



MEETING POSTING

City of Melrose
City Hall
562 Main Street
Melrose, MA 02176

Committee/Board: Board of Health

Meeting Day/Date/Time: Tuesday, February 8, 2022

Location: Remote WEBEX Meeting

Call to Order: By Frank Brinchiero

Time Called: 5:34 PM

Second by: Carol Ann Licitra

In Attendance/Roll Call:

Board Members: Carol Ann Licitra, Lillian Kelly, Frank Brincheiro

Health Department: Director, Anthony Chui M.P.H, Health Department Administrative

Assistant, Denise Slane

Absent: N/A

Approval of Minutes for December 29, 2021 Meeting:

Minutes were reviewed from December 29, 2021 meeting.

Carol Ann Licitra made a motion to accept the minutes from the December 29, 2021 meeting.

Lillian Kelly second the motion.

Further Discussion: None

Vote to approve the motion to accept the meeting minutes from December 29, 2021:

Frank Brincheiro – yes

Carol Ann Licitra – yes

Lillian Kelly – yes

PASSED 3-0-0

Approval of Minutes for January 11, 2022 Meeting:

Minutes were reviewed from January 11, 2022 meeting.

Carol Ann Licitra made a motion to accept the minutes from the January 11, 2022 meeting.

Lillian Kelly second the motion.

Further Discussion: None

Vote to approve the motion to accept the minutes from the January 11, 2022 meeting:

Frank Brincheiro – yes

Carol Ann Licitra – yes

Lillian Kelly – yes

PASSED 3-0-0

Introduction of new Public Health Specialist – Emily Hatchouel

My name is Emily Hatchouel and I'm the new public health specialist for the city of Melrose.

Goals:

Establish a coalition in Melrose (youth, parents, business, media, school, youth-serving organization, law enforcement, religious/fraternal orgs, civic/volunteer groups, healthcare professionals, and state/local agencies)

I'm currently connecting with members of the community to meet 1 on 1. This will allow me to learn about the needs of the community better as I settle into my role. As I connect with members of the community, I am working toward rebuilding the substance use coalition in Melrose.

Increase communication with the public about resources available in and around Melrose

We will be creating social media platforms to spread awareness about resources on social media (facebook, instagram).

This will allow us to keep the community consistently updated on resources available as well as events and trainings.

There will also be a connection with MMTV and local podcasts to talk about different resources in the community.

We will also be creating materials for print media to distribute to the community. The hope is to be included in local newsletters and other news feeds.

We would also like to collaborate with local events to distribute resources.

Assess the needs of the community

We are looking to gather some data from around the community to create prevention and intervention goals utilizing the information from the community data

The primary source of data will be from our community partners at this time with a hope to do a needs assessment in the future

For example: Melrose-Wakefield just distributed their community needs assessment

I would love to meet with members of the board to discuss areas of need in the community.

Thank you,

Emily Hatchouel

Public Health Specialist

Presentation of new Tobacco Regulations – Maureen Buzby

Several months ago in I provided a quick overview of the State's new tobacco law to a combo meeting of the Wakefield and Melrose Boards of Health. The focus then was recent sales-to-minors.

Tonight I'll re-review the law but this time the goal will be to provide enough information so that the Board can determine if it is interested in bringing local regs into line with state law.

So once again, what's the new law all about? Our state legislators passed an "Act to Modernize Tobacco Control" at the end of 2019. Some of the provisions in the new law were effective January 1, 2020 and some were effective June 1, 2020. There are provisions that relate to smoking cessation benefits, the state's tobacco program budget, and other areas. I'll focus on the provisions that relate to tobacco sales.

I'll be covering a lot but don't feel you have to take notes. We can send written notes later if that's helpful.

. The **flavored vape product ban** was effective January 1, 2020. No flavored vapes of any kind - not nicotine, CBD, or any other substance, with just two exceptions. Licensed facilities such as medical marijuana dispensaries and recreational pot shops can sell flavored vape products. And adult-only smoking bars can sell flavored tobacco products, for on-premises use only. Melrose doesn't have any smoking bars.

Some years back Melrose restricted the sale of flavored tobacco products but those earlier regulations used the federal definition of flavored tobacco which exempts mint and menthol. So lots of menthol cigarettes were still in our local stores along with wintergreen and spearmint chewing tobacco and, of course, mint and menthol Juul pods. The new state law resulted in the removal of a lot of additional tobacco products, including Newport Menthol cigarettes which is one of the two top selling cigarette brands in the state. The other is Marlboro Reds, which are still available.

. **Fines** were increased from \$100/\$200/\$300 to \$1000/\$2000/\$5000.

. The **Tolling Period**, which is like a probation period once a store has a violation, increased to 36 months state-wide. Several Massachusetts municipalities including Melrose were already at 36 months. We sometimes call the tolling period a look-back period. If a store violates a tobacco law we look back three years to determine if it is a first, second, or third violation. That determines if the fine will be \$1000, \$2000 or \$5000. It also determines the length of the permit suspension. No suspension for a first violation, unless it is a sale-to-a-minor; seven days for a second violation; and thirty days for a third violation within that 3 year tolling period.

. **State excise taxes** were imposed on all e-cigarettes for the first time which means a **Department of Revenue license** is now required for vape products so that excise taxes can be collected. A retailer may now need up to three DOR licenses - one for "Cigarettes"; one for "Cigars"; and one for "e-cigarettes".

. And there's a lot of **new signage**. Up to nine different signs.

. **All customers must be ID'd**. Formerly retailers were required to ID anyone who looked like they were under age 27. Now they must ID all tobacco customers.

. Again, all **sales-to-minor violations trigger a suspension** of the local BOH tobacco permit, even a first offense. Prior to this no suspension was imposed for a first violation. And this new first violation suspension has an additional wrinkle. Instead of a specific number of days, the law says 1-30 days, to be determined by the local Board of Health. You may decide you want to pre-determine the number of days and avoid having to meet every time there is a first sale-to-minor violation.

Since a second violation triggers a seven-day suspension you may want to pre-select a number of days less than seven. Three days. Or even one day. Then every first sale-to-minor violation would trigger that lower number of days and it would be applied in all instances. Other first time violations, such as selling a flavored product or selling cigars below minimum price, do not trigger a suspension.

. A so-called **"Manufacture's letter"** is now required for all nicotine products attesting to the absence of flavored ingredients. Essentially the retailer must have written proof that any tobacco product they carry is not flavored.

- . Additionally, a **Manufacturer's letter** is required for all vape products attesting to nicotine content - - no more than 35mg per ml., except for adult-only stores which can sell higher nicotine content products.

- . **Under age buyers cannot not be fined.** The new law makes it clear that the penalty for a sale-to-minor violation is assessed to the seller, not the purchaser. And, unlike alcohol, it is not illegal for a minor to be in possession of a tobacco product.

- . Also, a store cannot **advertise** products that are prohibited.

Other, older provisions of state and local law still apply:

- . A local BOH permit is required
- . No sales in pharmacies or educational institutions
- . No coupon redemption
- . No out-of-package sales
- . Humidors and other self-service displays must be locked or out of reach of the customer
- . Liquid nicotine containers must be child-safe
- . Cigar minimum price,
- . Permit cap,
- . Proximity ban,
- . and ETS regs (Environmental Tobacco Smoke) still apply.

Obviously we've had to do a lot of retailer education. Many points of contact including in-person store visits, as well as mailed materials.

In the case of a violation a store owner has the **right to an appeal**. Appeals may be made to the local Board of Health. Board members will hear testimony from the retailer and from the enforcing officer and decide if in fact a sale took place and that proper protocols were followed. Because the new fines exceed the so-called "21d" ticket or civil fine limit of \$300, if a retailer wishes to appeal the amount of the fine, they need to file an appeal in a state court.

Now, what's new? We're seeing lots of new products. In addition to an endless variety of new e-cigarette products, we're seeing a lot of Delta 8 CBD vapes. We can enforce flavored CBD vapes because there was no exemption granted for CBD, just for THC. Unflavored CBD vapes are allowed, at least for now.

There are a lot of other CBD products as you know – creams, balms, tinctures, gummies, and other candy-type products, even honey CBD straws. It's the responsibility of MDAR to enforce CBD regulations but it appears that they just don't have the feet on the ground to be in every retail outlet that carries CBD products and many stores do, including Whole Foods! That said, I do think we need to keep an eye on Delta 8 and other newer products. The CDC issued a Delta 8 advisory a few months ago but it was just an advisory, not a regulation.

Kratom has also exploded. I used to see it in small amounts every now and then and mostly in vape shops. Now I'm seeing it in larger quantities and not just in vape shops. And not just the powder. There are pills and capsules as well as liquid Kratom shots. I bring this up because this is what I am seeing not because it falls under tobacco sales regulations. This is meant just to inform you.

To wrap up, I think you have two major considerations. Do you want to update local regs so they line up with the new state law? If you do, I can ask MTCP to provide technical assistance. One of our state program TA's can prepare a draft regulation which will highlight those areas that are new and those which require a decision by the Board.

Additional notes:

- . Flavor enhancers
 - . Public hearing not mandatory
 - . Flavored rolling papers
 - . Flavored hemp wraps
 - . Fronto-type products
 - . Unflavored CBD vapes
 - . Zyn and On! Nicotine pouches - - 4%, 6% 8% nicotine
- FDA checks (FDA uses POST data collection system)
DOR suspensions (DOR notifies tobacco program)
No "stacking"

Maureen Buzby
Tobacco Inspector

Anthony Chui stated that Maureen will be at the next Board of Health Meeting to discuss these changes further and to make recommendations for the Melrose community based on these new rules and regulations regarding tobacco sales.

Health Director's Report:

COVID Updates:

- There is a COVID booster clinic in Wakefield tomorrow, Wednesday, February 9th from 11AM-3PM at the Hurd School that is open to the public. The State VAX bus is coordinating this clinic for the Melrose and Wakefield Health Departments. There is a signup link on the Town of Wakefield webpage. This is open to all Melrose and Wakefield residents.

New Hire Positions:

- We are in the interviewing process for the new Health Inspector. We hope to have this position hired soon.
- We are beginning the search for a new Social Worker for Melrose. This position will help to aid us in the care of Melrose residents and work with Council on Aging, Police, Fire and Mystic Valley Elder Services to help those in need.

Upcoming Dumpster Regulation discussion and vote will take place tonight.

Upcoming Indoor Mask Mandate discussion and rescind or extend vote will take place tonight. Anthony also stated that this vote does not include mask wearing the schools.

Dumpster Rules, Regulations and Permitting Discussion and Review

Anthony Chui review the changes that the Board requested at the last meeting. The typo under fines was corrected and pro-rated fees were added.

The Board reviewed the addition of the pro-rated fees and typo correction and agreed that this would be a good addition for the town to help with the rodent issue.

Indoor Mask Mandate Discussion and Review

As discussed at the December 29, 2021 Board of Health meeting we are reviewing the current Indoor Mask Mandate as to if we should rescind the mandate or extend the mandate.

Anthony Chui presented

- As of today there is a decrease in COVID cases from when the mandate was first put into place.
- He also stated that hospitalizations are down but ICU numbers are still up due to COVID.
- However, based on current numbers it looks as if the surge is declining and he is recommending that the Board rescind the Indoor Mask Mandate at this time.

Frank Brincherio stated

- That he had spoken with Dr. Spardella from Melrose-Wakefield Hospital and Dr. Spardella has seen a decrease in cases over the last few weeks.
- Current COVID patient numbers have dropped as well as employee COVID illness.
- Frank Brincherio stated that he agrees with Anthony Chui that the Indoor Mask Mandate should be rescinded at this time.

Carol Ann Licitra asked if business owners would be able to keep a masks required protocol for their individual business if they wanted to.

Anthony Chui said that business owners may still require masks for their business if they choose.

Carol Ann Licita agreed that the Board should rescind the Indoor Mask Mandate at this time.

Lillian Kelly stated that based on the current information she would also recommend rescinding the Indoor Mask Mandate.

Public Comment:

Frank Brincherio made a motion to open the floor to the public at 6:12 p.m.

Carol Ann Licitra second the motion to open the floor to the public.

Vote to approve the Motion to open the floor to the public:

Frank Brincheiro – yes

Carol Ann Licitra – yes

Lillian Kelly – yes

PASSED 3-0-0

****Floor opened****

Ryan Bagwell, Upham Street, Melrose.

Stated it is time to stop mask mandates for everyone and that the Board should not be telling people that they have to wear one and that the mandate should be lifted immediately.

Jennifer Leyne, West Emerson Street, Melrose.

Stated that the emergency for the wearing of masks has passed with the numbers going down. She stressed the importance of the messaging about mask wearing maybe be clarified further, example if someone is health compromised that they have the choice to still wear a mask but that others have the choice not too. That people who are vaccinated have a choice to not wear a mask.

Frank Brincheiro made a motion to close the floor.

Carol Ann Licitra second the motion to close the floor.

Further Discussion: None

Vote to close the floor to the public:

Frank Brincheiro – yes

Carol Ann Licitra – yes

Lillian Kelly – yes

PASSED 3-0-0

Floor Closed 6:18 p.m.

Carol Ann Licitra stated that it has been very challenging and that not everyone may be happy with the Board's decision tonight, but asked that everyone please be considerate to those that may be more fearful.

Lillian Kelly stated that public comment from Jennifer Leyne about messaging to the public about the proper practices would be very helpful to everyone to minimize risk.

Frank Brincherio stated that it is important to help keep those that are high risk at ease. He also stated that at the December 29, 2021 meeting we agreed that the Indoor Mask Mandate would not be permanent but that we are not out of the woods yet and although numbers are declining that we should all stay vigilant as a community.

Dumpster Permitting – discussion and vote:

Carol Ann Licitra made a motion to accept the Dumpster Permitting, Rules and Regulations and that they would be effective as of June 1, 2022.

Lillian Kelly second the motion.

Further Discussion: None

Vote to approve the motion to accept the Dumpster Permitting, Rules and Regulations. effective June 1, 2022:

Frank Brincheiro – yes

Carol Ann Licitra – yes

Lillian Kelly – yes

PASSED 3-0-0

Indoor Mask Mandate – discussion and vote:

Lillian Kelly made a motion to rescind the Indoor Mask Mandate that was put in place on December 29, 2021 effective immediately, but that business owners still have the right to require mask wearing at their businesses and that Schools and Municipal building are still required to wear masks at all times until further notice.

Carol Ann Licitra second the motion.

Further Discussion: None

Vote to approve the motion to rescind the Indoor Mask Mandate, with business owners having the option require masks and Schools and Municipal building still requiring masks at all times:

Frank Brincheiro – yes

Carol Ann Licitra – yes

Lillian Kelly – yes

PASSED 3-0-0

Anthony Chui thanked the Board for all their hard work and stated that there is a lot of information out there about COVID and mask wearing and extended an offer to help clarify information for anyone that may have questions. He stated that these are important discussions and the public should feel free to reach out and contact the Health Department when they would like more information or clarification.

Frank Brinchiero made a motion to adjourn the meeting.

The motion to adjourn was second by Carol Ann Licitra.

Further Discussion: None

Vote to adjourn the meeting:

Frank Brincheiro– yes

Carol Ann Licitra – yes

Lillian Kelly – yes

PASSED 3-0-0

Meeting Adjourned at 6:31 PM.