

Board of Health

City of Newburyport

Regular meeting: Thursday, August 19, 2021, 7:00 p.m.

Held in a remote format, hosted by Andy Port

Board Members present: Director of Public Health Frank Giacalone, Board Chair Dr. Robin Blair,

Dr. Sam Merabi, Dr. Robert Slocum

### **Approval of Minutes**

Robin called the meeting to order at 7 p.m., and asked about the minutes from the last meeting. Frank explained that they were not yet typed or distributed.

### **7 Myrtle Avenue- Dog complaint**

Frank reminded members that at the last meeting Kayla presented information about the dog Axel who resides at 7 Myrtle Avenue. There are complainants who would like to see the dog deemed dangerous. Frank said he does not see that himself.

Kayla: Anytime Axel gets out, there is a bite. Mr. Rocco, the owner, has made some changes. He does not allow Axel out during school arrival or dismissal. He also has Axel wear an e-collar. Whenever the dog gets too close to the fence, he can be given a little shock, to get his attention. Axel has only bitten other dogs, not people. This kind of behavior is called dog-aggressive. The only exception was once when someone intervened when Axel was aggressing on another dog, and the person got his finger nicked. In 2017 someone reported that Axel made it over the fence. That was, however, the older fence.

Axel's breed, Dutch Shepherd, is a working dog and such a breed needs to stay active.

Since the fence was replaced, Axel has escaped. Mr. Rocco's daughter left the front door open by mistake. Axel ran out and made contact with Miss Wilson's dog. The dog received a puncture from that incident. Miss Wilson reported that Mr. Rocco's girlfriend was chasing Axel, and succeeded in returning him to the house.

Frank drew the Board's attention to an aerial photo of 7 Myrtle Avenue. The side yard is bordered by a pedestrian path which leads from Myrtle Avenue to the campus of the Senior Community Center and the Bresnahan School (Lower Elementary and Pre-K). People are walking and talking on their way to school.

Richard Rocco is the pet's owner.

Kristen Bonavita was called on. Her dog Tommy was bitten by Axel in May 2020. Sam said the Board members had seen the video (made by a bystander) of the attack. Unprovoked, Axel went right to the neck of her dog. This was when her husband's finger was nicked.

Miss Bonavita continued that in March 2021 she contacted the Animal Control Officer to say that the measures that had been introduced since the previous incident were not adequate, as Axel could still jump the fence. She said Kayla replied in an email that there were no incidents since the fence was fixed, but Miss Bonavita said that was not accurate.

Miss Bonavita said she wants the Board to implement Massachusetts Statute 140:157 and recommend that the City Council consider deeming Axel a dangerous dog. The Statute's purpose is to protect the public.

Miss Bonavita said the first incident she was aware of was between Axel and a dog owned by Ms. Brooks, in 2017. Ms. Brooks said Axel leaped over the fence, attacked her dog, and was non-stop barking at her husband. She did not contact Animal Control about it until June 2021. In February 2020, in emails from Darcy to Kayla, Darcy said Axel could clear the fence and come over by a significant amount. (This was the old fence.) In May 2020 the second known attack occurred, to my dog. Ms. Desmond, 5 Myrtle Ave. reported that Axel had broken through the new fence, although he couldn't make it through, and her dog walker witnessed that. Ms Desmond also claimed that a teacher had been injured; that was an allegation that was not followed up on. That allegation was made in Dec 2020.

Lastly, in June of 2021, Blue, Miss Wilson's dog, was significantly injured.

Miss Bonavita continued that these were at least 3 incidents. She said we need to make sure this statute be put into place.

She said there's always been a mistake made, with a fence being open, a front door being open, a garage door open. She urged the board to watch the videos, note the predisposition of the dog to be aggressive, and take a step before there's a documented case of a person being injured.

Steve Rudolph was called upon. He lives on High St., and was speaking in support of having the dog deemed dangerous. He experienced numerous incidences of walking his dog past both the old fence and the new fence, and of having Axel throw himself against the fence. His dogwalker said that on one occasion the dog came under the (new) fence, was able to dig his way partially out and lunge at the dog being walked. Mr. Rudolph has altered his route so that he doesn't go by that fence. He recommended that the dog be designated dangerous and get exercised more or some other such action.

The next person to speak was Belinda Crouter (spelling?) of 7 Myrtle Avenue where Axel lives. She said that her miniature weiner dogs can't get under the fence, so she doesn't know how a Dutch Shepherd could. His nose can poke over the fence, but he can't get over the fence. She asked the Board to consider the fact that the sidewalk along the fence (beside and behind the house) is City property, and that there is an ordinance which states that dogs cannot be on City (or school) property. Further, she said, on the Community Center property there is a dog poop station which instigates people walking their dogs there. She said, "I have videos of dogs running unleashed and wild and peeing on our fence. That's taunting the dog."

Next public comment by Julia Desmond, of 5 Myrtle Ave since 2004. My experience- my dog was walking by the fence in the winter. Axel broke through the fence and could not get completely out of the fence. He went after the dog walker. She has worked at animal hospital for 25 years. But after that experience she said she was not going to walk my dog anymore. Ms. Desmond said she wants to go on record as saying it is not acceptable that people are in fear, they should be able to leave their house to walk their dog without being afraid. The City Council is emphasizing making Newburyport a walkable community. A lot of the neighbors have changed their routes so they're not walking by that fence. Axel used to be walked thru the neighborhood. Now he's just behind the fence. In her opinion that has made him territorial. She doesn't want anything to happen to Axel which would be detrimental to him.

Ms. Desmond: I wonder if he can penetrate the fence in cold weather. My understanding was that he was to be leashed in the backyard.

Darcy Hall, 351 High St., : My daughter and I walked to the Bresnahan from 2017 until March of 2020, going past that fence. My daughter does not want to go to the park because of Axel. If you ride your bike past there, he barks in his intimidating bark. We don't go to that park anymore because of Axel (unless we go around the other side of the Senior Center).

When there's 2 feet of snow in the back yard, Axel will be able to clear the fence.

Kristen Bonavita: Just wanted to add that none of us want anything bad to happen to Axel. I just want parameters to be put in place to protect the public, as statute calls for.

Owner Richard Rocco- This dog is a house dog; he's not trained for anything. He is a dog-aggressive dog. When I was an officer here, I was sent to the schools to write people up for having a dog on school property. When people are walking their dogs by here, it's a violation. I have a video of someone with a leaf-blower, blowing leaves under my fence, agitating my dog. Does anyone think that's OK? I've abided by everything the Board of Health has asked. From 7 am to 3pm, when I'm home, the dog is on a leash, in the backyard. From 3, he's on a shock collar. If he gets anywhere near the fence, I shock him. People are saying he's getting under the fence. Please, if anyone would show me where he's getting under the fence, I will gladly fix it, in a minute! When my new \$10,000 fence was a month old, I found that someone had kicked a hole in my fence, cost \$500 to fix fence.

Unfortunately, there were two incidences. I took full responsibility. Whatever the dog owners said, I took care of them. I've made corrections inside the house, one door can't open until the other is shut. My issue, I don't want dogs peeing on my fence. I'm doing everything I can to rectify this problem.

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Kayla: My predecessor told me that there are to be no dogs on school property. However I can't find the rule about no dogs on school property.

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Robin – How would you address this, Kayla?

Kayla: It's a tough situation. It's true that Axel will bark when people walk by, and his bark is very intimidating. It's also true that Mr. Rocco has done everything we've asked him to do. I'm not sure which way to go on this.

Sam: This is one of the most emotional cases we've had. Thanks to all who spoke to the Board. Everyone expressed concern for Axel.

The statute does have Axel on a path to possibly be destroyed.

I can't distinctly say that if a dog is aggressive toward other dogs, it will be aggressive to people.

Could there be another approach? Could there be a community approach? Could there be volunteers to socialize or walk the dog? That's what I'd like to see first, before there is too much animosity.

Robin: re owner, Mr. Rocco seems to have taken up every suggestion (fence, doors that close if other is open) to keep the dog from getting out. It's not as if he's not trying to deal with the problem.

Does the Board want to take any action?

Kayla, continue to monitor the situation. If further action needs to be taken, bring it back to the Board.

Mayor: if this is innate- has any formal training been attempted, Mr. Rocco? Something pro-active.

Mr. Rocco: The only training this dog has had is obedience training.

Mayor: I'm concerned about the winter and that Axel is near the school, it concerns me that the mother and daughter are afraid to use the park. I know there is training for aggressive dogs. I'm wondering if there is a program which might help him if he were to escape. I'm very concerned about what might happen if there is another incident.

Mr. Rocco- The reason I don't take him on walks around the neighborhood is because when he barks at other dogs, people make complaints. I

Robin. Could a dog run be put up in the yard?

Mr. Rocco - There's a 50-foot lead attached to my porch. Then at 5 p.m. he has shock collar. Besides the two dogs he plays with, there's another one, the puppy of one of those dogs. Every time I take him for a walk, someone complains.

My 15-yr old daughter is a mess over this, because she left the door open. Aug 8, she is going to take legal action. No one is helping me. I've done everything I can. I want to know where the dog could have gone under the fence.

Robert- The question was, is there something more that can be done in the way of training?

Sam- Perhaps you have a fear of walking the dog because of reactions of neighbors, so there may be a vicious cycle so that the dog gets more aggressive. Perhaps with some community organization, over a period of time of having the dog out in the community he might become more socialized and less aggressive. It would require community acceptance and tolerance of the neighborhood walks. There is probably more to do, I understand that you've done lots to the property, but there's probably more to be done.

Robert- I also want to make clear that this is a serious situation. Doing as much as possible is important here.

Robin: Mr. Rocco has done a lot here, everything he's been asked. Other than asking for training, I don't know what we can ask him to do.

Sam: I think that's what we're asking. Address his condition, he used to be walked.

Sam: I want to speak to the community. If the dog is being trained, at least give that some time, even if it includes walking the dog in the neighborhood.

Chair: Unless there's another suggestion, let's leave this to the judgment of the dog officer.

Mayor: there are training opportunities . We seem to running out of options. Is there a program for You have to be very careful to follow all recommendations. I'm very concerned and trying to think

Robin: Could a dog run be put up in the yard?

## **COVID-19 Update**

Frank- There has been an uptick in the number of cases of COVID in Newburyport, although not alarmingly so. The most recent positivity rate is 1.93. The 14-day average per 100,000 residents went up from 5.2 last week to 7.6 this week. Total cases: last week, 13 ; this week, 19. Not over the state figures, but increasing, just as they are through the state. These trends are up for both vaccinated and unvaccinated.

I'd like to see if the Board will discuss having the City buildings mask up to coincide with what the School Committee's decision. There are other communities doing the same thing. And we have the Mayor here to weigh in as well.

Mayor: I'd like to thank you, Frank, for the opportunity to address the Board of Health. I'm asking that the Board vote tonight to mandate mask-wearing from this point until further notice in municipal buildings. We've done well as a community, but I think we should start with this really good plan. The School Committee voted unanimously to support the medical advisory team, including Dr. Sue, in voting for the masking mandate. Everyone, both staff and students, both the vaccinated and unvaccinated, will wear masks when in the building. We've done well as a community, and I don't want to go back to more drastic measures.

The High School is still in the low to mid-60 per cent of students who are vaccinated. I'm hoping we don't have to go to the point of having mask zones through the City as we did earlier. If we're going to keep our numbers low, I think this would be a good first step, to add the municipal buildings, that would be City Hall, the Senior/Community Center, the Public Library, as well as people going in the Police and Fire Stations, in keeping with the school buildings.

As for when that requirement might be dropped, we'll be monitoring the health status. The Health Department is part of the School's medical advisory team.

Frank: I agree with what the Mayor is saying. At first, I was hoping to have the trend to stay low. It's good to lead by example. The timing is right, as the school side and the municipal will be all in coordination. Also, I'm getting calls that certain municipal employees aren't vaccinated, but aren't wearing masks, and in the Senior Center, too, I'm getting calls, and that's a susceptible population.

Robin- Does the Board want to have discussion, or does someone want to make a motion to require masks in municipal buildings?

Sam- I'd like to discuss it, so we're all on the same page.

Robert- There are hands up.

Councilor Zeid- I have 4 points

1. I appreciate the time of the Board. However, I'm a little concerned that there is no advance notice of what measures are going to be presented. I heard through the grapevine about this discussion. It's a challenge to jump on a call, and represent the public without advance notice, which other boards do.
2. Are the metrics you're using still make sense? Wasn't the point of the vaccine to lessen the severity of the virus, and isn't that what's happened? You say you'll be looking at the data in the future, but which data and does it make sense.
3. What message is being sent? There are different schools of thought. For some, this could be seen not as being cautious but as expressing a lack of confidence in the vaccine, and with us being at the precipice of booster shots, and moving from pandemic to endemic, it's important that we start treating it differently. Remember, too, that across the community we're in the 70s as far as percentage goes.
4. Any decision you make, regardless of its scope, it will reverberate through the community including where we've worked so hard to open things up. This is a different landscape than where we were. I get nervous when I hear people saying this is a place to start, wondering if every month there will be a new wave of discussions. I don't want there to be any shaking of confidence in other strategies, such as the vaccine.

Thank you, Board, for listening and for your consideration.

Meghan Kinsey, 1 Griffin Court. Thanks to the Board for taking my comments. The Councilor did a good job of summarizing my feelings. My question is what are the rates of death and hospitalization here? If we are faring as well as the state, I see no reason to do differently..

Nancy Caswell, 3 Jefferson Ct, have some businesses downtown. To echo the comments of the Councilor, as someone who has spent the last 18 months working on making indoor dining safer, I find it frustrating that we talking about mandating masking. I don't think we should be shocked that coming off Yankee Homecoming and the Car Show that our numbers are up 2%. Our inns were at 100% capacity, now dropping. It's too early to tell if mask mandate message is needed. I'm concerned about how it's being presented as "let's start here." Please consider small businesses before voting.

Councilor Lane- thanks for Board's work. I echo previous sentiments. What are the real numbers? How many are serious cases? I get nervous when I hear "first step." What are the other steps being considered? I think implementing this too brashly may give message that we're not doing well. Maybe get some input from public or businesses. Thanks to the Board for all the work you've done.

Sam- Thanks to all for speaking. To address questions. I spoke to Alex Morris, of Provincetown.

There are a lot of variables. Seasonality of virus- Fall is another wave. The modeling is expecting the peak in Oct. Re the cluster in Provincetown: One thing we learned, a cluster can be turned around. There was a huge drop in cases, possibly due to various mandates being implemented.

Different from last year- The alpha variant needed 67% immune (vaccine or previously infected) to achieve herd immunity. You need 87.5% for herd immunity with something as contagious as chicken pox and Delta. Our vaccination rate is about 70%, plus we have a number of people who are immune, based on having had COVID.

Vaccination protection is waning .

So, based on the factors that we are approaching the fall, and that the delta variant is more contagious, and that people's vaccination protection is waning, I do think we need to have a thorough discussion on any intervention we might mandate.

I recognize unintended consequences happen with medical interventions.

I am also a business owner.

To let people know, we have not had discussions about any future interventions.

Robert- I appreciate the comments. I keep thinking about a meeting we had over Halloween, when someone said doctors don't want anyone to get sick. But really isn't. It's about weighing risks vs. benefits. I see little risk in requiring masks in municipal bldg. A vulnerable person should be able to come into the library or City Hall. Masks prevent transmission. Waiting a month to require masks would be too late. In 3 to 6 months, yes, maybe we'll be living with it. It's not just a cold yet. And yes, there are enough serious cases that hospitalizations are going up.

Robin, we should be following state guidelines. I can understand Mr. Zeid's concern, that if we're requiring masks in City buildings, that it's an indication that then stores will need to mask up. I have reservations about any kind of mask mandates.

Sam: a caveat- In our office, what we do is that if any of my staff have any sort of symptom or exposure, I administer a rapid antigen test for any staff have any concerns. Another tool. Even though we're masked. What the public concern can be is how to work with all of these, based on apprehension of unintended effect like hurting business. I don't think that a requirement for municipal buildings would reverberate much for private sector. What hurt businesses in Provincetown was the high number of cases, that hurt a lot. Be aware, we're trying to protect businesses from that kind of potential; everyone's trying to work toward the healthiest community possible.

Mayor: The mayors had a meeting with 2 doctors from Harvard Medical School. Viral loads are increasing rapidly, in 24-hour periods. They said that it's important for masks to be worn. AJ has recently cancelled all in-person events, all staff must have flu vaccine and covid, or will lose job. At least one recent covid case has med-flighted to Boston. I certainly understand about businesses. Lately I am noticing over 70% of people coming in to City Hall wearing masks. There's a very vulnerable population at Sr. Center. We have staff who refuse to get vaccinated. The only option I have is to require masks. What can we do to help Police, fire-fighters? What can we do to help people who are not vaccinated? I have a problem with mandating vaccines. This is a way we can keep the next surge from coming. I think this is a small step we can take I hope that in 4 to 6 weeks we can re-group and we can then say we've done well.

I have a problem mandating vaccines. Of three restaurants I visited recently , all staff were masked. We know the next surge is coming. Hopefully within 4 to 6 weeks we can say we met this challenge. I think it's an important step.

Robert-I think masks are a step forward, not a step back. We now know we don't need to mask when walking the dog. Wearing a mask when we're in a crowded indoor situation works. We don't stay home, unless we're sick. These are things that we've learned and can now apply.

Mayor- we've seen the schools go to masks because. But not sending folks home because of close contacts (not quarantining as we did before). We'll do Stay and Test. The definition of close-contact has been narrowed, given we can do the rapid test.

Zeid: Re-emphasize my point #2, what is the messaging, we're not trying to stamp it out. We don't need 87% immunity. What is the goal? Again, positivity rate is not what we're concerned with. What numbers should we be looking at? I do

believe there's a cost to wearing a mask for children, developmentally. In October, what numbers will we be looking for?

Sam- We're still not sure how this is going to play out. I understand the frustration. Mayor brought up that unvaccinated staff at Sr. Center may infect vulnerable population. That is possibly a risk of a death. But we're not in control of any of these things. Consider that risk as compared to no real cost or negative outcome to wearing a mask in municipal buildings.

If it's not super urgent, maybe we can have a broader meeting.

What are the numbers that concern us? It's not the numbers, it's the science that we're concerned about- like seasonality. I have a colleague who was vaccinated mid-Feb, he's recently tested positive for Delta. He is not very sick, true. But there could be another variant which could be worse. For example, we don't know if the flu variant in a given year will be deadly, so we get the vaccine every year. I hope I answered your questions.

Reza Rahmani- I own Bar 25; I am new to community. I appreciate everyone here is looking out for public health. I also agree with Councilor Zeid. I don't think he's being laissez-faire. I would say we should be in favor of personal responsibility. I think that the reason a central mask mandate has not been made is to give freedom to the towns that have done well. Forcing a mask mandate sends the wrong message.

Robert- Let's keep in mind we're just talking about the library, where there are lots of children, and the Senior Center, where there are the elderly.

Robert- Just for the record, if staff of Restaurant A is masked, and Restaurant B is not, I'll go to Restaurant A. Masks can be good for businesses.

Lane- What I care about most is the messaging. I don't want to see Daily News say "due to uptick, mask mandate comes to Newburyport."

Sam- agree- messaging is very important. I don't know what the control is over what the paper prints. Really good press releases are important. We do have a lot of positive things to say.

Mayor- I think we did try positivity in our messaging. We saw the hits on the website. People did come. It did work. We know how fast the Delta virus can surge, we do have a media consultant to help us. We can do a PSA at Media Hub. We have a savvy community. We have to do what we can to protect all of our citizens. Do we want to take the gamble when we have the ability to have another layer of protection?

Robin- further discussion? Does the Board want to take any action?

Robert- What are options?

Sam- we can go to a broader discussion or vote.

The vote would be to wear masks in public buildings.

Sam – we can vote on Sr. Center and library today.

Mayor- City Hall, too.

Robin- we've narrowed it down to City Hall, Lib, Sr. Center. If at a later date, other municipal buildings should be considered, we'll consider them then.

Motion to require masking in Ch lib, Sr. Center

Sam Second.

The Board voted to pass the motion.

## **General Department Update**

Frank- It's been very busy, especially with Patti's retirement.

We've had a few new food establishments open: Bar 25, Battle Grounds Coffee on Pleasant Street, there's a bread bakng company working out of Changing Tides, Angry Donut opened a second location on Pleasant Street.

Pam is on vacation this week, so I'm watching cases on Maven.

- **Office Manager Update**

Frank- There have been lots of applications. We went through the first round of interviews. There will be three candidates coming in for a second interview. It will be tough decision, as all are strong candidates.

Robin- Anything else that needs to be discussed?

Andy Port- I'm available to host the Zoom meeting on Sept 20 or 21.

Robin, We'll meet on 9/20 at 7 pm, barring any issues that come up.

Robert moved to close, Sam 2nd

Robin adjourned at 9:27 pm

Minutes respectfully submitted by Laurel D. Hanke, Administrative Assistant, Newburyport Department of Health