



CITY OF LOWELL, MASSACHUSETTS
BOARD OF HEALTH

OFFICIAL
MINUTES
ACCEPTED
10/3/18

September 5, 2018

A meeting of the Lowell Board of Health was held on Wednesday, September 5, 2108 in the Mayor's Reception Room, City Hall, 375 Merrimack St., Lowell, MA 01852. Chairwoman Jo-Ann Keegan called the meeting to order at 6:03 PM.

Present:

Jo-Ann Keegan, RN, MSN, Chairperson
John Donovan, DC, Board Member
William Galvin, MD, Board Member
Lisa Golden, RN, MSN, Board Member
Kerry Hall, MEd, Board Member

9/5/18 MINUTES

1. New Business

1.I. For Acceptance: Minutes Of The July 18, 2018 Meeting Of The Board Of Health.
The minutes of the July 18, 2018 meeting were reviewed by the Board

Motion: To accept the minutes made by Kerry Hall, seconded by Lisa Golden. All in favor.

1.II. For Review: Monthly Development Services Report Submitted By Shawn Machado, Sr. Sanitary Code Inspector.

Senior Sanitary Code Inspector Shawn Machado reviewed the report with the Board. Board Member William Galvin requested that when a restaurant fails two times within a year, that Mr. Machado review the inspections for the establishment further back than two years. Member Galvin also requested that an additional inspection be scheduled within three months of reopening for those establishments with two fails in a year's time. The Board also noted that there continues to be restaurants that are not being inspected every six months. Mr. Machado updated the Board on his efforts to correct that. Mr. Machado informed the Board of reports of rats on Acton St.

1.III. Body Art Practitioner License - New

The Board reviewed the Body Art Practitioner's License application for Kayleth Iek.

Motion: To approve the application for a Body Art Practitioner's License for Kayleth Iek was made by William Galvin, seconded by Kerry Hall. All in favor.

1.IV. For Review: Communication: Central Massachusetts Mosquito Control Program
The Board reviewed and placed on file.

1.V. For Review: Lowell Sun Article "Lowell Mosquito Spraying Set Thursday After West Nile Found In Flying Pests"
The Board reviewed and placed on file.

1.VI. For Review: Tobacco Control Monthly Report Submitted By Cesar Pungirum, Program Director.
Mr. Pungirum reviewed the report with the Board.

Chairwoman Jo-Ann Keegan inquired if Mr. Pungirum had received the date for the ticket being appealed to the District Court. Mr. Pungirum indicated that he has not received that notice yet. Member Galvin inquired how long an establishment had to pay a fine. Mr. Pungirum informed the Board that an establishment has 21 days to pay or appeal a fine.

1.VII. Tobacco Permit Suspension Hearing - Chelmsford Street Quick Mart/BP

Mr. Pungirum reviewed the evidence of the sale to a minor with the Board.

Attorney Michael Zaim was present to represent the establishment and addressed the Board regarding the sale. Board Member Kerry Hall inquired as to the difference between the first violation notice and the second violation notice. Atty. Zaim replied that the first notice went to the former Manager of the establishment who did not bring it to the owner's attention. The second violation was brought to the owner by the new Manager. Mr. Pungirum informed the Board that historically, the notifications are sent to the store and the violation cites the manager/owner. In this case, the fine for the first violation was paid and the check was signed by the owner who is responsible for oversight of the employees. The City properly sent notice to the establishment address and the Manger was the one who had signed the initial application. Member Hall inquired if the owner is the one who applies for a tobacco license. Mr. Pungirum indicated it can be the owner or an agent applying for the license. In this case the Manager was on the application as a contact person. A tobacco license is issued to the establishment not a person. The ticket has been paid and as such there is an assumption of responsibility. Member Galvin inquired as to the point of having a suspension hearing. Mr. Pungirum indicated that a request to appear before the Board can be filed prior to the fine being paid. Atty. Zaim stated that on the ticket is a choice to pay the fine or request a hearing before the Court Magistrate. The Board discussed the purpose of holding a suspension hearing. Mr. Pungirum reiterated that a hearing before the Board can be requested prior to a fine being paid. Mr. Pungirum recommends the suspension be served from start of business on September 17, 2018 to run through close of business on September 23, 2018.

Motion: by Kerry Hall to drop the violation to a first offense. No second to the motion.

Motion: to suspend the Tobacco License for 7 consecutive days from start of business on September 17, 2018 through close of business September 23, 2018 made by William Galvin, seconded by John Donovan

Jo-Ann Keegan - yes

John Donovan - yes

Lisa Golden - yes

Kerry Hall - no

William Galvin - yes

Motion passes 4 to 1 in favor.

Atty. Zaim requested a delay to the start date of the suspension to allow his client to appeal to the District Court.

Motion: to move suspension dates to September 24th to September 30 absent any action by Atty. Zaim's client made by William Galvin, seconded by John Donovan. All in favor.

Upon conferring with his client, Atty. Zaim informed the Board that his client has decided not to appeal the Board's decision and will serve the suspension from September 17 through September 23, 2018.

1.VIII. Tobacco Permit Suspension Hearing - Pete's Gulf 185 Woburn Street Lowell, MA

Mr. Pungirum reviewed the sale of tobacco products to a minor with the Board. Chairwoman Keegan inquired about past violations. Mr. Pungirum replied that the last violation was in 2007. Owner Peter Vogiatzoglou addressed the Board regarding the violation. Mr. Pungirum recommended the Tobacco Permit be suspended from start of business on September 17 through close of business on September 23, 2018.

Motion: to suspend the Tobacco license from the start of business on September 17 through the close of business on September 23, 2018 made by William Galvin, seconded by John. All in favor.

1.IX. Informational: Health Department Substance Abuse Division

Ms. Lainnie Emond was present to discuss the Substance Abuse Division with the Board. Discussion on the Divisional Grants occurred. Five of the six positions in the division are grant funded and these grants finish in 2019/2020. Member Hall inquired if the division is seeing results from their efforts. Ms. Emond indicated that results are being seen and discussed them the Board. Member Galvin asked about metrics being monitored and if there was quantifiable data of success. Ms. Emond will start adding that information to the divisional reports and will update the Board on the review of death data that is being conducted. Member Hall inquired on the needle exchange program. Ms. Emond informed the Board that Mass DPH is in the process of interviewing agencies to be the exchange site.

Ms. Emond informed the Board that the Substance Abuse Division will be holding a symposium with UTEC on December 7, 2018. Chairwoman Keegan inquired if other Health Departments or MOAPC groups will be invited. Ms. Emond replied that the Greater Lowell Health Alliance is coordinating the event and that there are currently two communities participating.

1.X. For Review: Trinity EMS, Inc Reports.

Jon Kelley informed the Board that Trinity continues to pick up 1-20 discarded needles and the City is still working on a long-term solution. Trinity has done 121 needle pickups in the past 30 days.

July 2018 Monthly Opioid Report: Mr. Kelley reviewed the report with the Board. The August 2018 report was handed out but will be included in the packet for the October 3, 2018 meeting.

Quarterly Report: The report was reviewed with the Board. Mr. Kelley informed the Board that on Page 7, the triage figure is the percentage by agency. Chairwoman Keegan inquired on the DOA data on page 6 and asked if the 37 in quarter 2 were overdose patients. Mr. Kelley replied that he didn't believe so as Trinity is usually cancelled by the Police Department in those cases. The figures are for cases that Trinity was involved with.

1.XI. For Review: "Opioids Have Sparked An HIV Outbreak In Massachusetts"
The Board reviewed the Article.

Chairwoman Keegan noted to ask Health & Human Services Director Kerran Vigroux about increasing HIV testing. Member Galvin informed the Board that doctors do certain testing automatically but other tests need patient permission to conduct so HIV testing is not really at the discretion of Emergency Department doctors to do. Member Lisa Golden added that the patient would also need to be located to give them the results. Member Hall felt that it wouldn't hurt for local physicians to be notified. Chairwoman Keegan asked if there has been any discussion on increasing HIV testing. Member Galvin replied that information regarding the increase in HIV cases has not reached hospital level and he was only aware of the increase from Chairwoman Keegan. Chairwoman Keegan inquired if the hospitals and private doctors have been notified of the increase in HIV cases.

Motion: for the Board to receive the results of the CDC report regarding the increase in HIV cases and any recommendations or implementations that are occurring made by William Galvin, seconded by John Donovan. All in favor.

1.XII. For Review: "HIV Spike In Lowell Addicts Higher Than First Reported"
The Board reviewed and placed on file.

2. OLD BUSINESS

2.I. Update: Lowell Public School Repairs

Mr. James Green was present and updated the Board about ongoing repairs. The ground water in the basement of Lowell High School has been repaired. The recheck of CO2 levels had good results with all classrooms being in the 800-1000parts range. DPH will retest if requested.

Motion: To request DPW Commissioner James Donison attend the October Board meeting to update the Board on ongoing school repairs made by Jo-Ann Keegan, seconded by Lisa Golden. All in favor.

2.II. For Review: Draft Letter of Support Re: Natural Gas Pipelines Health Assessment Testing

3. DIRECTOR'S REPORT

3.I. Update: Divisional and Department Reports and Updates.

The Board reviewed and placed on file. Chairwoman Keegan inquired on the status of the new vaccine refrigerator and was informed it has been received.

4. ADJOURNMENT

4. Motion: To Adjourn.

Motion to adjourn at 8:10 PM made by William Galvin, seconded by John Donovan. All in favor.

**THE NEXT MEETING OF THE CITY OF LOWELL BOARD OF HEALTH WILL BE HELD ON
OCTOBER 3, 2018 AT 6:00 PM IN THE MAYOR'S RECEPTION ROOM.**

Tobacco Hearing Establishment
NAME ADDRESS

Peter Vegetogian 185 Waborn St
Pete's grill

Michael G. Baum, Esquire - for Chalmers St. Civil Court (BP) - 299 Chalmers St
ZAIM LAW FIRM - 375 Gornham Street - Lowell, MA 01852
Lowell, MA

**Lowell Board of Health Hearing
September 5, 2018**

HANDOUT
9-5-18

Purpose:

The purpose of this hearing is for the Board to consider the suspension of the Tobacco Product Sales Permit issued to Chelmsford Street Quick Mart/BP, 299 Chelmsford St, for a period of seven (7) consecutive business days.

Rule:

Pursuant to the Lowell Board of Health regulation *Restricting the Sale of Tobacco Products*, a retailer that sells tobacco to a minor for a second time within 24 months shall receive a fine in the amount of \$200 “and the Tobacco Product Sales Permit shall be suspended for seven (7) consecutive business days.”

Summary of the Facts:

Chelmsford Street Quick Mart/BP sold a pack of Marlboro cigarettes to a 17-year-old boy on 6/18/18, during routine compliance checks conducted by the Lowell Tobacco Control Program. This was the establishment’s second offense in the last two years; a previous violation had occurred on 08/09/17.

Board’s Decision:

HANDOUT
9-5-18

CHELMSFORD STREET QUICK MART/BP

1. Notice of Violation – June 21, 2018
2. Hearing Notice – August 9, 2018
3. 2018 Tobacco Product Sales Permit
4. Violation Notice to Samer Khoury – August 10, 2017
5. 2017 Tobacco Sales Product Permit
6. Regulation of the Lowell Board of Health
Restricting the Sale of Tobacco Products and
Nicotine Delivery Products
7. 2017 Annual Report
8. 2018 Annual Report