

Newburyport Board of Health Meeting
March 23, 2017

Date of Approval: May 4, 2017

Attendees

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

Jim Goodwin, Developer for Evergreen Commons
Lisa Mead, Attorney representing Evergreen Commons

Call to Order: called meeting called to order at 7:03 p.m.

Approval of Minutes: Motion to approve the Minutes of the Board Meeting from January 12, 2016 was made by Dr. Sam Merabi; seconded by Robert Slocum. Votes to approve: Dr. Blair, Dr. Merabi, Dr. Slocum; Votes to deny: none. Minutes were approved as submitted.

Reorganization of the Board of Health - A motion to approve Dr. Robin Blair as Chairman of the Board of Health was made by Dr. Sam Merabi; seconded by Dr. Robert Slocum. Votes to approve: Dr. Blair, Dr. Merabi, Dr. Slocum; Votes to deny: none. Motion passed as presented. Dr. Blair noted that the Mayor recently reappointed him to serve on the Board of Health for the next three years.

Evergreen Commons - Dr. Blair noted that the Planning Board has approved the OSRD (Open Space Residential Development) Plan for Evergreen Commons. Dr. Merabi made reference to the Evergreen Special Permit Findings & Decision document dated 3/1/17, specifically the section regarding public water supply protection that begins on page nine. Dr. Merabi stated that most of the concerns regarding testing of the wells didn't necessarily have to do with approval of the plan in general but rather to do with issues such as salting of roads, oil tank prohibition, and impact from actions that may be taken by future residents. Since the testing done to date has not revealed any contaminants of concern, Dr. Merabi suggested that the money for water/soil testing that is to be paid by the developer, instead be put into an escrow account to be used for the sole purpose of future testing at the City's discretion. Dr. Merabi noted that testing the water when people are residing in the development would be more beneficial than performing tests during construction. The cost to the Developer should remain the same, although conceivably the cost to the City could increase if the cost of testing increases over time. Dr. Blair suggested that a protocol be put in place that after a specified period of time (once a predetermined number of residents have moved in) that an initial test be performed and then repeated, as necessary. Dr. Slocum noted that the issue of prior contaminants remaining from the salt marsh fill that was brought to the site approximately 20 years ago may resurface during the construction phase. Dr. Merabi stated that he feels it is unlikely that these contaminants, if present, would have gone undetected from the tests already performed.

Lisa Mead stated that the decision by the Planning Board to approve the OSRD is final and the plan cannot be changed from how it is currently written. She stated that the report does include reference to the salt marsh fill that was brought to the site in 1968 and removed in or about 1972, and that the Planning Board wanted the preliminary soil test done as a baseline of the condition of the land, as well as testing of the wells for any contaminants. If contaminants were present that don't show up until after construction is complete, the City can still test the monitoring wells to see if the contaminants reach the water supply. At the end of the construction phase, the applicant is

required to provide results of tests performed under the supervision of AE Com (the City's Representative) that will demonstrate the condition of the soil at that point in time. The OSRD plan does not allow for having the applicant provide any monies for future (post-construction) testing. Ms. Mead further noted that the City, not the applicant, has the discretion of changing which chemicals they want to be tested for (on advice from DEP or EPA.)

With regard to the impact residents may have on the soil/water, Ms. Mead noted that the Homeowner's Association will be required to maintain an annual contract with one company that will plow snow and apply sand or other approved ice-melt substances to driveways in the development, and will be required to report to the Department of Public Service (DPS.) The DPS will be responsible for snow removal on the roadways in the development. Any substance to be applied to resident's property will be provided by the contractor hired by the Homeowner's Association (residents will not be allowed to apply products of their own choosing.) Dr. Slocum noted that since the residents of Evergreen will also share this drinking water source, it is unlikely that they would be motivated to introduce any potentially harmful chemicals; however, he stated that education of residents will be important. Lisa Mead noted that for many years the engineers have recommended to DPS to halt the application of salt to roads in Zone 2 areas. To date, Ms. Mead stated that it is her understanding from statements made by the Director of DPS that these roads have continued to be salted during winter seasons. Dr. Blair suggested that the Board may want to enact regulations prohibiting the salting of roads in zone 2 areas.

Dr. Merabi asked whether there are any oil tanks in the area. Ms. Mead noted that the well head protection area is a zoning ordinance which allows that existing oil tanks may remain in place until such time that a period of two years of non-use has transpired. Given the prior usage of this land, it seems unlikely that any tanks would be present. Ms. Mead stated that homeowners cannot be regulated as to how their home is heated (i.e. by oil using an above ground holding tank.) Dr. Merabi stated that he was concerned that a resident in the development may decide to heat with oil and there is always a possibility of an oil leak that could potentially seep from a resident's basement into the surrounding soil. Mr. Goodwin reminded the Board that there are already over 90 homes in this zone 1 & 2 area, some of which may have oil tanks in the basement.

Dr. Merabi suggested that the Board schedule a meeting in the future to discuss whether Board of Health Regulations should be enacted regarding the following issues:

- Should salting of roads be banned in Zones 1 & 2
- What, if any, regulation should be enacted with regard to oil tanks in Zones 1 & 2?

Director Giacalone informed the Board that he will obtain information from the DPS as to their current practice of salting the roads in Zones 1 & 2.

Dr. Merabi suggests that the Board discuss how future testing/monitoring of the soil and water in the development will be funded. Dr. Blair asked whether the applicant would be willing to provide any funding for monitoring and future testing. Ms. Mead pointed out that Mr. Goodwin would need to get input from his partners regarding this request especially since each round of testing costs approximately \$36,000 – \$44,000. Dr. Blair suggested that the Board impose a time-frame (such as five years) for the monitoring of the soil and water for the presence of contaminants. If after this time no contaminants show up then it's unlikely that contaminants are present. Ms. Mead informed the Board that the testing of the aquifer demonstrated that there is a sufficient quantity of water (200 mgb/day); and this well only operates three months per year. Ms. Mead noted that the applicant has also provided land that the City could use to drill a future well. The OSRD plan is for 38 new homes in the sub-division; 22 acres is being kept open and is fully accessible to the public but is paid for and maintained by the Homeowner's Association.

Micropigmentation- Director Giacalone noted that the Board had previously voted that micropigmentation/permanent make-up may only be performed under the direct supervision of a medical doctor. Dr. Merabi noted that facial tattooing is permanent, micropigmentation must be

repeated because it is semi-permanent. The state's model regulation states that micropigmentation is considered tattooing and it was upon this model that the City regulation was based. Director Giacalone informed the Board that it appears that a change needs to be made to one line in the City's Body Art Regulation to state that micropigmentation must be performed under the direct supervision of a medical doctor. There is no state oversight of Body Art Practitioners. Dr. Merabi stated that he believes that the state has now changed their model for micropigmentation. Dr. Slocum questioned why the City's Body Art Regulation is more stringent for micropigmentation than for tattooing (which is a more invasive procedure.)

The Board decided to table the discussion until the applicant for the permit to perform micropigmentation can be present to answer questions regarding her education and background.

Public Health Nurse Update

- The Health Department has applied to have an intern from Boston University work in the Health Department this summer. Two projects have been identified:
 - Food Recovery Program – This program is part of Nourish the North Shore. Intact food from the school lunch program that is not consumed by students is collected each week and donated to multiple local food pantries.
 - Hoarding Task Force: The Health Department has handled multiple hoarding situations in the past, some of which are ongoing. The Police and Fire Departments are in support of a creation of a task force that would help unify the efforts of various departments/organizations.
- Nourish the North Shore has received a \$2000 grant from the Swasey Fund which is allowing them to build a walk-in cooler and a rinsing station for the gardens at the Emery House.
- A Community garden has been built at Kelleher Park that will help support 15 needy families.
- A \$5000 grant was received from the New England Melanoma Foundation and Dr. Mendes to supply sunscreen and three dispensers that will be positioned in high usage areas such as Cashman park, the waterfront and at the beach
- CPR Classes have been held for the Harbor Master and his staff.

Riverside Cafe – Unsanitary conditions required two emergency closures. The establishment has been cleaned and pest control continues on a weekly basis. The most recent reports indicate that the pest situation is significantly reduced and sanitation of the facility is being maintained.

Agave – After receiving report of a mouse in the dining room the Food Inspector visited the site and ordered increased pest control management and more thorough cleaning of the establishment. Six months of pest control reports have been submitted by Agave and reviewed by the Health Department. The situation appears to have originated in the basement and is now under control.

Grease Trap/FOG Program - The Health Department is working closely with the Sewer Department to enforce compliance with FOG regulations especially concerning frequency of cleanings and proper reporting to the Health Department. The Sewer Department is hiring a private consulting company that will inspect the grease traps in the City and issue a report of findings. The Office Manager performed a survey of Grease Haulers and compared results with the reports from the food establishments. The results of the investigation indicated that compliance with FOG Regulations has been poor. The Health and Sewer Department will collaborate to increase compliance through education and enforcement.

Budget – The Health Department has submitted to City Council a level funded budget (with exception of the 2% Cost of Living Increase). The Health Department has requested an additional staff person in the Department and would especially like to hire Laurel Hanke who already works 19 hours in the Recycle Division. The Mayor is hesitant because of a 6% decrease in funding to

the City from the State; however, she has expressed an understanding of the need for additional help in the Department and is taking the request under advisement.

Food Establishments:

- Abrahams – Renovations are progressing.
- Sea Level - There is an issue with the fact that when outdoor seating is in use, they will exceed 150 seats and they do not have an exterior grease trap (as required by Board of Health regulations.) The Sewer Department performed a site visit and advised the owner that if they can provide documentation from their Salem based restaurant (of comparable size) that indoor grease trap can accommodate the quantity of grease, they will consider accepting this option.
- Fig Tree – This new establishment plans to open at the site of the original Buttermilk Bakery (Liberty Street)
- Goose Chase – This is a bakery that will be opening on Winter Street. The owner is currently permitted to operate a Residential Kitchen.
- The Juicery – This new establishment will be opening soon on State Street. They have been given a preliminary sign off and are nearing completion
- Blue Water Wellness - This is an establishment that plans to offer customer's access to float tanks which are shallow tubs filled with heavily salted water in which an individual floats. This facility is owned and will be operated under the supervision of Dr. Keith Ablow, psychiatrist. There is some question as to whether the float tank should be permitted as a Special Purpose Pool (which requires scheduled draining, cleanings, emergency shut-offs, communication systems, etc.) or whether the tank would be exempt because it could be considered a medical facility. Director Giacalone is in discussion with the state Department of Public Health to ascertain a decision as to proper permitting and requirements.
- Ice Cream Parlor on Pleasant Street – A preliminary site visit was conducted at the proposed location for a new ice cream shop. It is unclear whether the potential owner still plans to pursue opening at this location.

Solid Waste and Recycling - The Crow Lane Yard Waste Facility will be opening on April 4 (weather permitting) and will operate Tuesday through Saturday, 7:30 am - 2:30 pm. Curbside leaf pick up will take place the weeks of April 8 and May 22.

Mosquito Control - Mass General Law has been changed to allow residents to opt out of ground application of pesticides by sending notification electronically or by postal mail to Department of Agricultural Resources. Requests may be made any time during the year and will take effect 14 days after the request is made. Opt out requests expire on Dec. 31 of the year the request was made.

Other Matters - Dr. Slocum informed the Board that state law has been changed to allow municipalities to set their own speed limit laws. He stated that he has observed cars traveling at approximately 35 mph especially on 'cut through streets' and there are relatively few speed deterrents (stop signs, lights etc.) anywhere in the city. Dr. Slocum noted that the rate of death triples once a car travels at a speed higher than 30 mph. Dr. Slocum recommends that the Board consider supporting a decrease in the City speed limit to 25 mph. Dr. Blair stated that he is not sure how much of an impact a statement from the Board of Health would carry for this issue; he felt that it is likely that the decision will rest with the City Council.

Meeting adjourned: 8:37 pm