

**Board of Health Public Hearing
March 24, 2004**

PRESENT: David Osler, M.D., Chairman
Babette Mello, Member
Jack Vondras, Health Department Director
Cesar Pungirum, Tobacco Control Program

ABSENT: Cecilia Sosa-Patterson

The hearing was called to order at 6:05 PM.

Dr. Osler announced that the hearing was a forum to hear testimony as to the impact of the smoking ban since implementation in Somerville on October 1, 2003. He noted that the purpose of the Board is to promote and protect the public health of the Citizens of Somerville and that the authority of the Board is governed and derived by the Massachusetts Legislature. He declared that the purpose of the hearing is to collect information and opinions and the issue will be discussed at the next Board of Health meeting on April 22, 2004. He stated that after the public hearing the Board would accept written testimony for up to fourteen days or until April 7, 2004. Letters can be sent to the Board of Health @ 50 Evergreen Ave., Somerville, MA 02145 or e-mailed to boh@ci.somerville.ma.us. The following ground rules were stated: any person wishing to make comments should list their name and address on sign-up sheets and when addressing the Board, individuals should give their name, address and professional affiliation. He then reiterated that the purpose of the hearing is to collect information and opinions from the public on the general impact since the implementation of the smoking ban and the Board will not engage in discussion or dialog. However, the Board reserved the right to ask questions and or clarification on any comments made. An allotment of two minutes was allowed for each speaker.

Dr. Osler introduced Cesar Pungirum, Director of the Tobacco Control Program who reported that fourteen letters were received prior to the hearing and all are in favor of the smoking ban.

Dr. Osler then stated he received a letter from Senator Charles Shannon, which addresses a fair balance between protecting the public from the risks of second-hand tobacco smoke, while recognizing the legitimate concerns of business owners whose livelihoods depend on smoking customers. He stated that the Board would take this letter under advisement.

The speakers were as follows:

1. Marty Winslow from the Massachusetts License Beverage Assoc. and the Irish Vintner's Association testified that sales have decreased substantially since the smoking ban and there is a direct link between the two. She asked for a reversal of the ban until the State ban goes through and levels the playing field.

2. Sonja Darai, Somerville Walking Advocate – part of “Shape Up Somerville” supports and congratulates the ban. Daughter of a mother who passed away from lung cancer and talked about health risks as well as modeling behavior for children.
3. Stacey Roberts, works for the North East Asthmas Assoc. and talked about how non-smokers are exposed to the same toxic elements and carcinogens as smokers and maintains her support for the smoking ban.
4. James White spoke in favor of the smoking ban. He stated he moved to Somerville because of the ban and asked the board to remain steadfast in its vote to continue the smoking ban.
5. Carrie Haverman, a former customer of Somerville bars stated she no longer comes to Somerville because of the ban. She expressed her right to choose and said that business owners should have the right to choose whether or not to have smoking in their establishments.
6. Richard DiGirolamo – an attorney who represents the Somerville Bar and Restaurant Association comprised of approximately forty licensed establishments asked for a courtesy of extended time. Dr. Osler allowed three minutes given the nature of his request. He mentioned that in mid November of 2003 he appeared before the Bd. of Alderman and stated that the ban has created a hardship that has resulted in a 40% drop in business for many owners and that many patrons are now going to other cities and towns. Not only has it created a decrease in business for owners but has created a hardship for employees as well. He stated that proprietors of these establishments are not callous and recognize that State legislation is forthcoming and asked the Board to rescind the ban until such time as the statewide ban goes into effects and affords a level playing field for these establishments.
7. Mark Vetrano - even though he is a non-smoker agrees in the spirit of the smoking ban but strongly disagrees with the enforcement policy. His belief is that when the statewide ban goes into effect it will level the playing field and asked the Board to rescind the ban until that time.
8. David Booth wanted to say “thank you” – he said he as waited 47 years not to breathe other people’s carcinogens.
9. Melora Rush – spoke as a “mommy” and thanked the board for voting for the smoking ban.
10. Soupy Campbell represented Post 19 stated that people should have a choice and to leave the private clubs alone.
11. Dale Patterson husband of Cecelia Sosa-Patterson stated that he was there to speak on behalf of keeping the ban.
12. Brett Henry representing the Mt. Vernon Restaurant stated that since October of 2003 he has experienced a 25% decrease in business. They have been forced to close down two dining rooms and lay off bartenders and wait staff. He suggested that instead of the Bd. of Health spending money on compliance checks that these monies should be spent on educating our youth as to the harmful effects of smoking.
13. Vanessa Santos, a youth intervention specialist stated that she is opposed to the ban. Her brother works in a bar and now that the smoking ban has been adopted she can go there and not be exposed to the effects of second hand smoke.

14. Carol Cafer, a volunteer for Mass. Alliance of Portuguese speakers spoke in favor of the ban and noted the health risks associated with second hand smoke.
15. Steven Kagan spoke against the ban until state enactment. Noted the decline in business since the implementation of the ban.
16. Connor Brennan, proprietor of P.J. Ryan's stated that the ban was unfair and addressed the core issues associated since implementation. He said comparing Somerville to Boston and Cambridge is unfair and listed the number of businesses as well as the number of visitors these communities host each year. He asked that the City of Somerville rescind the ban until State implementation. He asked why does the City of Somerville put forth the idea and adoption of special interests and stated that this is an unfair law in Somerville.
17. Feargal O'Toole, co-owner of the Tir Na Nog noted the lack of accountability of the Board of Health and stated that elected officials never voted for the ban and noted that the Bd. Of Alderman on several occasions has asked this board to revisit the ban. He stated that Dr. Osler is a resident of Cambridge and voted for the ban there and that Celcelia Sosa Patterson never even to register to vote in Somerville. He said this Board should listen to Somerville and not special interests.
18. Gerry Ryan, a member of the 1776 Democracy and this law is against democracy and a farce. It targets restaurants and bars – it's disgusting and the Board is nothing but "Nazi's."
19. Jack Hamilton stated that he has smoked for the 52 years but noted that fifteen years ago he instituted a smoking ban in his work place. He talked about how difficult it was in the beginning but people adjusted. He talked about the statistical decrease of smokers nationwide and that this law protects employees who are afraid to speak out for themselves.
20. Dennis Fishman commended the ban and recommends that the City keep it. He noted how important it is for him to go to a smoke free restaurant.
21. Douglas Aldrich, a long time patron of establishments in Union Square stated that this ban affects people who work for cash in their pockets. He stated that Somervillians may be as adaptable as people from Brookline but they are not as "wealthy". He also stated that he is O.K. with the ban but not until it goes statewide.
22. Stephen Helfer, a Cambridge resident stated that bars in Cambridge are not doing as well as reported, especially those that cater to the "elite". He told a story about a small bar owner who cannot smoke in his own bar and because of the ban he is required to smoke outside of his own establishment. He requested abolition of the ban until state implementation.
23. Ben Hirsch, a resident of Lowell former resident of Cambridge and worked in Somerville. Important issue noted was the protection of workers health and quoted statistics associated with second hand smoke resulting in illness and death.
24. Mara Johnson, a restaurant worker and non-smoker believes the issue is one of class – the working class. This ban puts workers at risks because they are forced to stand outside.

25. Bruce Stewart, a physician who regularly visits bars and restaurants in Somerville strongly encouraged the Board to continue the ban. He noted that he continually sees patients with smoke related illnesses. He congratulated the board for their progressiveness on this issue and stated that the Board of Health is responsible for the health and well being of the citizens of Somerville.
26. Helen Corrigan, former member of the Board of Health stated that she is in favor of keeping the ban. She gave the history of when smoking was regulated years ago and the separation of smoking and non-smoking areas. She stated that people were still exposed to smoke and noted that the Bd. of Health's main focus is to protect the health of the citizens of this city.
27. Eileen Sullivan, who from 1994-1999 worked at the Bd. Of Health when smoking was allowed in private offices. She stated that it affected her asthma and since leaving her job her asthmas has gotten better. She also stated that she works for the State Dept. of Public Health and enactment is forthcoming. She asked that the board continue to support the ban.
28. Stacy Smith lives and works in Somerville and has made a conscience adult decision to work in bars. She stated that tobacco is legal and that the board is trying to fight tobacco as opposed to people's freedoms.
29. Ken Kelly, owner of P.J. Ryan, Toast and the Independent clarified that although he is opposed to the ban his establishments abides by the ban. He spoke about the hardship this has created for his employees and asked for the board to rescind the ban until statewide enactment.
30. Cheryl Sbarra, attorney for Mass. Association of Health Boards stated, in relation to the statewide ban, the conference committee has been established and continues to talk about the issues that need to be worked out. The two issues are the impact on private clubs and how involved Public Health departments will be in the enforcement of the ban. She stated that they fully expect the ban to go into effect on July 5, 2004.
31. James Fitzimmons, a non smoker made two points: (1) for people who occasionally visit bars, the exposure to second hand smoke does not cause cancer and (2) she talked about the cost of enforcement to the City and said the citizens will be better served trying to find solutions to the smoking problem.
32. Stephanie Almeida, a non-smoker with asthma said she is in favor of the ban. She asked the audience members to channel their energies towards to the Oxycontin and suicide problem, especially since the ban will be going statewide within the next three months.
33. Noreen Burke from the Cambridge Health Alliance stated it is a joy and delight to frequent Irish establishments since the smoking ban. She stated that on March 29, 2004 Ireland is going smoke-free. She stated that she is sympathetic to the economic hardship of business owners and employees but once the state ban goes into effect all establishment will be on a level footing. She thanked the board for their leadership in this important issue and thanked them for their good work.
34. William Petcoz, a chef for a major restaurant in Boston and stated that his hours have been cut. He asked that people should be allowed to make choices and feels that his livelihood is at stake because of the ban.
35. Steve Hurley, a partner of the Genoa restaurant spoke on behalf of his employees and the hardship it has created for them. He asked that they be able to make their own choice.

36. Stephen Mackey, President and CEO of the Chamber of Commerce represented that the Chamber is in favor of the statewide ban but opposed to the local ban. The decision is based on the financial hardship of this localized ban. He suggested that the Cambridge Health Alliance is the "de facto" Somerville Board of Health. He stated that the board has not been a proper and independent regulation making enforcement and quasi-judicial body or a proper and independent overseer of the city's health department. He went on to say that the board is an archaic 19th century public tribunal of three people of which only two are a quorum. He stated that Dr. Osler's association with the Cambridge Health Alliance raises serious questions about the Somerville Bd. Of Health. Combinations of powers, mode of operations and adherence to 20th century laws of the Commonwealth. It is his belief that under the leadership of Dr. Osler the Cambridge Health Alliance has become the Somerville Bd. Of Health and that Dr. Osler has not performed the duties incumbent upon him. He mentioned a letter that Dr. Osler presented to the Cambridge City Council which states he is a resident of the City of Cambridge and from the Cambridge Health Alliance and Chairman of the Somerville Bd. Of Health. He promised to work with the Somerville Bd. Of Health to adopt the same policies as Cambridge. He continued that Dr. Osler has not been confirmed as a member of the Bd. Of Health since his term expired in 1995 and went on to talk about the committee of confirmation and appointments. He turned in a document that had more than 60 state violations that he claimed the Bd. Of Health has committed since Dr. Osler's chairmanship. After this testimony some angry exchanges were made in the audience and Dr. Osler called the meeting back to order.
37. Katherine Wallace, an asthmatic asked the board to continue the ban and said she is proud of Somerville for its enactment of ban.
38. Elisa Schneble commended the Board for its hard work and stated how this enactment benefits the majority of the population and "it is the greater good for the greatest numbers." She went on to say this is a health issue and spoke about the benefit for children.
39. Carolina Contreras, a seventeen year old spoke about the fact that she is not old enough to "buy cigarettes" but is old enough to go to Good Times where she is exposed to second hand smoke. She is opposed to the smoking ban and noted the health problems associated with such.
40. Arv Manrique stated that this is a health issue not a smoking issue. He frequents bars and restaurants and has asthma that he resents second hand smoke.
41. Helen Schwalter owns a store in the City and stated she is for the smoking ban. She feels that proprietors should have a choice as to whether their establishments are smoking or non- smoking.
42. Joan Guarino said she is tired of being compared with Cambridge. Her point was that if she rents a room in a club for a private party she should be allowed to let her guests smoke and went on to mention there are many other pollutants allowed in the city such as refrigerator trucks and such. She feels the ban is unfair and unconstitutional.
43. Fred Birman from 25 Cherry St. stated that he is about workers protection and strongly supports the smoking ban.

44. Ray Zonghetti, manager of Good Times stated that his business is committed to the youth of this city. He asked that the Bd. reconsider the ban and give establishments a level-playing field by waiting for the state ban to become effective. He also noted that the ban has been devastating to small businesses.
45. Paul William, a representative for Melo Tone, a vending company stated that business has been off by about 40% since the enactment of the ban. He also stated that his company has had to lay off 30% of their staff, many of who are residents of Somerville. He asked to reconsider the ban until statewide enactment.

Meeting adjourned @ 7:40 p.m.

Next meeting is scheduled at 4:30 p.m. on April 22, 2004 at 50 Evergreen Avenue.

Respectfully submitted,

Rita VanSteensburg
Administrative Assistant