

**Newburyport Board of Health Meeting
December 15, 2016**

Date of Approval: January 12, 2017

Attendees:

Dr. Sam Merabi, Board Member
Dr. Robert Slocum, Board Member
Frank Giacalone, Health Director
Patricia McAlarney, Note Taker

Lisa Mead, Attorney representing Evergreen Commons
Don Walters, Planning Board

Call to Order: Meeting called to order at 7:05 p.m.

Approval of Minutes: Motion to approve the Minutes of the Board Meeting from November 1, 2016 was made by Dr. Robert Slocum; seconded by Sam Merabi. Votes to approve – 2; Votes to oppose - 0. Minutes were approved as submitted.

Energy and Recycling Update: Director Giacalone provided the update. The Yard Waste Facility closed for the season last Saturday and will re-open in April. Residents may drop off bagged leaves at the gate through the end of the year.

Public Health Nurse Update:

- A summary of the reportable diseases received through MAVEN for year-to-date and for the past two months was provided to Board Members.
- Nourish the North Shore (NTN) - Director Giacalone reported that NTN is currently working on four projects: A working farm which grows vegetables that are donated to the local food pantries, on-site educational programming, soliciting donations of excess produce from local farms to supplement food pantries with nutritious vegetables and a weekly Food Recovery program that gathers unused food from two public schools (Bresnahan and Newburyport High School) that would have been discarded and distributes the food to local housing development and to food pantries. NTN has received grant funding, including \$1000 from Rotary; \$2000 from Joppa Flatts and an application for an additional grant for \$3000 was recently submitted. A garden is being built at the Bresnahan School so that educational programs can be held there beginning this Spring. On January 3, 2017 “B Good” food establishment from Beverly is donating a portion of day’s proceeds to NTN and last month Dos Amigos held a day-long fundraiser for the program.

Animal Control Update – Director Giacalone stated that other than reports of a large coyote that has been spotted on Plum Island, there have been relatively few incidents reported through Animal Control, which is typical of the winter months.

Food Establishment Updates:

- Brick and Ash have resolved some issues related to venting of the smoker and expect to open within a week.
- Paddle Inn will be opening shortly and have already been approved by the Health Department for their final inspection.
- Juicery (located at the prior location of Gram’s Ice Cream) is still under construction. Opening date is currently unknown.

- Famous Pizza - The building has been demolished and a new foundation is being poured on the previous footprint.
- Two inquiries were received by the Health Department for the site between Wendy's and McDonalds on Storey Ave. Three units will be built, one of which will be a food establishment. The Department received inquiries from Chipotles Restaurant about this location but to date no site review applications have been filed.
- It has been reported that Not Your Average Joe's will be closing in January and Sea Level Restaurant will be moving into this space.
- Orange Leaf has closed and no new applicants have come forth for this space.

Evergreen Commons:

Board Members were provided with copies of the following reports that had been received by the Health Department: A report from Andy Port of the Planning Department that included the OSRD Draining Revisions, and the NGI Baseline Sampling Plan which included a list of chemicals that NGI proposes be included in the testing. Lisa Mead confirmed that the NGI Baseline Sampling Plan included what was worked out with the Water and Sewer Commission and Doug Gove, the City's Peer Review Engineer, and also included all of AECOM's sampling requests. The report was presented as an acceptance letter to the Planning Board last night. Ms. Mead explained to the Board that at the Planning Board Meeting the Applicant proposed that because the cost of baseline testing is \$36,000 it does not make sense for the Applicant to assume this cost unless they are assured that the project will be approved. Ms. Mead noted that while the Planning Board engaged in discussion about this, no decision was reached at the meeting.

Dr. Merabi stated that it does not make any sense for the City to approve the project without the results of the baseline tests.

Ms. Mead stated that the Applicant has been waiting for a complete listing from Doug Gove as what additional testing (water and soil) would be required. She stated that the list of required tests (which included an additional 14-16 tests that were not originally requested) was not received until Mr. Gove's email of November 8, 2016. Ms. Mead stated that the November 8 email was received after the Board of Health Meeting, the Water/Sewer Meeting and the Planning Board Meeting had taken place. Ms. Mead noted that this issue of testing is not being put before the Board of Health at this time. Once the Applicant files for Definitive Plan, the issue and results of testing will be brought before the Board of Health in accordance with Chapter 41.

Dr. Merabi questioned whether the Definitive Plan will include testing. Ms. Mead stated that the type of testing will depend upon what is decided by the Planning Board; the current proposal is to have baseline testing performed prior to any earth-moving on site and then perform a series of annual testing throughout the construction period, which is estimated to be three years. The type of tests to be performed during construction would be determined based on the outcome of the baseline testing. Dr. Merabi pointed out that without the results of the baseline testing there are too many variables to plan what type of future testing will be required, how long the testing will need to continue (possibly beyond the three year construction phase) and what the cost of the testing will be. He also noted that while the cost of the testing may be high, it seems miniscule compared with the potential income the Developer will realize from this project. Also, there may be some testing that can be done in conjunction with the University which may provide some cost saving.

Dr. Slocum noted that it is yet to be determined who would pay for testing once the construction phase is complete. Currently only basic testing provided by the State is performed. Dr. Merabi stated that some of the tests that are being considered should have been done previously but are especially important at this time. He also stated that annual testing is not sufficient; the quality of water can change daily based on temperature, season, precipitation etc. Quarterly testing would be ideal. Ms. Mead stated that the

document that was presented at tonight's meeting had actually been submitted to the Planning Board, with a copy sent to the Board of Health; discussion of this document by the Board of Health should have been conducted in the presence of the appropriate expert.

Ms Mead reminded the Board that all discussions between or among Board Members must conform to the Open Meeting Law and that all deliberations and conversations must take place in a public forum, not through emails.

Don Walters, Member of Planning Board and a Newburyport resident informed the Board that the next Planning Board Meetings are scheduled for January 4 and 18. At the meeting on Jan. 4 it will be determined by the Applicant if they will pursue OSRD or will file for a conventional subdivision.

Dr. Slocum made a motion to change the date of the next scheduled Board of Health Meeting from January 19, 2017 to January 12, 2017; seconded by Dr. Merabi. Dr. Slocum and Dr. Merabi voted to approve. *The Board will hold a meeting on January 12, 2017 at 7 p.m.*

The Board stated that the following discussion points will be addressed at the January 12 meeting:

- Baseline Testing - as described by Dr. Merabi
- Comments from the City Engineer's December 15, 2016 memo regarding concerns related to the drainage plan
- Sustainable water plan for the City to confirm feasible alternative locations for City well(s) are in place.
- Effect of sodium levels in water from run-off from roads
- Review draft of letter to be sent to Planning Board from the Board of Health

Based on comments by Don Walters, member of the Planning Board and City resident, the Board asked Director Giacalone to revise and resend the letter of November 2, 2016 that the Board originally sent to the Planning Board to clarify that the Planning Board had never received any information or direction from the Water Commission (The Board's 11/2/16 letter stated: *"The Board of Health agrees with the four conditions that were recommended by the Water Commission and specifically agrees that the well should be monitored."*) Director Giacalone stated that he would draft a letter clarifying this point.

Director Giacalone asked for clarification of the list of chemical list that was compiled. Lisa Mead stated that Doug Gove and the Water Commissioners developed this comprehensive list based upon known chemicals that were used by the golf course. There was some hesitation by Doug Gove initially because if certain traces of chemicals had been found, they would have to be reported on the public information statement; however, the Water Commission was adamant that if any trace chemicals were found the Water Commission would want to know and the public would deserve to know, as well.

Dr. Merabi requested that the Board also discuss at the next meeting the issue of sodium in the City water supply from run off from roads, and give consideration as to whether the application of sand versus salt for road maintenance would be preferable. Lisa Mead noted that there was a report issued around 2002 to the Water Commission specifically about sodium in surface water as well as around well heads. She stated that Jay Billings had reviewed this report as part of his research for the Evergreen project.

Use and Distribution of Marijuana Law:

Director Giacalone stated that the Use and Distribution of Marijuana Law went into effect today. The law allows individuals 21 years of age and older to possess and grow marijuana. Each adult can grow 6 plants with a max of 12 plants per household. It must not be grown in visible spaces (backyard or indoors.) Marijuana may only be smoked in an individual's own home. Individuals may have up to 10 ounces in their home and may carry one ounce. Marijuana cannot be smoked in their own car and

individuals may not drive under the influence. The retail sale of marijuana won't take effect until January of 2018. The only way to currently purchase marijuana is through a medical marijuana dispensary. In October of 2017 the medical dispensaries will automatically be allowed to sell marijuana on a retail basis because they are already set up to do so. Other retailers that wish to sell marijuana will have to wait until after January 2018. The City can tax up to 2 percent on marijuana sales. Once retail sale of marijuana is allowed, the residents of Newburyport could vote whether they want to allow or ban the sale of marijuana in the City. The Board of Health could apply a cap on the number of retail stores allowed. And the Planning Board could restrict retail store through zoning.

Marijuana smoking is banned in all establishments where cigarette smoking is banned. Frank noted that the Mass. Municipal Association recommends that marijuana should be regulated separately from tobacco. Dr. Merabi suggested that we invite Ron Beauregard, Director of the Tobacco Coalition, to a future Board meeting to present information since his prior presentation was very informative about issues such as vaping, etc. Dr. Slocum suggested that the Board of Health make a public statement regarding the health effects of marijuana. Dr. Merabi suggested that the public service announcement could send a message that 'smoking is not healthy at all' (i.e. tobacco, marijuana etc.) and that any drug (alcohol, tobacco, marijuana) used with frequency can cause health issues.

Motion to adjourn was made by Dr. Slocum; seconded by Sam Merabi.

Meeting adjourned at 8:33 pm