

MONTAGUE BOARD OF HEALTH MEETING

Wednesday, October 30, 2024 – 5:00 PM
Town Hall – Second Floor Meeting Room and ZOOM

Meeting Minutes

Present: Melanie Ames-Zamojski, Rachel Stoler and Michael Nelson (Zoom, joined in person at 5:45 pm)

Staff: Ryan Paxton - Health Director for Montague, Geneva Bickford – Board of Health Clerk

Other: Erin-Leigh Hoffman, Ilana Gerjuoy, Cheryl Sbarra (Zoom), Western MA News (Zoom), Stephen Helfer (Zoom), Josh Pruett (Zoom), Peter Brennan (Zoom)

Melanie Ames-Zamojski opened the meeting at 5:04 PM Roll Call Votes taken

Discussion: Board of Health Public Hearing: Adoption of Updated Montague Board of Health Regulation Restricting the Sale of Tobacco Products – Votes may be taken.

- Members of the public will be allowed to discuss the proposed update to the Montague Board of Health Regulation Restricting the Sale of Tobacco Products
 - Melanie Ames-Zamojski read the coversheet of the Regulation of the Montague Board of Health Restricting the Sale of Tobacco Products “Major Changes”. Ames-Zamojski states the BOH has received some testimony by mail and we have people who are here tonight that would like to speak to this. Michael Nelson attended the public hearing via Zoom and joined in person at 5:45 pm.
 - Cheryl Sbarra has been working with Health Directory, Ryan Paxton, on updating the regulations. All changes were indicated by Ames-Zamojski. Increasing cost due to the consumer price index increases, the cigar minimum price increases and adding a definition for a Bonafide purchaser for value. There have been some challenges when a retailer is fined for a violation, sometimes there is a transfer between a husband and wife or another family member or colleague and it appears as if all the permits are staying in the original persons name however, they are claiming that someone else is running the business. The definition of blunt wraps was also amended, and the fining structure was cleaned up so that the mandatory fines for state law violations are clear, they are different than the fining structure for violations of local sections in the regulations. A section was added on nicotine pouches because of health concerns from health inspectors, specifically tobacco control inspectors, who have seen and have been told by school officials that there is an increase in use of these products by youth. Often these products are flavored and if flavored that would violate state law. However, when these products are flavored, they are not always explicitly labeled as flavored and that presents a challenge in some cases. Another concerning factor is that these products have in most cases very high levels of nicotine, much higher than tobacco products and combustible products and even in vape products. Youth are using nicotine pouches in school as they are inserted into one’s mouth and your saliva will eventually dissipate the product. The amount of nicotine in these pouches is unknown. It is believed that these products are used primarily by white, non-Hispanic males. It is also believed that some adults may be using these pouches to quit smoking combustible products. Nicotine is a highly addictive product. These are the reasons the decision was made to limit these sales to adult-only stores and while there are not adult-only stores in Montague these products can be purchased online or from another municipality.
 - Stephen Helfer represents Cambridge Citizens for Smokers Rights. Cambridge Citizens for Smokers Rights does not accept funding from any source. Helfer would like to preface his remarks by saying the FDA and CDC this September released their results of their national youth tobacco survey and that shows vaping rates among the youth are at a 10 year low. They have precipitously

dropped particularly between the years 2023 and 2024. According to Gallup adult smoking is an 80 year low. The CDC notes that for every 3 adults that have ever smoked 2 have quit. Many people, the majority who want to quit smoking or quit taking nicotine products, succeed without medical intervention. This proposal has nothing to do with youth. Youth are forbidden by state law, tobacco control activists monitor stores and conduct sting operations etc. This proposal only affects adults 21 years old and older. Putting it as if youth are the reason for this, Hefler thinks is disingenuous. For years tobacco researchers have said it is tar and other tobacco smoke byproducts which are harmful not the nicotine. Nicotine does not intoxicate or impair judgement, and it is safe to use when driving. Furthermore, the FDA approves nicotine to help quit smoking in gum, in patches and in nasal spray. The FDA not only feels you can use nicotine to help quit smoking and these products do not pose a danger for addiction. It passes all tests that the FDA requires of it. If adults 21 and older can join the military, buy alcohol and marijuana and soon perhaps buy psychedelics, Hefler thinks they are mature enough particularly with all of the information that they have been exposed to in the last 30 years to decide for themselves. Convenience stores, liquor stores and gas stations in Montague have very small profit margins and many are owned by immigrants of color who have very little experience speaking before policy makers. Hefler suggests the BOH might want to reach out and ask the business owners what they think about another product being removed from their shelves. Hefler asks the BOH to consider this an infringement on adults and asks the BOH to not pass a total prohibition.

- Peter Brennan, Executive Director of the New England Convenience Store & Energy Marketers Association, and Peter represents the 7000 convenience stores throughout New England. Brennan is here tonight to oppose the nicotine pouch ban. This is a ban, there are no adult-only stores in Montague. There is no reason to restrict these products further than they are already restricted. They are sold at our retailers, they are behind the counter, and you are required to display an ID to purchase these items and the ids are scanned. It is a safe place to sell what is essentially a very low harmful product. The one fact that Ms. Sbarra mentioned is that people do use these nicotine pouches to quit smoking combustible cigarettes. If the public health goal is to eliminate smoking, then this is a useful tool. Restricting these products and pushing them out of town would be counterintuitive and would not help public health at all. There would be no additional beneficial public health impacts to this, there would however be negative impacts too our retailers. Brennan thinks we need to look at these products and look at the facts about this product. Brennan did not hear Sbarra mention anything to do with statistics or facts, it was “we heard”. If you look at the youth tobacco survey very few youth are using these products. If you look at these products as they are on the shelves, they do not have an absurd amount of nicotine in them. Brennan encourages the BOH to follow science and use fact-based reasoning here and know that there is not going to be any positive impact to moving these out of town. Someone can go to the next town or the next state. As research, Brennan ordered nicotine pouches online and they arrived in 3-5 business days from overseas. If someone wants these products they will find them. The better use of time and money is to educate people and let adults make their own choice.
- Ilana Gerjuoy, Communities that Care Coalition. Gerjuoy appreciates the comments so far but would like to say that although this is regulating products that are supposed to be only sold to people 21 and older, one thing that we do know from research over the years about tobacco products and alcohol is that when you see products in our community that does increase use among youth and creates normalization which increases youth use. We do know tobacco companies have a long history of targeting young people. Many of the nicotine pouch companies are also tobacco companies. The Coalition has not heard from colleagues that these nicotine pouches are used as harm reduction tools.

Research, so far, has shown that the opposite may be true. We know that from vaping and now there is new research that nicotine pouches, which are called alternative nicotine products, can lead to smoking cigarettes. The nicotine pouches come in a variety of concentrations of nicotine and people can actually increase their use over time and while it is true there are some that are in lower concentrations, it is easy to find online nicotine pouches that are 35 to 50 mgs of nicotine which is several times the amount in a cigarette. Nicotine on its own is dangerous. It may not be dangerous to operate a motor vehicle while having nicotine in the systems the way it would be for other substances, but it is dangerous in other ways. In terms of adolescent exposure, nicotine can disrupt the formation of brain circuits that control attention, learning and addiction and it has a lot of negative impacts on the developing brain. It also has negative impacts on the developing brain during prenatal development. For people who are pregnant it is important for them not to have nicotine in their system. Nicotine pouches could be used to quit smoking, but we haven't seen evidence that that is really a useful tool. There are FDA approved smoking cessation aids like nicotine pouches, gum and lozenges that have a track record of success. They also have some other problems that we just don't know too much about so far. They can cause mouth sores and dry mouth and there is concern from dentists and the dental association. Nicotine pouches are not regulated, and we do not know everything that is in them. Lastly, although it is against state law to have flavored products in stores it is easy to purchase and find online.

- Josh Pruett, National Association of Tobacco Outlets. Pruett states they represent retailers around the country including hundreds in Massachusetts and is speaking in opposition to the nicotine pouch restriction. Pruett has heard a lot of comments about flavors, there is already a ban at the state level and those products are not allowed to be sold in the state. These products are for people 21 and older, they are not for the youth as you must be 21 to purchase these products. Removing nicotine pouches from gas stations and convenience stores in Montague will create a substantial hardship for adult nicotine users 21 and older. These pouches are considered less risky products than many other tobacco products. Consumers are using them to replace, part or in whole, other products that are higher on the continuum of risk that is recognized by the FDA. Discouraging nicotine pouch use by removing them from all retailers frustrates this movement from higher risk to lower risk tobacco in nicotine products. These products have been a service to many adults wishing to switch to a lower risk product and strongly ask the BOH to reconsider this ban. Moving it to adult-only stores in localities that have adult-only stores seems reasonable, however, we are finding the way that adult-only stores are defined in the MMA templates that many stores will not qualify as adult-only. The retailer can't sell lottery, bottled water or snacks of any kind. The only thing you can sell is tobacco products and nicotine products. For the retailers in Montague, he asks the BOH to think long and hard about this ban.

*Michael Nelson **Motioned** that the Board of Health take all comments from this evening under advisement and take some more time to consider them and revisit a vote at the next meeting. Seconded by Rachel Stoler. **Motion passes.***

Roll Call Vote: Stoler – aye, Nelson – aye, and Ames-Zamojski – aye

Minutes:

September Minutes

- The BOH Members reviewed the minutes of September 18, 2024.

*Rachel Stoler **Motioned** to accept the September 18th Minutes. Seconded by Michael Nelson. **Motion passes.***

Roll Call Vote: Stoler – aye, Ames-Zamojski – aye and Nelson – aye

Director's Report:

- Director, Ryan Paxton, presented the September 2024 Director's Report.
- Conducted inspections at 10-12 H St, 38 E Main St, 11 Fourth St #9, 3-5 Hillside Ave, 98 Fifth St, and 96 Third St.
- Attended hearing at Western District Housing Court Regarding appointment of receiver at 10 Unity St.
 - A receiver was appointed and there is a follow up hearing on Friday, November 1.
- Filed civil complaint in Western District Housing Court against owner of 108 Third St regarding failure to correct violations of 105 CMR410.000.
 - There is a hearing scheduled for Friday, November 1.
- Attended Inspection at 16 Chestnut St with Massachusetts Department of Environmental Protection as part of code enforcement related to asbestos removal.
 - This matter has been resolved.
- Investigated odor complaints regarding Flower Power Growers.
- Conducted 16 inspections related to trash or other nuisances at 11 separate addresses; outcomes include: resolving several complaints, 1 order to correct and several reinspections.
- Conducted 6 bi-annual inspections at Turners Falls High School, Turners Falls high School Concessions stand, Sheffield Elementary, Hillcrest Elementary, Cumberland Farms, and Millers Falls Rod & Gun.
- Completed system inspections at 23 N Leverett Rd & 26 Gunn Rd.
- Issued Disposal System Construction permits at 26 Gunn Rd & 23 N Leverett Rd.
- Issued an order to correct for 285 Old Greenfield Rd for not receiving a water supply certificate within 30 days of drilling the new well.
 - 285 Old Greenfield RD was issued an emergency permit and variance over the summer. The water did not come back as acceptable, and they have been working on that and have now begun working with a water treatment company and should be able to issue a certificate once the testing comes back.
- Denied an emergency 10-day beaver permit for Thomas Memorial Golf Course.
 - Paxton did a site visit and did not locate direct signs of beaver and only saw some mild surficial flooding and without seeing a dam or public health emergency and did not issue that permit. There are 2 different appeal processes for that, both of which are handled by the state.
- Attended monthly Western Massachusetts Public Health Associations Executive Committee meeting.
- Attended monthly MAPCHO steering committee meeting.
- Attended September 16, 2024, Selectboard Meeting to discuss cannabis odor complaints regarding Flower Power Growers.
- Attended Municipal Vulnerabilities Planning 2.0 Meeting.
- Attended monthly Franklin County Attorney General's Office Neighborhood Renewal Division meeting regarding abandoned housing.
- Attended Valley Health Collaborative's Covid check-in meeting.
- Restocked dog waste bags at public dispensers.

*Rachel Stoler **Motioned** to accept the Director's Report. Seconded by Michael Nelson. **Motion passes.***

Roll Call Vote: Stoler – aye, Nelson – aye and Ames-Zamojski – aye

Nurse Report:

- Director, Ryan Paxton, presented the October 29, 2024, Nurses Report.
- Vaccine Clinic – Clinic at the COA, Town Hall (45 attendees) Flu & Covid.
 - It is believed that there were about 60 - 75 people at both vaccine clinics.
- Health Screenings/Consults/Clinics/Community Outreach – Community health fair & Weekly office hours.
- Meetings - Weekly meeting with Jack Sullivan, epidemiologist for Valley Health Collaboration, Respiratory illness webinar.
- Educational Outreach – Community health fair and outreach with residents.
- MAVEN Report – Hep C, 4; Lyme, 2; Covid, 6; Hep B, 1; Varicella, 1; Flu, 1.

*Rachel Stoler **Motioned** to accept the Nurse's Report. Seconded by Michael Nelson. **Motion passes.***

Vote: Stoler – aye, Nelson – aye and Ames-Zamojski – aye

Animal/Barn Inspector Report:

- Health Director, Ryan Paxton, presented the August 2024 Animal Inspector Report.
- 1 dog quarantine.
- 2 cat quarantines.
- 11 Barn Inspections.

*Rachel Stoler **Motioned** to accept the Animal/Barn Inspector's Report. Seconded by Michael Nelson. **Motion passes.***

Vote: Stoler – aye, Ames-Zamojski – aye and Nelson – aye

Discussion: Ongoing Cannabis Odor Complaints regarding Flower Power – Votes may be taken:

- Director to provide update on recent Selectboard meetings and investigation of odor complaints regarding Flower Power Growers, Inc.
 - Paxton has written a letter of support for the decision the SB made regarding seeking an outside party to conduct a study. As it turns out they went forward with hiring a company to do what is similar to an audit. They are checking the work that has been done by Flower Power as well as the response from the Town to see if they are doing what they are supposed to be doing. It may have been unclear if that was going to be an environmental study. It is not, it is more of a technical review. Paxton believes Flower Power agreed to pay for the study as well. There has been a reduction in complaints, Paxton believes people are waiting in good faith for the response to the audit and some of the camp residents are no longer there for the winter. Paxton was at Ja'Duke over the weekend and did not observe an odor but is still getting intermittent reports from Ja'Duke.

Discussion: Unlicensed Trash Hauling in Montague – Votes may be taken.

- Discuss possible code enforcement actions related to Allen's Affordable Roll-Off Dumpsters operating as an unlicensed trash hauler in the Town of Montague.
 - Paxton witnessed an Allen's Affordable Roll-Off dumpsters in Montague and sent a letter asking that he get properly licensed through the BOH. Allen's Affordable Roll-Off Dumpster has indicated they do not agree with the interpretation that they are a trash hauler and will not be getting a license or permit. Paxton did request town council opinion who agreed with the BOH and stated they are indeed a trash hauler.

- BOH members discuss fees, the current fee is \$100 per vehicle and they must have a license/permit. Town Council felt strongly that they are trash haulers. Options if they refuse to apply for the license/permit would be to continue sending enforcement orders or a cease-and-desist letter. Paxton is unsure if they will comply with an enforcement order. There are no other regular permits for Allen's Affordable Roll-Off in Montague. The Town Administration has advised that the BOH can ask for further legal assistance. BOH is leaning towards trying to reach out and figure out why they won't pay. Paxton last attempted contact about 1 month ago. The BOH has asked that Paxton send a letter asking that Allen's contact the BOH and advise why they won't pay and be properly licensed.

Discussion: Unanticipated topics:

- Updates regarding the housing issue at the Rod & Gun Club.
 - Paxton has contacted Montague Catholic Social Ministries, the Interfaith Council, Franklin County Regional Housing Authority and Community Action. Paxton has not gotten a response from the Franklin County Regional Housing Authority and Community Action directed Paxton to go to Montague Catholic Social Ministry and the Interfaith Council. The Catholic Ministry and Interfaith Council do not offer any direct services for outreach or housing assistance in terms of finding a location. Their role is more to have funding and resources available for intermediate solutions. As far as the Franklin County Regional Housing Authority, Paxton was directed to contact Carey but has not received a response. Ames-Zamojski will reach out to Carey at the Housing Authority. Ames-Zamojski has run into this issue in the past with the Housing Authority, they've been difficult to reach, difficult to get a call back from and difficult to get into their system. Paxton suggests he could reach out to CHD, Paxton is not certain, but they may offer outreach services in Franklin County. The BOH appreciates all the work Paxton is putting into this matter. Stoler suggests that Lifepath may be able to help and if Montague has a housing authority that could maybe help. Paxton will reach out to the Montague Housing Authority as well as LifePath. If Warsawski is a Veteran that may help as well. Paxton will reach out and check with Warsawski on his veteran status.
 - 11 Millers Falls Rd – Paxton spoke to Deja Dejon the day after the BOH meeting and Dejon was a bit aggrieved about her inability to join the zoom meeting. She also requested that we revisit the property ahead of that meeting, but she did not agree to a reinspection. Paxton did try to explain the appeals process for “order to correct” and the fact that that has passed. Paxton tried to explain the findings of the re-inspection report. She did not agree to a re-inspection and said she will get back to us. The BOH's ability to go further is hampered by not being able to access town council. Ames-Zamojski believes the BOH needs to have discussion with the SB or the TA regarding how the BOH interacts with council and what exactly the BOH can use council for. BOH does not have a line item in the budget that includes council fees. There is discussion about needing and possibly having a legal line item in the BOH budget. The BOH does have a line item for “Other Purchased Services”, but it is not funded to the extent that it would be able to provide for all of the court cases that come up. Ames-Zamojski thinks it comes down to whether the BOH has a complaint or a failure to comply situation what will be our next step and how do we go about being able to do that next step. Ames-Zamojski suggests sitting

down with the fire chief to see how we can work together with these issues. An elder abuse report may not be helpful in this instance as a report was not filed in the beginning. Paxton will reach out to other communities to see how they are handling these cases. BOH also discusses the addition of another inspector in Montague. Paxton would like to use the shared inspector rather than hire another inspector and suggests that hiring a town solicitor may be more beneficial.

- Nelson asks Paxton if he was able to look at the property behind Aubuchon's in various states of repair? Paxton did go by and arrived when contractors were inside, and it appears there is actively work going on. Did not see obvious violations from outside but was not able to go inside.

Meeting adjourned: 6:14 PM

*Rachel Stoler **Motioned** to adjourn the Board of Health Meeting. Seconded by Michael Nelson. **Motion passes.***

Vote taken by roll call: Ames-Zamojski – aye, Stoler – aye and Nelson – aye

Approved by: _____

Rachel Stoler

Date: _____

12/11/24

Documents:

Regulation of the Montague Board of Health Restricting the Sale of Tobacco Products;
New England Convenience Store & Energy Marketers Association October 28, 2024 Ltr;
R Street October 30, 2024 Ltr;
September 18, 2024 Meeting Minutes;
Director's Report;
Montague Public Health Nurse Report; and
Animal Inspector Report.

