

**Newburyport Board of Health Meeting  
January 17, 2019**

Date of Approval: 2/21/2019

**Attendees**

Dr. Robin Blair, Chairman of the Board  
Dr. Sam Merabi, Board Member  
Dr. Robert Slocum, Board Member  
Frank Giacalone, Health Director  
Molly Ettenborough, Energy Recycle and Sustainability  
Sharon Kishida, Municipal Assistance Coordinator  
Patricia McAlarney, Note Taker

**Call to Order:** called meeting called to order at 7:08 p.m.

**Approval of Minutes:** Motion to approve the Minutes of the Board of Health meeting on November 29, 2018 was made by Dr. Sam Merabi and seconded by Dr. Blair. Votes to approve: 2; votes opposed - none. Minutes of the November 29, 2018 meeting were approved as submitted.

**Solid Waste & Recycling - Molly Ettenborough and Sharon Kishida**

- **Solid Waste Task Force** - Ms. Ettenborough informed the Board that the Task Force is still working on the waste reduction recommendations which they will present to City Council on February 11, 2019.
- **Mandatory Hauler / Generator Recycling Regulation - Sharon Kishida** - Director Giacalone introduced Sharon Kishida, Municipal Assistance Coordinator, Northeast District 2. Ms. Kishida has been contracted by the City through a Technical Assistance Grant from the State to review current policies and practices related to solid waste and recycling by private contractors and to make recommendations aimed at amending City Ordinances and or Regulations to require that all solid waste haulers provide recycling pick up services to customers and that all generators of recycling (residents, businesses, etc.) be required to recycle. Currently, only those generators that receive municipal trash/recycle services are required to recycle. Ms. Kishida explained that the grant provides for 80 hours of service and is expected to be completed by June 30, 2019.

A previous review of City regulations performed as part of a Technical Assistance Grant approximately seven years reviewed solid waste hauling from multi-family residences, including condominiums. While the city's solid waste contract specifies that municipal solid waste/recycle services are provided only to residences with up to and including six units, exceptions have been made and the current practice is that services are being provided to several dwellings that exceed that maximum. Ms. Kishida will be developing recommendations on how the City may streamline solid waste collection and create fairness and consistency throughout the City. She suggested to the Board this may be achieved through the adoption of a Comprehensive Private Hauler Regulation that would require that all solid waste haulers (both private and municipal) provide trash and recycle service; and that service to residential customers would be offered as a "bundled service" (i.e. customers could not opt out of recycling). Ms. Kishida and the Department of Environmental Protection (DEP) strongly recommend that the City also implement a recycling regulation that mandates that all generators must recycle.

Ms. Kishida distributed a Haulers' and Waste Ban Compliance handout that lists items that the state has banned from being disposed of in the trash.

Dr. Merabi stated that it may be more conceivable to first adopt the mandatory Hauler Recycling Regulation rather than to implement the hauler and mandatory generator regulation simultaneously. It may be overwhelming to residents to suddenly be required to recycle when they may not have been previously required to do so. Ms. Kishida explained that the decision is ultimately up to the City/Board of Health to decide; however, she stated that the "two-pronged approach" of regulating both the haulers and the generators helps to support the efforts of the haulers. Also, many communities adopt the regulation but have it take effect several months after adoption which allows time to educate community members.

Ms. Kishida explained that many haulers have been resistant to offering recycle services because they claim it is not cost effective and they do not have the route density to make it affordable. If all haulers are required to provide recycling service, it will help equalize the cost by creating more fair competition among haulers. Hauler regulations would also provide the Board of Health with important information regarding which companies are operating within the City.

Ms. Ettenborough explained that tonight's presentation was simply to inform the Board about the work that Ms. Kishida will be doing to research and make recommendations relative to solid waste/recycling services. Ms. Kishida will provide data and suggestions to the Board throughout the grant program, however, the final decision as to whether to adopt any of the proposed regulations will be up to the Board.

### **Cape Ann Botanicals - Kurt Kalker and Carla Villa**

Carla Villa (Manager) and Kurt Kalker, RN, employees of Cape Ann Botanicals requested that the Board reconsider whether the cannabidiol (CBD) vaping products that they would like to sell fall under the definition of 'tobacco product' according to the Newburyport's Tobacco Regulations. Cape Ann Botanicals will be opening in Newburyport this month and will sell CBD products which are hemp-derived compounds that lack THC, the psycho-active ingredient found in marijuana. CBD oil tinctures may be dissolved on the tongue, absorbed through skin, ingested and vaporized. Director Giacalone had previously informed the owners that vaping products are prohibited for sale in Newburyport under the Tobacco Regulations. (Director Giacalone further explained that because the edible products will be sold pre-packaged (with no sampling allowed), the store does not need to be permitted by the Health Department as a food establishment.)

Ms. Villa explained that Cape Ann Botanicals offers a wide variety of holistic therapeutic treatments and products. Dr. Merabi questioned that if there is a medical treatment component to their business, what organization permits and inspects the establishment? Dr. Merabi compared this business with Blue Water Spa which provides medical treatments performed by nursing staff under the direct supervision of a medical doctor. Ms. Villa explained that no medical consultations will be offered at the Newburyport location.

Ms. Villa explained that Cape Ann Botanicals also operates in Ipswich and that although the Ipswich Board of Health uses the same definition of tobacco products as Newburyport, Ipswich does not consider the CBD vaping products to fall under the tobacco definition and therefore, the products are allowed to be sold. She specifically noted that she had discussed with Ipswich's Tobacco Control Program Director, Joyce Redford, the discrepancy between the two city's interpretations and was told that Ms. Redford would be willing to address this issue with the Newburyport Board of Health. She noted that all of the CBD products are carefully vetted to ensure that the oils offered for sale are of the highest quality. She also stated that many customers find that vaping is the preferred means of consuming CBD. Ms. Villa informed the Board that Cape Ann Botanicals does offer a CBD inhaler, which she felt would not fall under Newburyport's definition of tobacco product, but they do not believe that the inhaler product is as effective as the one that requires vaping. Ms. Villa further assured the Board that Cape Ann Botanicals does not (and will not) sell vaping products to children and that their overall clientele is in the late-20 to early 40's age range, many of whom have medical conditions such as anxiety, pain, Parkinson's Disease etc. Mr. Kalker explained that there are currently no FDA Regulations that cover the CBD products; although they do fall under a supplemental guideline. Mr. Kalker stated that the industry is mostly self-regulated at this point in time.

Mr. Kalker stated that CBD products have been proven to be non-addictive and the vaping products are used as treatments and not as recreation. He noted that marijuana does contain CBD; however, the government defines Hemp CBD products as those that contain not more than 0.3% THC by total weight. As long as the CBD product falls within this definition, anyone consuming the product would not get 'high.' Cape Ann Botanicals keeps all test results on site to prove that their products fall within this definition of Hemp and that they also are free of other contaminants (such as heavy metals.)

Dr. Slocum questioned why marijuana and products such as CBD/hemp have suddenly become recognized for their medical benefits when these products (and the ailments they propose to treat) have been in existence for years. A concerned comparison was made to the 1970s when medical schools promoted the use and benefits of opioids for pain relief, to the current swell of popularity of marijuana and related products. Mr. Kalker stated that the American Medical Association had written about the medical benefits of marijuana in articles published in the 1930's and again in the 1970s.

The Board agreed to have Ron Beauregard from the Northeast Tobacco Coalition attend a future meeting to advise them on current trends and make suggestions for changes to the Tobacco Regulations to ensure that the definitions are aligned with the Board's intent with regard to vaping and vaping products. The Board suggested that Ms. Villa and Mr. Kalker from Cape Ann Botanicals attend the meeting and bring any representative that may provide additional information to be considered.

### **Risk of Natural Gas - Dr. Steven Jones via phone**

Dr. Jones introduced himself as a public health physician who worked for many years at the Center for Disease Control and Prevention in Atlanta. He is now working as a volunteer with Sierra Club regarding the health and environmental risks associated with natural gas.

In preparation for tonight's meeting, Mr. Jones submitted the following documents for the Board's review:

- Cover Page – Summary of Dr. Jones request and talking points
- Gas Stove Vent - A cross-sectional study of the association between ventilation of gas stoves and chronic respiratory illness in U.S. children enrolled in NHANESIII. (Kile et al. Environmental Health 2014, 13:71)
- Gas is the Past! Heet – Home Energy Efficiency Team
- Gas leaks map, Newburyport
- Board of Health Sign-ons
- Mass Medical Society Policy Statement
- Short Draft Letter – based on North Hampton Board of Health

Dr. Jones asked that the Board review the documents and follow the other 92 Boards of Health in Massachusetts who have written to the Governor asking him to require Comprehensive Health Impact Assessments evaluating the health risks of any new or expanded “natural” gas infrastructure. Dr. Jones explained that the health risks associated with natural gas in homes include: increased respiratory disease among children, toxic contaminants released from ‘natural gas’ (such as carcinogens, heavy metals, and radioactive elements) and contribution to indoor and outdoor air pollution and lung disease and premature death. He also noted that the release of methane from leaks in production and transmission of natural gas contribute to climate change. Dr. Jones stated that the recent explosions and fires in Lawrence are an example of the hazards associated with natural gas and pointed out that in 2017 there were 22 unrepaired gas leaks in Newburyport.

Dr. Jones explained that there is a significant risk of respiratory illness in homes that cook with natural gas without the benefit of ventilation (whether ventilation does not exist, or is not used when cooking.) The Board noted that the state's gas and plumbing code already require that gas stoves be properly vented and suggested that, rather than writing to the Governor with this issue, public education about the importance of using ventilation when cooking would be effective. The Board also questioned whether the CDC has taken a formal stance on health risks associated with natural gas. Dr. Jones explained that the CDC has not released any statements, although he has approached the American Academy of Pediatrics to encourage practitioners to ask patients with respiratory issues what type of stove (and ventilation) they use in their home.

The Board requested that Dr. Jones provide copies of the original studies and research data that was used to generate the conclusions cited in the documents that he had submitted for the Board's review. The Board noted that the Kiles study focused more on the issue of ventilation than on a correlation between natural gas and respiratory illness. The Board agreed to review any additional information that Dr. Jones submits and will take the issue under advisement.

**Hoarding Task Force – Director Giacalone**

In the 2015 Annual Report the Health Department included Establishment of a Hoarding Task Force as a goal; but due to staff and time constraints this has not been accomplished. The Department has recently been awarded a grant from Mass. Health Officers' Association (MHOA) to fund 50 hours of service by an Intern who will develop a resource guide that will be the beginning of the framework for a Hoarding Task Force

**Health Nurse Update - Director Giacalone**

The Flu Clinics have been completed and the Public Health Nurse continues to work on other programs and projects such as Nourishing the North Shore and the Mothers Visiting Program.

**Retail Marijuana - Director Giacalone**

The Board discussed their concern about the sale of cannabis products that are available in forms other than their natural 'plant-like' state, specifically candy like items such as 'gummy bears' or other formulations that may appeal to children. The Board expressed interest in whether they could impose restrictions through ordinance or regulation that would allow the retail sale of marijuana products but would restrict the type of products that are allowed to be sold. Director Giacalone explained that retail marijuana establishments are permitted by the State and are regulated under Mass. General Law. Boards of Health may pass regulations that impose greater restriction than the law allows. The Board asked the Director to research to determine whether it is within the Board's power to restrict the type of cannabis products (i.e. gummy bears) that are allowed to be sold.

Dr. Merabi noted that if it is possible to restrict the type of products sold, it would be important to be sure that alternative forms of cannabis products would still be available to individuals who needed them in a particular form due to an illness or disability (the example given was a patient suffering with Parkinson's disease may be unable to grind the plant.) Dr. Merabi suggested that it may be possible to differentiate between product formulations allowed for medical versus recreational purposes.

The Board discussed the possibility of increasing the purchase age for marijuana products from 21 to 25 but informally decided that they would not pursue this issue at this time.

**New Food Establishments – Director Giacalone**

Mama Dukes – Merrimac Street  
Lolo Poke – Pleasant Street  
Thai Lily – Pleasant Street  
Modern Butcher – Merrimac Street  
Changing Tides - Pleasant Street

Chipotle may be going into the Plaza on Storey Ave. later this year but no applications have been submitted to the Health Department.

**Meeting adjourned at 8:52 pm**