

Town of Mansfield
Board of Health
January 7, 2021 Minutes

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MANSFIELD
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Mission Statement: The mission of the Mansfield Board of Health is to protect, preserve and improve the public health, environment and wellbeing of our citizens through the enforcement of federal, state and local statutes and regulations, education and promotion of sanitary living and working conditions, and protection of the environment from disease and pollution.

Present: Antonia Blinn; Chair, Kasia Frenette; Clerk, Michael Healey, Leah Gillespie, Graham Wilson, Amy Donovan-Palmer; Health Agent, Christopher George; Recorder.

Guests: Justin Desrosiers; Mansfield Fire Chief, Kevin Dumas; Town Manager, Carrie Champagne, Nancy Griffin, Wen Lin, Maggie Chen, Officer William Trudell, Sarah McColgan, Steve Schoonveld, Jess Aptowitz, Donna Whitehead, Andrew Bank, Martin Fox, Kala Danca, Momin Khan,

I. Meeting Called to Order

The meeting of the Board of Health was called to order at 6:00pm by Chair Antonia Blinn.

***Motion to move the agenda as directed by the Chair made by Mr. Healey, 2nd by Ms. Frenette.**
VOTE 5-0 PASSED

II. Food Establishment Violations

Ms. Blinn asks Officer Trudell to provide background. Officer Trudell reviews the events and police report of New Year's Eve on 12/31 in regards to Sake Steakhouse. He said the concern was on the main capacity of the restaurant. He said there were language barriers with management. He says he took video and pictures which was provided to the health agent and advised the manager to get the occupancy down to 25%. He says he returned later and the dining side was empty but the hibachi side had about 50 people. At this time, he says it's after 9:30pm and they found out patrons haven't received food yet. He says some patrons waited for their food in their car.

Ms. Blinn says the pictures represent Officer Trudell's report. She says it's concerning because Mansfield and surrounding Towns have high case numbers.

Mr. Dumas says he wants to clarify that the report to the Select Board says that the certificate on the wall said 99 occupancy and Officer Trudell's report says 89 occupants. He says this has the full support of his office. He says the police don't single out Mansfield Crossing and no one else appeared to be in violation that night. He says the decision of the Board of Health has the support of the Town Manager's office.

Ms. Blinn says the order was issued by the Governor and 25% is the occupancy. She says, per these orders, they can fine up to \$500 per person over the occupancy. She says there are two representatives from Sake present.

Mr. Healey asks the time of the first visit. Officer Trudell says he drove through between 8:30pm and 9:00pm. He says there were approximately 5-6 people. Mr. Healey confirms no one should be allowed at the bar per the Governors order.

Ms. Blinn says she and Mr. Healey visited Sake Steakhouse the following day to ask questions and talk about the police report. Mr. Healey says the reasoning he understood from them was that they didn't understand the State guidance. He says he gave the staff guidelines and suggestions on how to follow the orders. Ms. Blinn says there were two large X's on the bar which showed that people weren't supposed to be there. She says the gentlemen on site did have a translator and they were able to see a reservation book. She says the reservation book was not full and determines that most of the over occupancy patrons were walk-ins.

Ms. Blinn asks if the Sake Steakhouse representatives are present and asks them to speak on the events.

Ms. Chen says this is very serious. She says in the restaurant certain things happen that they need to control and they don't know how to control everything. She says they performed COVID training for all employees. She reviews her understanding of the State regulations. She says they need to stay up to date on regulations to meet safety standards. She apologizes and says they'll take action right away. She reviews changes to the restaurant they're planning on implementing.

Ms. Blinn says even before the new orders came down on December 26 there were restrictions on the restaurant previously.

Ms. Frenette says it's the responsibility of the restaurant to understand updates to the regulations. Ms. Chen agrees with this and says that's her responsibility. Ms. Blinn says you can also sign up for direct alerts from the Town's website and the Health Department puts out daily updates that contain education. She says there's no excuse for not knowing and there are things she can do to stay informed. Mr. Healey says, during their meeting on Saturday, that they showed them the Town's website. He asks what steps they are taking to not go over 25%.

Ms. Chen says they made limitations on reservations and provides an example of their workflow. She says they're going to hire a host and they have someone acting as a host currently. She says they removed tables to show that people can't sit or stand in those areas.

Ms. Chen translates for Mr. Lin. The Board and management of Sake review table counts and capacity limits.

Ms. Blinn says Ms. Donovan-Palmer is always available to help them maintain their limits.

***Motion to close discussion made by Mr. Healey, 2nd by Ms. Frenette. VOTE 5-0 PASSED**

Ms. Blinn reviews the Governor's order and fines associated. The Board discusses the fine with Mr. Aptowitz, Ms. Donovan-Palmer, and Mr. Dumas.

***Motion to fine Sake Steakhouse Restaurant \$3200 for over capacity violations per Governor Baker's orders and an additional \$500 for improperly operating a bar per Governor Baker's orders for a total of \$3700 made by Mr. Healey, 2nd by Ms. Frenette. ROLL CALL VOTE 5-0 PASSED**

III. Items not known 48 hours prior

Tobacco Permit Violation – Simple Amenities

Ms. Blinn asks if a representative from Simple Amenities is present. Mr. Khan announces himself. Ms. Donovan-Palmer provides background on tobacco sales permits. She says she was on vacation last week when she received a call from Mr. George that Simple Amenities doesn't have state licenses to operate and they can't process the permit application without them. Ms. Frenette says she stopped in on New Year's Day and that Mr. Khan was working on taking it all down. She reviews her conversation with Ms. Frenette that Mr. Khan asked what to do with the product and Ms. Frenette received guidance from Ms. Donovan-Palmer.

Ms. Donovan-Palmer says she checked in on Tuesday and Mr. Khan was not there so the clerk faceted Mr. Khan in. She says the front display case was empty but there was a back cabinet with open drawers and within the drawer were flavored vape products. She says she took pictures and the items all say they contain nicotine. She says she told him that he shouldn't have flavored tobacco products as of June 1, 2020. She says that Mr. Khan said it was just storage. Ms. Donovan-Palmer says it didn't look like storage as it was readily accessible and in the open. She says it's considered offered for sale despite not being in the front of the store. She asks Ms. McColgan to review the rules and regulations of flavored vape products in the State of Massachusetts.

Ms. McColgan reviews the communications that were sent out by the State and local Health Department to all tobacco retailers about the new law starting on June 1, 2020 in regards to flavored tobacco and nicotine products. She says she's contacted the Department of Revenue and they haven't applied for a DOR permit as of their deadline date of November 31, 2020. She reviews the permits Simple Amenities may require to operate in the State of Massachusetts.

Ms. McColgan provides information on the State's permit process.

Ms. Donovan-Palmer reviews Kevin Duquette, the tobacco inspectors, most recent tobacco inspection. She says he reported flavored vape products in September and he spoke to Mr. Khan about the regulations. She says when Mr. Duquette re-inspected the flavored vape products were removed as of September 11, 2020. Ms. Blinn says it was found in September, not found on the re-inspection in September and then were found again in December.

Ms. Blinn reviews the fines. The Board discusses the fine structure and what's written in the Town's Nicotine and Tobacco regulation. Ms. Donovan-Palmer confirms that Simple Amenities doesn't have State or Town tobacco permit. Mr. Healey says the minimum should follow the State's regulations.

Ms. Blinn gives the floor to Mr. Khan. Mr. Khan says when Mr. Duquette performed on the September 11 inspections he was told he can't sell CBD but doesn't know about flavors personally. He says they use the backroom for storage. He says they have a lot of expired stuff in crates that have been piling up. He says vendors don't take returns on things. He says he called them about the vape ban and they told him he can't return anything until they're expired so he packed them into crates. He says he hasn't any violations in 2 years. He says he's kept his entire product in his car. He says his permit has been halted with the Department of Revenue and he doesn't know why and it's his accountant that handles that. He says he just has a lot of containers in the back and he didn't have a problem with the Health Agent looking in the store.

Ms. McColgan says if there's a product that Simple Amenities can't sell by law than it can't be advertised and

can't be on the premises. Ms. Blinn says it's the same kind of violation as having it in the front of the store. Ms. McColgan says it raises the question why is it in storage 6 months after the law took effect. Mr. Healey says Mr. Khan stated he received a letter that he wasn't allowed to return products.

Mr. Healey asks Ms. Donovan-Palmer to clarify what was found. Ms. Donovan-Palmer pulls the pictures says it's called "Kicks disposable device. Strawberry, watermelon. Warning this product contains nicotine". She says Mr. Duquette does list flavored vape education on the inspection report and it doesn't say CBD. Mr. Healey says he's confident the inspector knows the difference.

Ms. Donovan-Palmer says he understands Mr. Khan says it was in storage but she found it easily in a drawer filled with this product. Mr. Khan says it was in the backroom. Ms. Blinn says it was on the premises.

The Board discusses with Ms. McColgan the next steps and possible determination of fine. She says there's no permit to currently suspend so they'd fall to a \$1,000 fine. Ms. McColgan says you can also fine \$300 for a lack of a DOR permit. Mr. Healey says if Mr. Khan can show proof that he has applied for DOR permits before November 30, 2020 than they can waive the \$300 fine.

Mr. Khan says he wasn't planning to be open after December and he has a lot of family currently with COVID-19. Mr. Healey says he didn't need to drive to Texas to be permitted. Ms. Donovan-Palmer asks if Mr. Khan applied for the DOR permits. Mr. Khan says he was told by his accountant that they've applied for DOR permits. Mr. Khan says he knows his accountant didn't apply in time or in November. Mr. Healey says they'd like to know when they applied. Mr. Khan says it was mailed in. Mr. Healey asks Mr. Khan to have his accountant pull the records.

***Motion to close discussion made by Mr. Healey, 2nd by Ms. Frenette. VOTE 5-0 PASSED**

***Motion to fine Simple Amenities \$1,000 for violation of having flavored tobacco products on the premises after it was banned by the State of Massachusetts made by Mr. Healey, 2nd by Mr. Wilson. VOTE 5-0 PASSED**

Ms. Blinn says they'll review the additional fine at the next meeting.

Ms. Frenette leaves the meeting. Quorum still held.

IV. COVID-19 Updates

Chief Desrosiers reviews the first responder vaccination plan. He says they may open a vaccine clinic when the phase allows it but there's a cost associated with public vaccine clinics. He reviews employee testing.

Chief Desrosiers reviews COVID-19 cases in Mansfield.

Chief Desrosiers says his temporary status as an agent of the Board of Health has expired. Mr. Healey suggests they do it until June 1.

*Motion to extend the agent of the Board of Health to the Fire Chief Justin Desrosiers until June 1, 2021 made by Mr. Healey, 2nd by Ms. Gillespie. VOTE 4-0 PASSED

V. Board Reorganization

Item tabled.

VI. Consent Agenda

Item tabled.

VII. Acceptance of Minutes

October 1, 2020

Item tabled.

VIII. Liaison to Select Board

Item tabled.

IX. Plan to review 2020 goals and update for 2021

Item tabled.

X. Department Updates

Mr. Healey says he recognizes the FOG report and the number of permits Mr. George has processed and he says it's unbelievable what he's been able to accomplish. He thanks Mr. George for his work on achieving 90% compliance. Ms. Donovan-Palmer says Mr. George did it all on his own.

XI. Visitor Comments

None.

XII. Adjournment

*Motion to adjourn at 7:40pm made by Mr. Healey, 2nd by Mr. Wilson. VOTE 4-0 PASSED

Kasia Frenette

Clerk

3/8/21

Date