



# City of Columbia, Missouri

## Meeting Minutes

### Board of Health



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Thursday, May 10, 2018

5:30 PM

Regular

Department of Public  
Health and Human  
Services  
Training Room 1  
1005 W. Worley St.

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Attachments: April 12, 2018-DRAFT

#### I. CALL TO ORDER

Dr. Szewczyk called the meeting to order at 5:35 p.m.

Staff Present: Stephanie Browning, Scott Clardy, and Amy Larkin

**Present:** 8 - Cynthia Boley, Harry Feirman, Elizabeth Hussey, Lynelle Phillips, Jean Sax,  
Mahree Skala, David Sohl and Michael Szewczyk

**Excused:** 3 - Denise Stillson, Mary Gadbois and Angie Bass

#### II. APPROVAL OF AGENDA

The agenda was approved as submitted.

A motion was made by Dr. Hussey, seconded by Mr. Feirman and carried.

#### III. APPROVAL OF MINUTES

The minutes from the April 12, 2018 meeting were approved as presented.

A motion was made by Ms. Skala, seconded by Mr. Feirman and carried.

Attachments: April 12, 2018-DRAFT

#### IV. REPORTS

##### Directors Report

Ms. Browning provided an update to the Board of Health regarding the status of changes to the weed ordinance. City staff conducted a public process that included both surveys and a public meeting to get feedback from residents on possible changes to the ordinance. A draft ordinance and a summary of the feedback were presented to the City Council in a report. Due to the implementation of new software system that is currently underway, staff requested that Council delay adoption of the ordinance until

the fall of 2019. In doing so, this would allow staff to better gauge the impact of the new ordinance over this growing season. Council approved the delay.

### **Legislative Report**

**Attachments:** BOH Legislative report 05-10-18

Mr. Clardy reported that House Bill (HB) 1554 regarding medical marijuana has been voted out of the House and sent to Senate where it has been referred to a committee. There is no hearing date.

HB1620 - This bill exempts health care entities registered with Department of Health and Senior Services that distribute hypodermic needles or syringes, from the crime of unlawful delivery of drug paraphernalia. It has been voted out of the House, sent to Senate, and voted out of a Senate committee. It has been added to one other bill as an amendment.

The 2018 session ends on May 18th at 6 p.m. The Legislature has voted to go into a special session at 6:30 p.m. to discuss the situation with Governor Grietens.

### **Chairperson Report**

Dr. Szewczyk noted that the Board typically has a social event during the summer in lieu of a meeting. Discussion ensued but no decision was made.

## **V. OLD BUSINESS**

### **Update on status for Tobacco Retailer Licensure**

**Attachments:** Columbia MO licensing ordinance with comments for BOH (1) (3)  
FDA Tobacco Retailer Compliance Inspections  
Tobacco Retail Licensing

Mr. Clardy provided an overview of the different sections of the drafted ordinance to the Board. The new ordinance draft has been shared with stakeholders who have reviewed the draft and provided comments. Their main concern is that it does not specify who within the city will be the enforcing agency, and it does not include progressive penalties for non compliance. Staff noted that Ms. Thompson, with the City's Law Department, preferred more latitude to the city by not having a single

enforcement agency or specific penalties.

Stan Cowan, with University of Missouri School of Medicine, spoke to the Board. He presented a handout "Percent Total Violation Rate for FDA Tobacco Retailer Compliance Inspections, Columbia vs. Rest of Missouri." Before Tobacco 21(T21), Missouri was at 17.5 percent violation rate and Columbia at 10.9 percent. Post-T21, there was a decrease in Columbia in 2015 and 2016, with an increase in 2017. Missouri's violation rates went up in 2015 and 2017, decreasing only in 2016.

Mr. Cowan provide his opinion on why there was an increase in violations in 2017. His reasons included:

- Little local enforcement activity may have led to some retailers becoming lax in verifying age.
- Some retailers may perceive a low risk in getting caught being worth the economic profit of selling to underage youth.
- Some retailers may perceive any penalty as simply "the cost of doing business"

Dr. Szewczyk asked Mr. Cowan how many inspections were being done per year. Mr. Cowan thinks approximately 250 inspections were done in Columbia by a contracted company hired through the Missouri Department of Public Safety. Since these are contracted by the Food and Drug Administration, these only do checks for sales to under 18 years of age (the federal minimum).

Other states such as Massachusetts and California have found, using periodic risk behavior surveys on high school students, that T21 has been effective in showing a decline in tobacco use.

An FDA review in New York City revealed less than expected decreases in retailer violation rates which were attributed to an uneven implementation of policy, enforcement, and compliance. Dr. Winickoff, who helped lead the effort of the Needham, MA ordinance, responded to New York City's finding with best practices for enforcement and with seven recommendations for communities to maximize the impact of their T21 policies.

Mr. Cowan noted that Columbia has a distinction that out of seven FDA "No

Tobacco Sale” orders in Missouri, Columbia had three. There were two retailers involved; one cited twice.

The Board discussed the draft of the new tobacco retailer licensing ordinance. Concern was expressed that there was no graduation in penalties for repeat offenders, it was unclear who revokes the license and when, and no specifics on how City inspections and fines occur in conjunction with FDA actions.

Karen Englert, with the American Heart Association, told the Board that one of the main things the American Heart Association advocates for regarding T21 is the designation of a specific enforcement agency. If it isn't stated, generally no one will conduct enforcement. The ordinance should also clarify how many times per year checks are to be done.

She went on to state that best practice is to make sure the fine structure clarifies what the amount for each offense is, to increase the fine each time, and how many offenses lead to revocation of the license.

Ms. Englert explained that it is important that the ordinance needs to be consistent on wording regarding tobacco products and making sure that e-cigarette products are included in the licensing ordinance.

Mr. Feirman asked how the compliance checks are normally funded. Ms. Englert noted that it can be done by specific funding dedicated to the enforcement agency or generated through the use of a licensing fee. Dr. Szewczyk explained how, in Missouri, the Hancock Amendment does not allow licensing fees without a vote of the public.

Ms. Chadwick with Tobacco 21 said that the Tobacco Control Legal Consortium (TCLC) has reviewed the draft of the ordinance. TCLC was concerned about section 11-317 and how it could be an “iffy” clause due to the second amendment and that it should be taken out.

Ms. Chadwick also noted that the TCLC recommends a clear delineation of what is a “tobacco product” in the definition section so that it can be referred to throughout the ordinance. That way, all stipulations clearly refer to all tobacco products.

She felt the ordinance should include language requiring a minimum of two compliance checks per year.

Ms. Chadwick said TCLC was concerned about the fine structure. She noted that it allows for a great deal of discretion and doesn't clarify at what point the license is revoked. She feels the fine should start at a minimum of \$300 with graduating penalties.

The Board discussed the need to add information regarding how many violations before the license is revoked. The FDA guideline is six times before the business gets a 30 day no sale order.

James Greer with MFA Oil spoke to the Board regarding some issues he thought need to be improved in the ordinance. One issue is the fine and penalty section allowing only one person to be able to shut down a location. The ordinance does not specify who will do inspections. Under the current ordinance, the Columbia Police Department enforces the ordinance.

Dr. Hussey asked why there isn't a penalty to the clerk who rings up the sale. Ms. Chadwick explained in St. Louis County, the clerk is fined and issued a ticket at the time of the sale. Dr. Szewczyk noted that this issue was previously discussed by the Board and it was agreed not to fine the clerk but rather the owner. Training was discussed. Mr. Clardy stated that the Columbia/Boone County Department of Public Health and Human Services' website now has training available for sale of tobacco products.

Dr. Szewczyk felt it would be in the best interest of the Board to have the opportunity to meet with Ms. Thompson (City Law Department) to seek answers to their questions. The Board discussed making a list of questions and sending them to Ms. Browning to be compiled and sent to Ms. Thompson.

#### **VI. GENERAL COMMENTS BY PUBLIC, MEMBERS AND STAFF**

Mr. Clardy reminded the Board that the tour for the MU Research Reactor was June 15th at 3 p.m. and he needed to receive the list of who was going by May 14th.

#### **VII. NEXT MEETING DATE**

June 14, 2018

#### **VIII. ADJOURNMENT**

A motion was made by Dr. Hussey, seconded by Mr. Feirman to adjourn the

meeting at 7:05 p.m.