



MEMORANDUM

TO: CITY COUNCIL

FROM: HEATHER WHITHAM, CITY ATTORNEY

**SUBJECT: SUPPLEMENTAL INFORMATION
AGENDA ITEM 11.a. – OCTOBER 22, 2019 CITY COUNCIL MEETING -
CONSIDERATION OF PROHIBITING THE RETAIL SALE OF
ELECTRONIC CIGARETTE PRODUCTS AND PARAPHERNALIA AND
PROHIBITING THE POSSESSION OF ALL TOBACCO PRODUCTS AND
PARAPHERNALIA BY PERSONS UNDER TWENTY ONE**

DATE: OCTOBER 21, 2019

Attached is correspondence received regarding the above referenced item.

cc: City Manager
City Clerk
Chief of Police
Public Review Binder

From: [Caren Ray Russom](#)
To: [Kelly Wetmore](#)
Subject: Fwd: Teen Vaping
Date: Sunday, October 20, 2019 3:01:57 PM

Can you please distribute this to the rest of the Council?

Thanks,
C

Begin forwarded message:

From: Mary Jean Sage <mjsage@thesageassociates.com>
Date: October 8, 2019 at 4:27:37 PM PDT
To: Caren Ray-Russom <crayrussom@arroyogrande.org>
Subject: Teen Vaping

Dear Mayor Ray-Russom:

As Chairman of the SLO County Health Commission and a member of the county Tobacco Control Coalition I want to convey our thanks and support to you for being a champion in addressing the very significant epidemic of teen vaping in our communities. Your challenge to the staff of the Village of Arroyo Grande to address a potential ban on the sale of vape-related products is a positive step toward curbing this health crisis among young people.

Please be aware that our SLO Public Health Department is available to all communities in SLO County to provide scientific data, community support and information regarding communities in SLO County and their policies regarding all smoking-related ordinances. Please feel free to call upon them should you or the staff at AG need information or support. Inger Appanaitis, Tobacco Control Manager, is an expert in this field and is a great resource to you – please feel free to have staff contact her for information & support - IAppanaitis@co.slo.ca.us.

Again – thank you for your efforts; we appreciate you very much!

Mary Jean Sage, Chair San Luis Obispo County Health Commission

The Sage Associates
791 Price Street, #135
Pismo Beach, CA 93449
Tel: 805-904-6311
Fax: 805-980-4026

From: [Caren Ray Russom](#)
To: [Kelly Wetmore](#)
Subject: FW: [EXT]Fwd: Teen Vaping
Date: Monday, October 21, 2019 9:01:16 AM
Attachments: [Letter to Santa Clara City Council Final v2.pdf](#)

Can you please distribute the letter and attachment to the rest of the Council?

Respectfully,

Caren Ray Russom
Mayor, City of Arroyo Grande

crayrussom@arroyogrande.org
Tel: 805-473-5400 | www.arroyogrande.org
300 E. Branch St | Arroyo Grande | CA | 93420

From: Inger Appanaitis [IAppanaitis@co.slo.ca.us]
Sent: Monday, October 21, 2019 8:09 AM
To: Caren Ray Russom
Subject: Re: [EXT]Fwd: Teen Vaping

Good morning, Mayor Ray Russom.

Thank you for your email. We are so grateful for your work in championing this issue and protecting the youth in our County!

I've received a lot of media inquiries lately and like to start the discussion with them by clarifying that we have two concurrent vaping crises:

1) Youth Vaping Epidemic, declared by U.S. Surgeon General in December 2018, affected over 3.6 million youth nationwide. In response to this crisis, over 40 cities and counties in California have adopted a "flavored tobacco ban" which prohibits the sale of all flavored products in the city (e.g. strawberry vapes, chocolate cigarrillos, mint/menthol cigarettes, etc), due to the key role that flavors play in drawing kids to nicotine products.

2) "Vaping Associated Pulmonary Illness" with cases being reported earlier this summer. Over 1000 youth and adults have been reported ill and 33 (at my last count) have died. In response to this crisis, we've seen more cities (and states) adopting bans on the sale of all e-cigarette products, since it is still unclear which drug or chemical component is causing the illness.

I've heard you mention the San Francisco ordinance as a model, and I agree this is a strong option. San Francisco adopted a flavored tobacco ban in 2018 and then updated the (tobacco retail license) ordinance this past summer to include the ban on all e-cigarettes (including online sales) until they have been reviewed and approved as safe by the FDA.

Regarding banning the possession and use of vaping products by minors -- this is something that the State (at the urging of public health officials) has moved away from, in order to focus

on the drug-dealer rather than the drug-user -- an upstream approach to the issue. I know this creates great frustration for our law enforcement partners.

I know of only two cities in CA that have re-implemented the "minor in possession" penalty: Santa Clara and Atascadero. I've attached a letter that the Tobacco Education and Research Oversight Committee wrote to Santa Clara on this issue, that explains the justification for not pursuing local ordinances on this matter. There is no evidence that these laws decrease youth use of tobacco products. Furthermore, if a student is caught using these products on school grounds, this would violate ed code; if a student is selling these products to a friend, this violates California's Tobacco 21 law; and if the city were to adopt a comprehensive outdoor public smoking/vaping ban (like Pismo, SLO, MB, Atascadero, and Paso have all done), a youth could get cited for use in public.

Thank you again for reaching out and please let me know if I can provide any further information.

Inger

From: Caren Ray Russom <crayrussom@arroyogrande.org>

Sent: Sunday, October 20, 2019 3:05 PM

To: Inger Appanaitis <IAppanaitis@co.slo.ca.us>

Subject: [EXT]Fwd: Teen Vaping

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Hello Ms. Appanaitis-

Mary Jean Sage suggested I contact you to let you know that at our meeting this Tuesday Arroyo Grande will be deciding whether to pursue a ban on the sale of vaping products in our city, and also whether to enact changes to the municipal code to ban the possession and use of vaping products by minors.

Your written input prior to the meeting is greatly appreciated. Thank you in advance.

Sincerely,
Caren Ray Russom
Mayor, City of Arroyo Grande

STATE OF CALIFORNIA
TOBACCO EDUCATION AND RESEARCH OVERSIGHT COMMITTEE

MEMBERS:

Michael Ong, M.D., Ph.D., Chair
Professor of Medicine in Residence
Department of Medicine
Division of General Internal Medicine and
Health Services
University of California Los Angeles

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University of California, San Francisco

Robert Oldham M.D., M.S.H.A.
Public Health Officer and Public Health
Division Director
Placer County Department of Health and
Human Services

Claradina Soto, Ph.D., M.P.H.
Assistant Professor
University of Southern California

Mark Starr, D.V.M., M.P.V.M.
Deputy Director for Environmental Health
California Department of Public Health



January 25, 2019

Santa Clara City Council
1500 Warburton Avenue
Santa Clara, CA 95050

Re: State of California Tobacco Education and Research Oversight Committee's opposition to youth possession laws

Dear Santa Clara City Council:

The Tobacco Education and Research Oversight Committee (TEROC) is a legislatively mandated oversight committee that monitors the use of Proposition 99 and Proposition 56 tobacco tax revenues for tobacco control, prevention education, and tobacco-related research in California (Health & Safety Codes §§ 104365-104370, Rev. & Tax. Code § 30130.56(e)). TEROC advises the California Department of Public Health; the University of California; and the California Department of Education with respect to policy development, integration, and evaluation of tobacco education programs funded by Proposition 99 and Proposition 56.

While TEROC supports of the City of Santa Clara's efforts to reduce tobacco use, the Committee does not support penalizing the tobacco user, particularly youth users.

Although tobacco purchase, use and possession (PUP) laws are common in the United States, there have been no positive effects associated with PUP laws.¹ It was for similar reasons that when the state of California raised the legal sales age to 21 in 2016, it removed the provision that would penalize a minor for using or possessing tobacco products.

PUP laws may divert policy attention from effective tobacco control strategies, allow the tobacco industry to circumvent its responsibility related to its marketing practices, and allow tobacco retailers to circumvent their responsibility to comply with age-of-tobacco sale law.²

PUP laws relieve tobacco companies and retailers and put the onus of compliance on youth. Punishment for possession has not been proven to reduce repeat violations and have been disproportionately applied to communities of color.³ Strategies that prevent youth from obtaining tobacco products such as tobacco retailer licensing, with penalties to store owners, increasing minimum price or pack sizes, and prohibiting flavored tobacco products including menthol have proven more effective in reducing youth usage.

Tobacco companies are quickly evolving and constantly seek to recruit young and new smokers with enticing flavors, targeted messaging and new technology. This has been demonstrated with the United States' Food and Drug Administration's concern over e-cigarettes, such as JUUL. Products like JUUL have grown in popularity among youth and young adults, due to its slick marketing and flavored nicotine pods. Given the current tobacco product landscape, it would be costly and difficult to enforce PUP laws.

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January 25, 2019

TEROC strongly urges that the Santa Clara City Council consider removing the provision that would penalize youth and young adults under the age of 21 for possessing tobacco or tobacco products in their Tobacco Retailer Licensing ordinance.

Sincerely,



Michael K. Ong, M.D., Ph.D.
Chairperson

1. U.S. Department of Health and Human Services. Preventing Tobacco Use Among Youth and Young Adults: A Report of the United States Surgeon General In. Atlanta, GA U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2012.
2. Giovino G, M Wakefield. Teen penalties for tobacco possession, use, and purchase: evidence and issues. *Tobacco Control*. 2003;12 ((Suppl 1)):i6-i13.
3. American Lung Association in California, American Cancer Society, Cancer Action Network, American Heart Association. Joint Statement Youth Possession 2018.