



BOSTON PUBLIC HEALTH COMMISSION

BOARD MEETING

FEBRUARY 5, 2009

1010 MASSACHUSETTS AVENUE

HAYES CONFERENCE ROOM

MINUTES

Board Members Present:

Paula Johnson, MD, MPH
Ruth Ellen Fitch, Celia Wcislo,
Harold Cox

Board Members Absent:

Hortensia Amaro, PhD, Vice Chair
Jack Cradock, Elaine Ullian

Administration & Staff Present:

Barbara Ferrer, Ph.D., MPH, M.Ed,
Nancy Norman, MD, MPH
John Townsend, Maia BrodyField,
Nakisha Skinner, Mark Campbell, Julia
Gunn, Timothy Harrington, Gerry Thomas,
Mustafa Marab, Ann Scales, Jeanne
Cannata, Roger Swartz, Rich Serino,
Daisy DeLaRosa, Anne McHugh,
Bernadette Moitt, Kristen Kuzmick,
Pam Jones, Kathy Cunningham, Mary
Jane Williams, Julie Webster, Sharyn
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Guests:

Ellen Hatch, Scott Mason

Board Member Ruth Ellen Fitch, JD, called the meeting to order at 4:10 PM on Thursday, February 5, 2009.

Transfat Regulation (Report on Implementation) – Anne McHugh

Anne McHugh, Director, Chronic Disease Prevention and Control Division, gave an update regarding Boston's artificial trans fat ban. Ms. McHugh briefly recapped the regulation and stated that the trans fat ban was passed in March of 2008 and it prohibits the sale of food or beverage containing artificial trans fat. The ban applies to less than 5000 food service establishments with the exception being food served in manufacturer's original sealed package and ingredients with less than 0.5 grams of trans fat per serving.

Ms. McHugh reported that phase one went into effect on September 13, 2008. Phase one prohibits trans fats in oils, shortening, or margarine for frying, pan-frying, grilling or as a spread. Ms. McHugh said that phase two will go into effect on March 12, 2009 and the second phase will prohibit trans fat in all products which include baked goods, mixes, prepared or partially prepared items. Ms. McHugh announced that a press release will be sent out in March and it will be in five different languages. There will be extensive coverage by the local print and radio media.

Ms. McHugh gave an overview of the two phases of the ban. A trans fat regulation fact sheet was mailed out in June and early September with two educational sessions held in August of 2008. Ms. McHugh said that the ban is a collaboration between the Commission and Inspectional Services Department. Inspectional Services Department will do bi-annual inspections and the Commission's Environmental Health Office inspectors will conduct follow-up inspections. ISD has conducted 2500 inspections and there is a 98% compliance rate.

Board member Weislo asked if the trans fat ban applies to the Boston Public Schools. Ms. McHugh answered, yes.

Ms. McHugh stated that for phase two of the ban two technical consultants were hired, a registered dietician and a chef and the particular focus is on bakeries. Ms. McHugh said phase two may have compliance issues as the ingredient changes in bakery goods can be more challenging due to differences in texture, taste, and food stability from different types of fat.

Ms. McHugh gave a recap regarding the enforcement procedures and spoke on the Commission's proposed response to phase two's proposed modifications. Ms. Hugh said that food service establishments would be allowed to submit a request for extension upon receiving a warning violation. All extensions should be submitted in writing. The proposed modification will ask for a change in the published guidelines, not the regulation.

Board member Cox asked if New York's regulation includes the same language as phase two of the ban. Ms. McHugh said that the Commission's regulation is based on New York's regulation.

Board member Weislo suggested that the Commission offer compliance signs in restaurants once they are in compliance.

Acceptance and Approval of Minutes

Dr. Johnson, MD, MPH, Chair invited a motion to accept the January minutes. The motion was made, seconded and approved.

Executive Director's Report – Barbara Ferrer

Barbara Ferrer, Executive Director, began by announcing that the Commission is in the process of rolling out a new logo which is based on the national public health logo. Dr. Ferrer then went on to speak regarding the funding in the federal stimulus plan.

Dr. Ferrer stated that the federal stimulus plan is being deliberated on by the US Senate and both the House and Senates bill addresses issues that affect public health. Dr. Ferrer said that the Senate has taken out money for the wellness chronic disease bill. The Commission has issued an alert and staff are working diligently to write grants should the recovery package pass.

Dr. Ferrer reported that the Governor has issued cuts of 22 million in local aide. The Commission is working with the City of Boston regarding the implications of the cut. Dr. Ferrer said that the Commission is working on the numbers for reforecast. There are also cuts to the state contracts.

Dr. Ferrer then discussed the FY10 budget. The Mayor will speak to unions regarding wage freezes and step increases. Dr. Ferrer stated that the Commission as well as the Mayor and the unions share the same goal in regards to the wage freeze and step increases. There has been a favorable response to discuss the idea but the unions are under no obligation to negotiate, as all contracts have been closed.

Dr. Ferrer said that the budget will be finalized in March.

Tobacco Regulation (Report on Implementation) - Roger Swartz

Roger Swartz, Bureau Director, Community Initiatives Bureau, gave a review of the regulations. Mr. Swartz said the workplace amendment was passed on December 11, 2008. The new regulation effective date is February 9, 2009. The new regulation forbids the sale of tobacco on property owned by educational institutions or health care facilities and forbids the sale of blunt wraps. Educational visits will begin the week of February 9th. Enforcement inspections will begin March 9, 2009 and will include the posting of required signage both indoors and outdoors.

Mr. Swartz said letters were sent out to motels, hotels, inns and health care institutions and inspections will begin over the next two weeks. Smoking bar inspections will also start sometime the week of February 9th. If a violation is found, establishments will have 24 hours to correct the violation.

Dr. Johnson asked how many hotels are in compliance thus far. Mr. Swartz replied that he did not have the numbers.

Mr. Swartz also announced that letters were sent to all permitted establishments in regards to the blunt wrap regulation ban. Enforcement starts next week as part of the routine compliance inspection.

Board member Fitch asked whether the Commission is expecting any kind of hostility. Mr. Swartz answered that outdoor patio smoking will be an issue.

Board member Fitch stated that it is really important that the Commission takes a look at smoking outdoors on patios.

Mr. Swartz lastly showed the Board the new signage for smoking bars, restaurant patios, hotels and health care institutions-(pharmacies).

New Technology Strategy (Report on Intranet, Internet) - Mark Campbell

Mark Campbell, Chief Information Officer, IT, gave a brief presentation on completed projects, infrastructure and applications overview. Mr. Campbell said that IT has completed the migration from Novell platform to Microsoft platform and Novell is no longer in use. 1200 users were converted in 60 days.

Mr. Campbell said the new internet site will be launched in March 2009. Mr. Campbell reported that all IT organizations are facing some problems in financing but the shared data center with the City of Boston will take place in March.

Dr. Johnson asked if the Commission has been able to transition from the old PC's to the new flat screens. Mr. Campbell replied, yes.

Mr. Campbell stated that the Commission is slowly moving from a paper environment to an electronic environment.

Mr. Campbell said that the new internet website will be more user friendly. Vision is to converge IT platform (voice, data, applications, wireless).

Board member Fitch asked what kind of budget is IT working with to complete projects and how much is IT spending. Mr. Campbell replied that he is working with a 3-5 year strategy budget plan. Dr. Ferrer stated that one million dollars has been taken out of the reserve budget to invest in infrastructure.

Mr. Campbell stated that every 2 years technology changes.

Vote to Reconvene in Executive Session

Dr. Johnson invited a motion to vote to reconvene in executive session. The Motion was made, seconded and approved.

Yeas 4 Nay's 0 Absent 3

Dr. Johnson, Chair announced that the Board would not reconvene in open session but would reconvene in executive session.

Dr. Johnson adjourned the meeting at 5:45 PM.



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Nakisha Skinner, Julie Webster

Dr. Johnson, Chair, called the Executive Session of the Board to order at 5:45 PM.

Nakisha Skinner, General Counsel, spoke regarding the litigation lawsuit with the blunt wrap manufacturers and the trade association. Ms. Skinner stated that the ban goes into effect on February 9, 2009.

Ms. Skinner said that the plaintiff's complaint motion for preliminary injunction was based on the following:

- Violation under the equal protection claim;
- Unreasonable as the regulation only targets blunt wraps; and
- Regulation constitutes a government taking.

Ms. Skinner stated that the Commission needs to show the regulation is reasonable and that the Commission has the right to enact the regulation.

BOLD Teens will give testimony in open court but should it go to trial and the judge rules in favor of the plaintiff's the Commission will not be able to enforce the ban.

Ms. Skinner's concern is that the court has ordered a trial for early March and the proceedings will require a tremendous amount of work.

Board member Fitch asked who the counsel is for the plaintiff's. Ms. Skinner replied, James Brett.

Board member Fitch also asked whether the blunt wrap company is a national company or a local company. Ms. Skinner answered a national company.

Ms. Skinner said the point of the lawsuit is to give Plaintiff's their day in court as they allege that they anticipate an economic loss of about 1.8 million dollars.

Dr. Johnson adjourned the meeting at 6:00 PM.