantial" risk for community transmission category along with seven other Massachusetts counties. Five counties are in the "high" risk category. Only one county is listed as moderate risk.

Vaccines

Seventy-one percent of Marlborough's population has had at least one vaccine dose, and 64% are fully vaccinated. Among our Hispanic population, 80% have had at least one dose, and are 69% are fully vaccinated. Our vaccination rates among our Asian and out Black communities are lower and we are trying to make some progress in those communities. We have done and will continue to do pop-up clinics in the city, including educational and promotional components.

The director reported that the school vaccine clinics might be done by the State and Bouvier Pharmacy has agreed to do some as well. So, we're still working on those and how to best proceed.

Bouvier Pharmacy will be doing a clinic at Bethel Presbyterian during their Parking Lot Party event. Bouvier will also be conducting a vaccine clinic at the Food Truck Festival in September.

Regarding breakthrough cases, in June, 18% of our cases were among the fully vaccinated. In July, 37% were breakthrough cases, and already to date, in August, 33% of our cases are breakthrough cases.

Director's Update

Director Garside also reported that EEE has been very low this season for the third year of its cycle. The entire state is in the blue or low-risk level, and it has not been isolated in a mosquito anywhere in the state.

West Nile Virus is present in the state but the risk level is low throughout the state. The virus has been isolated in mosquitoes in Waltham, Arlington, and Watertown, but there has been no human or animal cases.

Subdivision Site Plan & Special Permit Reviews

There were no plans to discuss

Unknown Business at Time of Posting

There was no unknown business

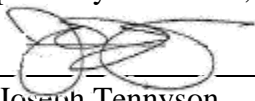
Scheduling of Next Meeting

The next meeting of the Board will be on Monday, September 13th at 6:30 pm. Attendance will be in person at City Hall in the Council Committee Room.

ADJOURN

Vice-chair Griffin motioned to adjourn the meeting at 7:06 pm; Chairman Tennyson seconded the motion; the roll call vote was 2-0 in favor to adjourn.

Respectfully submitted,



Dr. Joseph Tennyson

September 13, 2021
Dated

Cc: Board of Health Members
City Council, City Clerk, and City of Marlborough Website