

Illegal Tobacco Task Force Meeting #39 Minutes

Meeting Date: Monday, January 25, 2021

Meeting Time: 10:00am

Meeting Location: Dial (617) 315-0704, Meeting ID# 179 810 4980, WebEx

Board Members Present: Marikae Toye (Co-Chair), Maj. Steve Fennessy (Co-Chair), Patricia Henley, Michael Sweeney, Susan Terrey, Amber Villa and Jennifer Zalnasky

Call to Order:

- Meeting was called to order at 10:05am by Mrs. Toye.
- Mrs. Toye informed all participants that this meeting is being recorded by WebEx to aid in the preparation of the minutes, only. She indicates that the WebEx recordings will be deleted after the minutes are done, and these recordings will not be used for any other purpose. Mrs. Toye thanks everyone for getting together again for a meeting and that we are all set to address our storage facility process and get some things out of the way there.
- Mrs. Toye indicates that everyone should have received a copy of this notice of a public meeting, which was published last week on our website. The Task Force members should have received a copy of the draft minutes, a copy of our MOU ahead of time and, a copy of the draft lease that has been redacted for the storage location. Mrs. Toye asks if everyone got those documents or does anyone need her to send them. Everyone indicated that they had them.

Approval of Minutes from Meeting 38:

- Mrs. Toye moves on to the approval of the minutes from the December 14, 2020 meeting, meeting number 38, and everyone should have received a draft of those. She asks if anyone has any edits or corrections to the minutes.
- Mrs. Toye makes a motion to approve the minutes from meeting 38 and indicates that because the meeting is being recorded and not in person, we will need to vote by roll call. Vote was taken by roll call and all members approved unanimously.

Updates for the Storage Facility and Memorandum of Understanding:

- Mrs. Toye notes that she hopes to finalize the MOU and vote on approving the proposed lease.
- Major Fennessy was able to provide us with the lease that has been negotiated between the State Police, the vendor who won the bid, and Division of Capital Asset Management and Maintenance ("DCAMM"), the state agency that handles this type of lease. The lease includes statewide contract terms and conditions that they use. We have talked about those before in terms of insurance, etc.
- Mrs. Toye indicates that she sent around a clean copy of the MOU and a marked-up copy. Since the last meeting, there was a change recommended by Chief Counsel at the Massachusetts State Police, to remove any reference to obtaining an insurance policy, after considering that the Commonwealth

and its agencies are self-insured. Further, the standard lease terms and conditions require that certain insurance be held by the landlord. Mrs. Toye says that you will note that there is a removal of any reference to an insurance policy.

- Mrs. Toye asks if anyone has any questions or concerns about the removal of the reference to the insurance policy. There are no concerns expressed at this time.
- Mrs. Toye points out that on the 4th page of the MOU, a signature page provides that it can be executed in counterparts and that it is her intention to move forward to a vote on whether or not to approve the MOU today. She can then gather signature pages from the various member agencies so that there is 1 copy of the MOU that is signed. Once we have that, she can be posted on the web page and be available to everyone. Mrs. Toye asks if this seems agreeable to everyone? Major Fennessy says that yes, that seems right.
- Mrs. Toye makes a motion to approve the Memorandum of Understanding by and between the Massachusetts Department of State Police and the Illegal Tobacco Task Force. Michael Sweeney seconds this motion. Mrs. Toye indicates that again she will have to do the vote by roll call and asks if there is anything else anyone would like to weigh in on this.
- Michael Sweeney expresses that he is not sure if this is a managerial question but asks if those signatures will be the heads of the agencies or of the designees on the Task Force.
- Mrs. Toye states that she believes it will be those on the Task Force. She further states that if you have someone else that you would like to have sign on your behalf, that is fine. She indicates that there are primary contacts here to be designated and the MOU on page 3 provides that if you want to designate somebody other than the Task Force member, you can do that.
- Mrs. Toye asks if anyone else has any concerns. Hearing none, Mrs. Toye moves on with the roll call vote to approve the MOU. All members voted unanimously to approve the MOU. Mrs. Toye indicates that the motion is now approved, and the MOU will be executed.
- Mrs. Toye states that she will get signature page copies from everyone and get this published. She thanks everyone for their work on this.

Updates on the Lease:

- Mrs. Toye moves on to the next agenda item which is the Lease that everyone has received for review. She states that Major Fennessy has been the member that is the closest to this process and asks if anyone has any questions or anything to discuss about the lease.
- Major Fennessy would like to put on the record that we could not have gotten to this point without the help of a lot of people. He would like to thank the Task Force members for their patience and their counsel. He would like to thank the Massachusetts State Police Facilities and Legal, the Division of Administrative Services, DCAMM, Sgt. Pat Johnson, and of course Marikae Toye. Mrs. Toye accepts the thank you and appreciates his time spent on this matter.
- Mrs. Toye would like to note that the rent came in less than was expected, we had \$60,000 in rent per year, but the rent is much less in this 5-year lease, where it goes up incrementally. Mrs. Toye would like to commend the State Police for sticking with this process because the prior bids were

expensive. Major Fennessy notes that on page 4, part 1 that it indicates the first year is \$39,712 and then goes up approximately \$1000 to \$2000 per year after that.

- Mrs. Toye indicates that there will be an initial outlay of capital cost to get this space set up. Major Fennessy indicates that there is work that needs to be done on the facility by the landlord at this time, but June may happen, it is unsure as to a specific date.
- Mrs. Toye states that for budget purposes, just so everyone knows, we will be incurring a lot of those initial upfront build out costs in this fiscal year and money was put aside for that. There may be a lease payment or two in this fiscal year and then it will pick up after that, we have appropriate funding for this.
- Mrs. Toye asks if anyone has any concerns before going forward to a vote on allowing the State Police to go forward on the Lease. Mrs. Toye wants to make it clear that the Task Force is not signing on this lease and they are not a party to this lease. We are just making a motion to approve this lease for the State Police to go ahead and execute that. No expressed concerns were made.
- Mrs. Toye asks if anyone would like to make a motion to approve this lease.
- Michael Sweeney makes a motion to approve this lease, Patricia Henley seconded the motion. Mrs. Toye asks if there is further discussion on this or if anyone has any concerns. Hearing none, Mrs. Toye moved to a roll call vote. All members have voted unanimously to approve moving forward with the lease. Mrs. Toye indicates that she is also voting to move forward on this and is very happy to get this done.

Member Updates:

- Mrs. Toye notes that DOR has received some tips in the new email inbox that is listed on the Task Force website. We have CIB staff monitoring that and doing the initial research and then going out, if necessary. We appreciate that and we also welcome any other Task Force members to include their contact information on the website if they would like. DOR has also connected with DPH via a few different lines of communication allow staff to refer leads when something is not a tax issue but possibly a flavor ban issue, so we are working on getting those over. Ms. Henley was very helpful in giving us the direct contact so that our investigators can get those out right away. Mrs. Toye asks if there are any other member updates.
- Ms. Henley says that DPH's local boards of health program participants have forwarded information on untaxed product to DOR when they go out and do their inspections for flavored products. Mrs. Toye indicates that she has been happy with the communication.

Update Discussion of Annual Report:

- Mrs. Toye indicates that she has received updates for the Annual Report from some people and is currently asking for additional updates by February 5. She is trying to stay away from school vacation week for the next meeting to approve and review the report. She expects to schedule the meeting early in the week of the 22nd, to allow her time to get any edits together for the meeting. She will send out the draft for people to review by Wednesday the 10th of February. She states that we cannot meet as a quorum outside of the meeting, but if you have edits and/or suggestions, to please feel free to send those back to her, this way she can start incorporating things and updating prior to that

meeting, to be more efficient with the report. Mrs. Toye states that if any of the members has anything to add please feel free to reach out and let her know. We typically put a summary of our investigative actions and our tobacco excise collections. We have had a lot of interest this year in cigarette stamp sales after the effective date of the flavor ban, and she assumes people will be interested in the new vape (ENDS) tax. Since we report the number by fiscal year the report will only include one year of the ENDS tax. Mrs. Toye is working on getting all those updates incorporated and out to everyone in draft form.

Conclusion:

- Mrs. Toye states that if there is not anything else that anyone would like to discuss, then she will entertain a motion to adjourn. Michael Sweeney so moves. Meeting adjourned at 10:45am.