

CITY OF MIDDLETOWN
BOARD OF HEALTH AND CITY COUNCIL
SPECIAL MEETING
Minutes
June 20, 2023

The City of Middletown Board of Health met in special session with City Council at 4:30 PM on June 20, 2023 in Council Chambers.

Members Present

Mayor, Nicole Condrey, BS, President
Ruth Lolli
Joseph Richmond
Amy Sibcy
Dr. Scott Zollett, MD

Health Department Staff Present

Jackie Phillips Carter, MPH, BSN, RN
Carla Ealy, BS, REHS
Chandra Corbin, BSN, RN

Absent

Sally Kash, MS, RN
Jeff Bonnell

ROLL CALL

Ms. Schenck called roll for City Council. Council motioned to excuse council member Monica Nenni, motion was approved.

Ms. Phillips Carter called roll for Board of Health.

Motion: Ms. Lolli moved, seconded by Ms. Sibcy to excuse Ms. Kash and Mr. Bonnell.

Roll call vote: Yes-4(Lolli, Richmond, Sibcy, Zollett). No-0. **Motion Passed.**

DISCUSS TOBACCO 21 RETAIL LICENSING

Mayor Condrey stated that this was a special meeting between City Council and City of Middletown Board of Health(BOH). Kristina Latta-Landefeld, Envision Partnerships; Kristy Duritsch, Southwest Ohio Safety Council; Anna Bowman, Middletown City High School Assistant Principal; and Debbie Houser, Middletown City Schools Superintendent were also present.

Mayor Condrey gave a brief overview of Tobacco 21 (T21), stating that T21 is a law that prohibits the sale of tobacco and/or tobacco products to anyone under the age of 21. The law went into effect in July of 2019 in the state of Ohio, and became a federal law in December of 2019. It is difficult to enforce T21 because there is no way of knowing exactly where tobacco and tobacco products are being sold. This is where the Tobacco Retail Licenses (TRL) come in, cities across the state are implementing TRL's. City of Middletown Health Department (CMHD) passed an ordinance in November 2022 which will implement a TRL in the city.

Mayor Condrey gave an overview of the timeline of T21. July 2019-Ohio implemented T21. July 2019-City of Cincinnati BOH approved TRL. December 2019-City of Cincinnati began license enforcement. December 2019-T21 passed federally. September 2021-City of Norwood passed TRL. June 2022-City of Hamilton passed TRL. November 2022-City of Middletown passed TRL. January 2024-CMHD will begin enforcing TRL.

Mayor Condrey explained that after consulting with City lawyers and best practices from other cities, the legal team has stated that retail density or zoning would be best enacted as part of the city's Development Code. The Board of Health is the entity that approved TRL and that is the extent of the BOH's involvement. The BOH has joined City Council to act as an advisory board on the topic. The Planning Commission/Zoning will be responsible for any density or buffering zones and City Council will be the ultimate voting body. City Council would hold a public hearing then decide to adopt, adopt with modifications or reject Planning Commission's recommendations.

Ms. Phillips Carter stated that Envision Partnerships are consultants and the goal of T21 is to keep youth from smoking and vaping.

City of Middletown Health Department is implementing the T21 program, with the police department enforcing the law. The schools are on the frontline and will be able to provide feedback. The money generated by TRL fees will go toward providing education and prevention.

Ms. Latta-Landefeld of Envision Partnerships provided City Council and BOH with a presentation, explaining that Envision Partnerships is working in all 10 school districts located within the county by providing prevention, education and school support groups. The earlier the age of first use increases the chances of addiction, not only to nicotine but also other substances later on.

Ms. Latta-Landefeld explained that the first E-cigarettes (vapes) looked much like an actual cigarette and youth were not attracted to cigarettes, then companies changed the look of E-cigarettes (vapes). A 2020 Pride Student Drug Use Survey showed that 3.2% of students have smoked cigarettes in the last 30 days, while 14.1% have used electronic-vapor. The same survey also showed that the perception of availability of electronic vapor was higher than cigarettes and alcohol. Ms. Latta-Landefeld stated that children in 7-8th grades are increasingly using electronic-vapor devices that attract youth.

Ms. Bowman Assistant Principal of Middletown City Schools addressed City Council and BOH stating that the schools are seeing a large increase in vaping among students in grades 9-12, while seeing a decrease in cigarette smoking in that same age group. Ms. Bowman stated that electronic-vapor is being used across all demographics of students. The schools will be installing vapor detectors to try to discourage vapor use as well as providing a vaping policy and education program she also stated they are trying to deal with discipline issues associated with vaping.

Mayor Condrey explained that there are approximately 69 tobacco retailers located within the City of Middletown. The annual license fee will be \$250 and the money will go towards education and targeted enforcement.

The Board of Health spoke about a 1 shop per 2,000 residents density number, however; realized that was not a good option and the last City Council Meeting has changed their recommendation. The BOH is now recommending capping the number of shops that are currently operating within the city.

Discussion

Council member Muterspaw stated that he watched the May 9th BOH meeting and shared it with about 75 Middletown business owners. Mr. Muterspaw stated that nobody is against T21, but they are for businesses. Mr. Muterspaw stated that Middletown has a reputation of not being business-friendly. Mr. Muterspaw informed council and the BOH that he had invited two Middletown business owners to the meeting, stating that these business owners follow all of the laws and regulations and fears that if they choose to sell their business and cannot transfer the tobacco license, the business will not be worth what it should. Mr. Muterspaw stated that the goal here is not to punish business owners.

Mr. Muterspaw stated that he is happy to hear that BOH is no longer recommending cutting tobacco retailers from 69 to 20-something stores in Middletown.

Ms. Phillips Carter stated that she is also business-friendly, but would like to see a standard set for the city. Ms. Phillips

Carter stated that T21 is about youth, not adults. Ms. Phillips Carter continued that public health's goal is to make everyone as healthy as possible; stating that often times it appears as over-reach, citing seatbelt laws and non-smoking indoors, etc.

Mr. Muterspaw asked if he was correct that there were only 10 vape shops located within the city.

Ms. Phillips Carter stated that it was correct. There are zero regulations currently placed on these vape shops. The shops are often situated in depressed communities, targeting the most vulnerable populations.

Mr. Muterspaw stated that he is all for regulating the vape shops, but not for penalizing business that happen to also sell tobacco and tobacco products, by not allowing them to transfer their tobacco licenses if they sell their business.

Mayor Condrey stated that the BOH is not requesting that businesses are not able to transfer their licenses, stating that BOH has listened to council concerns and would like for licenses to be made transferable so that businesses retain their value.

Mr. Muterspaw stated that he wants to make sure business owners are treated fairly, and not punish business owners who follow the law. Mr. Muterspaw stated that as council, they have to answer to businesses that are doing everything right.

Dr. Zollett asked if these were the types of businesses we wanted in Middletown.

Mr. Muterspaw replied absolutely, he welcomes businesses in the city.

Dr. Zollett asked if that meant "all" businesses.

Mr. Muterspaw replied, yes.

Ms. Phillips Carter stated that although often times youth do access tobacco products at home, its about access barriers. Regulation makes it a little more difficult for youth to access it.

Council member Tal Moon stated that it was mentioned that BOH has recommended restricting retail density number and not including buffering zones, asking what the factors were in reaching that decision.

Mayor Condrey replied that since businesses already currently exist in those zones, BOH did not want those business to have to close or move and interfere with the free market as well as there being greater administrative hurdles with enacting buffering zones.

Ms. Latta-Landefeld clarified that the T21 laws are primarily focused on vape shops, stating that it is only through the department of taxation that we even know these shops exist. TRL helps us know what is being sold.

Mayor Condrey welcomed council members to bring T21 up for further discussion at any time at council meetings.

RECEIVE AND FILE SPECIAL MEETING DOCUMENTS

Council motioned and moved to approve receiving and filing special meeting documents.

ADJOURNMENT

The meeting was adjourned at 5:33 PM. The next Board of Health meeting will be held on July 11, 2023 at 7:30 AM in Conference Room 2C on the second floor of the City Building.



Jacquelyn D. Phillips Carter, MPH, BSN, RN
Secretary

Nicole Condrey, President
City of Middletown Board of Health