

Safety Committee Minutes

Honorable Council
City of Newark, Ohio
July 17, 2018

The Safety Committee met in Council Chambers on Monday, July 16, 2018 following the Finance Committee meeting with these members present:

Mark Labutis, Chair	Mark Fraizer
Sean Fennell	Jeremy Blake
Jeff Rath	

We wish to report:

1. **Ordinance No. 18-22** amending Chapter 1870 of the codified ordinances of the City of Newark, Ohio relative to electronic smoking devices within the municipal corporation was considered.

Mr. Lang- this ordinance came about as a result of a conversation that I had with Director Baum and subsequent conversations with Director Sassen. I had a complaint from one of my constituent business owner that stated he was having issues with folks using electronic cigarettes out in front of their store and when the doors open that gets sucked right in subsequently driving off customers. Director Baum is ill this afternoon otherwise he was going to be here to speak to this as well. Long story short we realized we don't currently have anything on the books that prevents you from standing right outside a retail establishment, we actually don't have anything on the books that prevents you from vaping in Council Chambers or city property so we felt it was appropriate to align our laws to address vaping.

Mr. Fraizer- is the administration in support of this?

Mr. Lang- yes Director Baum is in full support of this.

Mr. Fraizer- when it comes to an over view of where can you smoke and where you can't smoke.

Mr. Lang- it is meant to mirror how our smoking laws are set up which some of it is preempted by the state which prevents you from smoking in bars and liquor establishments. It is meant to mirror that statute; city property and then public areas. Basically you have to be far enough away so that the aerosol that you are giving out isn't going into the entrance of that facility.

Motion by Mr. Fraizer to send to full Council, second by Mr. Rath

Mr. Rath- other seeing people walking down the street and doing or where ever else we see them doing this I am unfamiliar with vaping. Is this only used for tobacco?

Mr. Lang- you can put different types of solutions in them, some of them don't actually have nicotine but the same device that you can use to smoke one that has nicotine you can put cannabis or no nicotine at all. It can be used in an illegal way or legal way depending on the solution you put in it.

Mr. Rath- so can they be used for non-tobacco, non-cannabis uses?

Mr. Lang- yes they can.

Mr. Rath- so what grounds do we have to legalize it?

Mr. Lang- you can't tell the difference unless you test it.

Mr. Rath- is other communities adopting laws such as this?

Mr. Lang- yes I believe there are a number of bans throughout the states. I wouldn't be surprised if it's not too long before the State of Ohio adopts something similar or take our tobacco law and expand it into electronic cigarettes.

Law Director- just as a follow up to your last question, I didn't really write this from a blank piece of paper I did review a number of other cities and the closest one I found that has an outright ban on vaping is Bexley. So a lot of the language that you see here very similar to what you see in the Bexley ordinance.

Mr. Rath- in your earlier comments you mentioned bars and liquor establishments but our smoking ban is for all businesses so does this mirror that?

Mr. Lang- yes, we basically adjusted our current smoking legislation. The way that it is written is to expand our current smoking ban to cover electronic devices as well.

Mr. Rath- basically anywhere you're not allowed to smoke you're not allowed to vape?

Mr. Lang- that is the intent.

Mr. Rath- you spoke specifically of bars and liquor establishments

Mr. Lang- because if you look we were removing two sections, we originally had exceptions for bars I think it was 1870.03 G and H that we originally had from our smoking ban but that was preempted by State Law. We are removing those sections since they are no longer applicable for smoking so we figured it would make sense to take those sections out since they have been preempted.

Law Director- again a follow up to section G and H that you see on the second to last page of the ordinance really need to be taken out whether you approve of a vaping ban or not because this is the old left over from the smoking ordinance that we passed before the State passed its wider ban. So basically regardless of how you feel about the vaping changes at some point in time we will probably come back and ask you to take G and H out of 1870.03 so we are in conformity with State policy.

Joe Ebel, Licking County Health Commissioner- I appreciate Councilman Lang for proposing this legislation obviously our smoking ban passed before e-cigarettes were a thing so it wasn't included at the time. They really should update the State Law but I think what they fear is because it is a State Law once you open it up to the legislator to say let's start making amendments to something you never know what you are going to end up with so that is why I think they are reluctant to move forward on that. I think that the idea of treating e-cigarettes the same as regular cigarettes and updating the ordinance so that they mirror each other instead of wide confusing. I have been in some restaurants locally and seen people sitting there vaping and thought what is going on here? A lot of places don't have a policy stating they allow it or they don't and it catches

them by surprise. We know what the risks with tobacco smoke are but we don't know all the risks with vaping because the solutions that you can put in them are currently unregulated so while the FDA is working through that to provide better regulation at this point we know it is not healthy and if you choose to do it that is fine but you shouldn't be doing it in a place where other people are exposed to it involuntarily. I ask you for your support.

Mr. Fraizer- in the preliminary research for vaporizing is there any like to carcinogens or is that even still being researched and we don't know if it causes cancer or health ramifications of vaporizing?

Joe Ebel- in the preliminary research if you are going to smoke cigarettes it is better to use vaping but it is also much better to not use either one. A lot of them have ethylene glycol in them and because of the high temperatures with the heating element in there the chemicals that are in there aren't necessarily the same chemicals that come out once it is heated up and it vaporizes.

Mr. Rath- what are the health risks to second hand vaping?

Joe Ebel- Chris who is our back up prevention specialist is working on keeping it out of schools and might know an answer to that.

Chris, health educator of Licking County Health Department- I would compare it similar to second hand smoke of traditional cigarettes and traditional tobacco products. Anything that you breathe into your lungs that is not clean air is not good for your body. It could affect it in the same manner but we don't know the exact results of the health risks for what it does because it is new to the market and there isn't enough research yet.

Mr. Fraizer- do we know what the output is? Is it aerosol? What is the output from e-cigarettes? Do we know what that substance is?

Chris- entirely no, a lot of people think that it is just a water vapor but that is not true because we know that there are chemicals in the solution. It is similar to an aerosol like a cleaning product not that it has the same effects but similar in that fashion that it is not water vapor but there are chemicals more like an aerosol than traditional smoke because there's no organic matter being burned.

Mr. Fraizer- I would imagine that you endorse this legislation as well as a Health Educator?

Chris- yes I would.

Mr. Blake- I hope that the Law Director may be able to answer a question for me. If we have a current business which was having an issue with people coming to their establishment vaping or using e-cigarettes can that business tell their customers to stop doing that now? What stops them from telling their customers to stop doing this currently?

Law Director- nothing they have the right to do that. Just like back in the day a restaurant could ask that there be no smoking.

Joe Ebel- the one difference there would be mostly in the downtown area where the sidewalk because public property. The property owner wouldn't have the authority to tell somebody that they can't stand on the sidewalk and do that but now with this being a city ordinance the Health Department would be able to say no you can't stand by the

opening of the door but if you had a large private property and you could control the entrance of the building it would be a little different.

Mr. Marmie- there are some establishments that already have signs up. The Trout Club has signs up including no e-cigarettes in their facility.

Mr. Blake- what are the punishments?

Law Director- I would have to look it up. Email me tomorrow if I don't remember. It is in 1870.99 would be my guess but I don't have that in front of me.

Mr. Rath- Mr. Sassen is it parallel of that of smoking?

Law Director- yes it would be identical I just don't know what that is.

Mr. Marmie- on that same note who enforces this and how?

Joe Ebel- initially there is a warning then a fine would imply. Right now every business in Ohio has to have a sign that says no smoking so we could print new signs out for Newark that would include the e-cigarettes and that would probably be the biggest education piece that we would need to do.

Mr. Marmie- the biggest question would be out on a public sidewalk how do you enforce that?

Joe Ebel- if it would become an issue in Ohio there is nothing that states how many feet from the door you have to be where in some states they do. It is a judgement call and if it is something where they had a chronic problem we would have to go and talk to the people who are there and if they refused to move then we would have to contact the Police Department to help us enforce that code.

Motion passed by a vote of 5-0.

Mark Labutis, Chair