

Office of the  
Board of Health  
City Hall  
166 Boulder Drive - Suite 108  
Fitchburg, Massachusetts 01420  
978-829-1870

An organizational meeting was held on March 2, 2020 at 5:00 pm.

**Present:** Stephen Curry, Director; Sandra Knipe, R.N.B.S.N.; John Bogdasarian, M.D., Chairman; Ian Murray, Board Member; Bill Smith, Resident; Sam Squailia, City Councilor; Sam Gandor, Johnny's Service Station, Derek Southworth; Joan Hamlett, Director for Tobacco Control Alliance.

**Approve Meeting Minutes**

Ms. Knipe made a motion to approve the December 19, 2019 meeting minutes. Motion was 2<sup>nd</sup> by Mr. Murray. All were in favor. Motion carries.

Mr. Murray made a motion to approve the January 23, 2020 meeting minutes. Motion was 2<sup>nd</sup> by Dr. Bogdasarian. All were in favor. Ms. Knipe abstained.

Mr. Murray made a motion to approve the meeting transcripts from February 6, 2020. Motion was 2<sup>nd</sup> by Dr. Bogdasarian. All were favor. Ms. Knipe abstained.

**Decision on Minor Modification of Site Assignment (Transfer Station): AKS Recycling, Inc., 15 Cobbler Drive**

Mr. Curry stated the Solid Waste Regulations direct the BOH to make a decision on the hearing that took place on February 6, 2020 regarding the Site Assignment Minor Modification for AKS. The modification was to install a solid waste baler to the Solid Waste Building to reduce waste bulk volume.

Mr. Curry stated this Board must either approve this modification or approve it with conditions or deny it. Mr. Curry reviewed the following changes.

## **FINAL CONDITIONS**

*The Board hereby imposes the following conditions pursuant to 310 CMR 16.20(12). The Board has determined that these are conditions are necessary to ensure that the facility will not present a threat to the public health, safety or the environment. These conditions include the original Site Assignment and the Modifications that occurred in 2006 and in 2008. They also include amendments or additional conditions from the present 2019 Minor Modification (in red):*

- 1. This site assignment shall only ~~take~~ remain in effect ~~after~~ while the three parcels (Lot 1, 2 and 2B) identified on the new Plan of Land revised and amended Plan dated December 7, 2018 are owned by one party. If that owner is other than the applicant, the owner shall provide documentation satisfactory to the Board that it authorizes the proposed activity and shall be bound by the terms and conditions of this decision in the same manner and to the same extent as if it had been an applicant or when AKS filed its application on June 6, 2003.*
- 2. This site assignment shall only ~~take~~ remain in effect when the property owner has entered into a Lease Agreement and Host Agreement with the City of Fitchburg to allow certain vehicular access and egress to the proposed solid waste transfer station, to allow certain access between Lots 2B and Lots 1 and 2, to allow the queuing of trucks off any public way and to allow for the storage of certain roll-off containers, all on land owned by the city.*

3. *AKS Recycling, Inc. shall prevent littering and /or the accumulation of debris on the site, any sidewalk public way, or adjacent property, including but not limited to maintaining adequate staff to insure compliance with this condition. AKS shall also provide services to maintain free of liter and debris, Airport Road from Benson Street to Crawford Street-end of Airport Rd. on a weekly, as needed, basis. AKS shall respond to requests from the Board of Health or its designees requesting an increase in cleaning these areas. AKS shall submit a monthly report of when it provides this service as well as any other maintenance services, including but not limited to dust control (water spraying), street sweeping and magnet sweeping.*
  
4. *AKS Recycling, Inc. shall employ an exterminator or other such professional licensed in the Commonwealth of Massachusetts to inspect the entire site for vermin, including but not limited to birds, rats, rodents, and insects, at least once per month and if evidence of the same exists, to undertake appropriate actions to eliminate the vermin immediately. A copy of these reports shall be submitted to the Board on a monthly basis.*
  
5. *AKS Recycling shall not store MSW outside the permanent structure(s) shown on the revised and amended Plan of Land dated December 7, 2018, approved for MSW operations unless it is stored in fully covered roll-off containers. Under no circumstances shall bagged MSW be stored on site for more than 24 72 hours, regardless of the type of storage container or facility. All MSW shall be removed from the tip floor by the end of every day. within*

*24 hours of receiving the MSW. No un-bagged bales of MSW shall be stored on site at any time. AKS shall establish a plan, in writing if necessary, that no bales remain on site for more than 72 hours.*

6. *AKS Recycling, Inc. shall not, for the purposes of storing recyclable materials, have more than sixty (60) roll-off containers on site at any given time.*
  
7. *AKS Recycling, Inc. shall not store recyclable materials, and construction and demotion material on-site for more than thirty (30) consecutive days. This material shall be stored so that no nuisances are created, such as oversized piles. Any Construction and Demolition material may be stored longer with a written request to the Board of Health depicting a plan of storage and removal that shows no nuisances will be caused and approval by the Board of Health. The Director of the Board of Health has the right to reverse its approval and or immediate removal should an unforeseen nuisance condition arise from the plan.*
  
8. *The contents of any truck or vehicle using the facility to deliver or remove solid waste, including MSW and recyclables, shall be covered either by an opaque canvas tarpaulin or equivalent method to ensure that all material are covered.*
  
9. *At no time shall AKS cause a nuisance (as determined by the Director of Public Health or his designee) by Trucks or cars queueing on Cobbler Drive or any other public road. AKS shall develop a plan, in writing if necessary,*

*so that no vehicles are backed up awaiting entry which creates a nuisance or a violation of the Anti-Idling Laws and Regulations of Massachusetts.*

10. *This site assignment concerns three parcels, Lot 1, 2 and 2B. See revised and amended Plan of Land, dated December 7, 2018. The Board restricts waste handling, sorting, and separation storage of bagged MSW operations to the 3.1 acre parcel shown on the Plan of Land, dated December 7, 2018 as Lot 2B. If AKS Recycling, Inc. wishes to use the other parcels for waste handling, sorting, and separation operations or storage of bagged MSW, a modification of this site assignment shall be required prior to such operation commencing. The Recycling building is no longer restricted to recycling only but can now be used for storage of bagged MSW.*
11. *AKS Recycling, Inc. shall operate only between the hours of 5 am and 5 pm., Monday through Friday and Saturday 5 a.m. to 12 noon. No deliveries shall be accepted outside these hours.*
12. *AKS Recycling Inc., shall install and operate an odor and dust suppression system within any on-site structure that will be used for the handling, sorting, and storage if necessary, and/or processing of MSW.*
13. *AKS Recycling, Inc., shall maintain the existing chain link fence and berm surrounding all of the site assigned parcels.*
14. ~~AKS Recycling, Inc. shall obtain the necessary permits to construct and operate and maintain an industrial holding tank for the collection of liquids from the sorting and separating operation or~~ *and shall secure a sewer*

~~connection permit for discharge~~ *permit from the Wastewater Department to the city sewer system, if necessary/ or required by the Waste Water Department.*

15. Floor drains shall be *installed in any handling or storage structure if necessary and shall be maintained and* kept free and clear of debris.
16. Drainage from the exterior of the on-site structures and interior drainage shall be maintained so that each is in working order and maintained in accordance with all state and local rules and regulations and no runoff from within the on-site structures is allowed to flow into the exterior drainage facilities.
17. No ~~diesel~~ engine shall idle for more than ~~40~~ *5* minutes while on-site or on any leased property adjacent thereto. *AKS shall enforce the Anti-Idling Laws MGL Chapter 90 Section 16 A and or 310 CMR 7.11(1)(b) where applicable.*
18. Health and Safety Plans shall be developed and issued to all employees. Said Plans shall be reviewed with the employees on an annual basis. The facility owner and manager shall maintain compliance with all Occupational Safety and Health Administration (OSHA) requirements for worker safety. *Current plans shall be amended before operation to include the new baling, bagging and storage of bales operation.*
19. *Prior to operation, current plans shall be amended to include the new*

*baling, bagging and storage of bales operation. Employees shall be trained on the safe operation of all equipment including processing and storage of bales on the AKS Recycling, Inc. , in accordance with the new plans, facility prior to operation.*

20. *AKS Recycling Inc., shall keep the site, including all surface roadways, walkways, and parking areas in good conditions at all times and free of litter and other nuisance generating conditions.*
21. *AKS Recycling Inc., shall maintain the facility in full compliance with all applicable laws, regulations and rules.*
22. *The site assignment is further conditioned upon compliance with all requirements established by the Commonwealth of Massachusetts Department of Environmental Protection in its determination of technical completeness and issuance of a positive determination of site suitability dated August 20, 2003. of an Authorization to Construct and an Authorization to Operate.*
23. *This site assignment may not be further assigned to another party without the express prior written approval of the Board of Health after due notice and a public hearing.*
24. *The facility shall submit to the Board of Health, monthly summaries and other supporting documentation as the Board of Health, or its designee, may request, including but not limited to, as weight slips, computer records or other documentation showing the tonnage of incoming municipal solid*

waste, tonnage of in-coming source separated recyclables by type, tonnage of outgoing municipal solid waste, tonnage of outgoing source separated recyclables by type and other such tonnage information as may be requested by the Board of Health.

25. *The Board of Health and its designee(s) shall have the right to perform unscheduled inspections of the facility during operational hours.*

26. *Prior to start of operations, AKS shall submit to the City of Fitchburg a Performance Bond with surety licensed in Massachusetts in the amount of \$500,000 in a form satisfactory to the Board of Health.*

27. *All buildings used for the handling **or storage** of municipal solid waste or recyclables shall have fire suppression systems that meet the applicable Massachusetts Building Code and the requirements of the City of Fitchburg Fire Department.*

28. *The construction of any new solid waste handling areas and/or buildings shall maintain a 100 foot setback from the southerly property line. **AKS shall not encroach beyond identified 75' setbacks from property line according to the Plan of Land dated December 7, 2018 nor shall they store material beyond identified property lines. Encroachment violations identified shall be corrected within 24 hours of an order from the City or shall result in immediate site assignment suspension and a hearing before the Board of Health. A written authorization to resume the Site Assignment shall be issued by the Board of Health, before operation resumes.***

29. *The Board of Health may modify, suspend or terminate this Site Assignment for failure to comply with the conditions described herein, and further, in its discretions, may take any other enforcement or remedial action available in law or equity.*
30. *AKS shall allow no more than 400 500 tons of solid waste to enter the site assigned facility per day. Such 400 tons shall be comprised of no more than 350 tons per day of commingles MSW and recyclables, the remainder being source separated recyclables.*
31. *AKS Recycling shall prepare and submit an odor response plan detailing actions that will be taken in the event of an odor complaint. If any odors persist from the operation, the Director of the Board of Health, reserves the right to order an immediate cease and desist of operation (and to immediately remedy odors) until abated and until such time as AKS submits a feasibility study and engineered plan to abate odors and to prevent further odors.*

Mr. Curry stated the Board of Health must determine whether, based on criteria established by G.L. c.111, § 150A and 310 CMR 16.22 (3), and the modification of previous Site Assignment Conditions that the proposed Minor Modification of the facility would “constitute a danger to the public health, safety or the environment”. G.L. c111, § 150A. If the proposed Modification of the facility does not constitute a danger to public health 310 CMR 16.40 (1)(b). The Board of Health may impose conditions to ensure that the facility will not present a threat to the public health, safety or environment. 310 CMR 16.20(12).

On the basis of the evidence in the record, including but not limited to the information contained in the application, the exhibits contained in the List of Exhibits (which are made part of the record of this proceeding), the testimony received at the public hearing, and the facts as set forth in the findings and conclusions above, and subject to the conditions imposed herein, the Board of Health finds that AKS Recycling Inc., has demonstrated that the proposed site at 15 Cobbler Drive and 41 and 63 Blueberry Lane, as depicted on the Plan of Land, dated December 7, 2018 which are part of the Site Assignment Exhibits, meets the criteria set forth in 310 CMR 16.40(3)(d) and 310 CMR 16.40(4) and that the requested site assignment does not constitute a danger to public health, safety or the environment. 15 Cobbler Drive as depicted in the Plan of Land dated December 7, 2018, shall be considered site assigned as to receive up to 500 tons per day of Municipal Solid Waste and Construction and Demolition Material pursuant to 310 CMR 16.00 in accordance with the terms and conditions stated herein.

Ms. Knipe made a motion to accept this decision for AKS Recycling. The decision was granted on March 2, 2020 as is with all the amendments and changes.

Motion was 2<sup>nd</sup> by Mr. Murray. All were in favor. Motion carries.

**Review and approve FY 21:**

The proposed BOH budget has been submitted to the Mayor and Finance Teams. Changes from FY 20 to FY 21 Personal Services will be contractual changes and cost of living increases in salaries.

Mr. Curry is proposing a part-time position for the Sealer of Weights and Measures. This position reviews scales, scanners & gas pumps. The past 14 years we have contracted with the State.

Mr. Curry is proposing a new part time position for Litter Patrol Recycling Enforcement. This crew will check trash and recycling carts at curb and also will patrol areas in the City for litter. This position will be grant funded by DEP.

Mr. Curry stated the OPIOID Grant has ended as well as the SAPC Grant. Both grants will now be the Overdose Data to Action Grant (OD2A).

The expenditures part of the budget Mr. Curry has asked for \$1,000 in office supplies for Weight & Measures, as well as \$15,000 for equipment for the Weights and Measures position.

Mr. Curry is proposing an increase in the Board & Secure to 40,000 due to tax possessions in the City.

Rubbish Contract which includes curbside trash removal & disposal.

Mr. Curry has proposed a Closed Landfill Maintenance Fund. This fund is the average proceeds from what the Landfill has done as well as AKS and Harvey host fees the past five years. This will be used for old landfills.

Ms. Knipe made a motion to approve the FY 21. Motion was 2<sup>nd</sup> by Mr. Murray. All were in favor. Motion carries.

**City Council Petition #278-19 – 55 Fairbanks St to Institute a Fitchburg Integrated Pest Management Policy:**

Mr. Smith is here to discuss how to move forward with an Integrated Pest Management policy which allows the City to accrue the financial benefits of planning, prevention and responsible management, while eliminating the use of pesticides that pose a health risk to people directly through breathing, drinking, ingesting or skin absorption of toxic products or via delayed exposures from contaminated soil, food, air, water, utensils and toys.

Mr. Smith stated an IPM Advisory Committee would develop guidelines for considering all appropriate intervention options including changes in cultural, mechanical, physical, biological and chemical measures, or no action.

Mr. Curry stated the Fitchburg Schools have their own Individual Pest Management policies in place.

Ms. Squailia stated she has spoken to other department heads for their input and it was suggested that the BOH could look into it more in depth.

After lengthy discussion regarding this IPM, the Board members asked several questions too Councilor Squailia and Mr. Smith. Dr. Bogdasarian stated he would like more time to review and look more into the policies.

Ms. Knipe made a motion to table this until a future meeting to gather more information. Motion was 2<sup>nd</sup> by Mr. Murray. All were in favor. Motion carries.

**Hearing: Tobacco/Nicotine Delivery Products sales to a minor violation – Johnny’s Service Station, 339 River St:**

Mr. Gandor stated his employee Derek Southworth did not intentionally sell to a minor. Mr. Gandor is here to discuss his \$5,000 dollar fine because this is his 3<sup>rd</sup> fine in thirty six months.

Ms. Hamlett stated on January 7, 2020, a compliance check was conducted in Fitchburg at Johnny’s Service Station at which time a clerk at this establishment sold tobacco to an underage female inspector who was (19) nineteen years old at approximately 1:43 pm.

Violation: Section D: Tobacco Sales to Persons under the Minimum Legal Sales Age Prohibited Section Q: Violations: 4<sup>th</sup> Offense in a 36 Month period: \$300 fine and Permanent Tobacco Permit Revocation hearing before the Fitchburg BOH for repeated, egregious violations.

“Massachusetts Law Regarding the Sale of Tobacco”. New laws have passed and BOH cannot implement fines less than the state law. The new MA State Law penalties of \$1000, \$2000, \$5,000 will be implemented regarding any future violations.

Mr. Gandor stated he would like to stop selling tobacco. Ms. Hamlet asked if Mr. Gandor could stop selling on the revocation hearing because that is what this hearing is about and pay the \$300.00 fine and the \$5,000 fine will be put on hold.

Mr. Murray made a motion to revoke the permit permanently effective March 13, 2020 upon payment of the \$300.00 fine. If that is paid then the fine for \$5,000 will be put on hold. If Mr. Gandor wants to reinstate his permit to sell cigarettes the \$5,000 fine will have to be paid beforehand.

Motion was 2<sup>nd</sup> by Ms. Knipe. All were in favor. Motion carries.

**Tobacco Control Alliance updates regarding new Massachusetts Laws – Joan Hamlett, Director:**

Ms. Hamlett stated she will email a packet to Mr. Curry that Tobacco Control will give to all the establishments which will include a letter from Tobacco Control Alliance stating they are representing the Board and there are big fines coming and to read all the attachments. It will include who the staff is, the inspections they have signed and agreed to too have their local permit, a letter from the Governor with the new changes in the laws.

Mr. Murray made a motion to adjourn. Motion was 2<sup>nd</sup> by Ms. Knipe. All were in favor, meeting adjourned at 6:15 PM.