



City of Westfield, Massachusetts
Health Department

SPECIAL
Board of Health Meeting
July 7, 2016

RECEIVED
AUG 10 2016

10:30 AM.

WESTFIELD CITY CLERK

Present: Juanita Carnes, Chair Michael Paquette Teresa Mitchell, M.D.

Ms. Carnes opened the meeting at 6:05 p.m. Under public participation Deborah Kenefick and Stephen Burrell, representing Smoke-4-Less, and Chris (did not give his last name), a Westfield resident, were present.

PUBLIC PARTICIPATION:

Stephen Burrell spoke on behalf of Smoke-4-Less. He presented the Board with a letter from Atty. Thomas Keenan, as well as one from the MA Department of Revenue. Deborah Kenefick also spoke on behalf of Smoke-4-Less, explaining their position, and stating that they run a clean, respectful business. Chris addressed the Board with his positive opinion of marijuana legalization and how he recommends a "grow your own - smoke your own" policy.

PUBLIC HEALTH:

Smoke-4-Less Roll-Your-Own Machine – Joseph Rouse, suggesting that the facts be laid out for everyone, passed out a timeline, with Exhibits A-G, beginning with the initial Notice to Smoke-4-Less dated November 23, 2015. Initially, the Board requested proof that Smoke-4-Less was in compliance with Federal, State and local regulations. Discussion developed with regard to Exhibit "G", a letter from the Federal Alcohol and Tobacco Tax and Trade Bureau, which states that the RYO machine "DOES NOT meet minimum standards set forth under definition of 'cigarette manufacturing'." The definition of "minimum standards" was not clear and could be interpreted two different ways. The City's Law Dept. was asked to interpret this; however, they declined to do so. Stephen went on to describe his interaction with the Federal agency and, because the Federal laws had changed, he was forced to shut down for a number of weeks to develop a plan in which he could operate the RYO machine legally (i.e. creating a private club in a private room and covering the machine, etc.)

The Board was satisfied with the Federal license; however, there was no copy of a State license. Calls had been made by the Health Dept. to the State and the State indicated that there was no license issued to Smoke-4-Less or the Samaritan Room. Mr. Burrell stated that the license was hanging on the wall at his establishment and offered to leave the meeting to get it and bring it back for the Board to see. It was also noted that Smoke-4-Less did not carry Workers Compensation, which they are required to do.

Thomas Hibert, Code Enforcement Officer, presented the Board with research he had conducted regarding roll-your-own machines and steps taken by other communities.

Mr. Burrell and Ms. Kenefick requested the consideration of a variance to the existing regulations which would allow them to keep the current roll-your-own machine. In addition, they offered to abide by the following conditions:

- a.) No new machines or expansion of the current store.
- b.) Removal of the van and logos promotion their shop.
- c.) No advertisement of any kind.
- d.) No donations in exchange for advertisements in flyers, magazines, pamphlets; instead, those funds will be donated to a cessation in schools program. An accounting of the funds would be provided to the Board.
- e.) No sales to pregnant women.
- f.) Employees will be provided Workers' Compensation.
- g.) No-one under the age of 21 will be employed.
- h.) No sale of the store.

Mr. Burrell wanted the Board to know that the tobacco sold at his establishment is all-natural and not treated with chemicals like manufactured cigarettes. He also stated that he entered into a 60-month lease as of January 2016, which will end in 2021, and would like the Board to also consider this in their decision.

At this time, Mr. Burrell and Ms. Kenefick voluntarily left the meeting temporarily to get a copy of their State license. The members of the Board further discussed their proposal and all of the material before them. Mr. Burrell and Ms. Kenefick returned without their license stating that the license had been removed from its frame and they did not know where it was. Mr. Burrell and Ms. Kenefick again voluntarily left the meeting so the members could discuss their proposal and make a decision.

A Motion was presented and seconded for deferral of the enforcement of the regulation upon Smoke-4-Less for the non-residential Roll-Your-Own Machine until June 30, 2017, with the following conditions:

- 1.) Proof of a current Massachusetts State license for the sale of smoking tobacco and cigars must be submitted to the Board by Smoke-4-Less.
- 2.) The City of Westfield will grant to Smoke-4-Less a license to sell tobacco and cigars.
- 3.) No advertising of any kind, to include but not limited to printed advertisement, television, radio, social media, etc.
- 4.) The van currently used as a method of advertising must be moved from its current location and the advertisement displayed on it must be removed.
- 5.) Proof of current Worker's Compensation must be provided to the Board by Smoke-4-less within thirty (30) days of this date.

- 6.) The owners shall not open any new stores; will not expand their current store; and will not purchase or operate any new or other roll-your-own machines.
- 7.) The current Smoke-4-Less business cannot be sold.
- 8.) There will be no extensions to the deadline of June 30, 2017.
- 9.) There shall be no variance given.
- 10.) If any of these conditions are not met, or if any violation occurs, an immediate enforcement of the regulation will result.

The vote was as follows:

Carnes – Yes

Mitchell – Yes

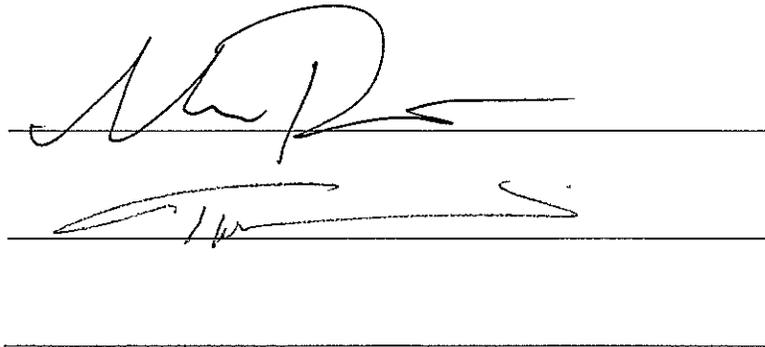
Paquette – Yes

All in favor, the motion was declared passed.

Stephen Burrell and Deborah Kenefick returned to the meeting and were addressed by Juanita Carnes with the Board's decision. Mr. Burrell thanked the Board for the one-year deferment and asked for the opportunity to speak on another matter. Mr. Burrell stated that he understood the Board was concerned that the lower cost of the roll-your-own cigarettes could contribute to and encourage smoking, as well as place other establishments at a disadvantage because of the higher cost of manufactured cigarettes. Mr. Burrell wanted to make a point that alcohol is being sold throughout the City at a variety of prices, which is acceptable and, additionally, marijuana is being manufactured illegally as well.

With no further items on the agenda to discuss, Ms. Carnes adjourned the meeting at 7:55 p.m.

Minutes approved by:



The image shows two handwritten signatures on horizontal lines. The first signature is a large, stylized cursive signature, likely belonging to a board member. The second signature is smaller and less legible, also in cursive. Both signatures are written in black ink.

/cam

Next anticipated meeting date: August 10, 2016