

**Newburyport Board of Health Meeting  
September 21, 2017**

Date of Approval: 11/9/2017

**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  
Ron Beauregard, Tobacco Coalition  
Patricia McAlarney, Note Taker

**Call to Order:** Dr. Blair called the meeting called to order at 7:05 p.m.

**Approval of Minutes:** Motion to approve the Minutes of the Board of Health meeting on July 20, 2017 was made by Dr. Sam Merabi ; seconded by Dr. Robert Slocum. Votes to approve: 2; votes opposed - none. Minutes were approved as submitted.

**Energy, Recycle and Sustainability - Molly Ettenborough**

- Household Hazardous Waste Day was held this past Saturday at DPS on Perry Way. The event which was held in conjunction with West Newbury was busy and well attended.
- The Recycle IQ Program is going well. There have been a few complaints from residents concerned with having their recycling bins looked into but once the residents are educated about the program they seem to understand the purpose of the program. The recycling staff tries to be mindful of resident's privacy as they conduct inspections.
- Anti-Idle Law - A few residents have suggested the City adopt an Anti-Idling Ordinance to reduce pollution. The schools have already adopted this as a general practice. Ms. Ettenborough has discussed this with the Mayor who recommends that this issue be put before the City Council. The Board expressed agreement that this is not an issue that they will pursue at this time.
- The City's Solid Waste Contract is due to expire in June 2018. Contract preparations have begun along with Amesbury and Merrimac. Ms. Ettenborough is currently drafting the request for bids and she intends to distribute them in early November. Since this contract is directly under the purview of the Board of Health, Director Giacalone noted that he would be interested in attending the meetings with Ms. Ettenborough. He stated that he is particularly interested in any regulations related to mandatory recycling by food establishments. The Board discussed that the City's Solid Waste Hauler regulations will be further discussed especially as it pertains to mandatory recycling

The current solid waste contract allows residents to dispose of three barrels or five kitchen size bags-- if this is reduced to two barrels, the City would qualify for special points from DEP and it would reduce the overall hauler cost to the City. The Recycling staff has conducted an unofficial survey of trash collection which indicates that most residents put out one barrel per week. In the business district, companies are allowed to utilize city pick up; although it would be preferable if the companies hired their own solid waste contractors. Ms. Ettenborough will pose the question to Mello as to what the cost would be for an 'extra barrel pick up per week' or to purchase 'extra' bags that would be

paid in advance for extra pick up. An alternative would be for the City to adopt a Pay as You Throw system but it is not likely that this would be a feasible alternative at this time.

### **Tobacco Regulations - Ron Beauregard**

Copies of the proposed changes to Tobacco Regulations were distributed to the Board Members. The changes are as follows:

- **Section 7:** Mr. Beauregard informed the Board that within the Coalition all of the other communities have adopted these provisions and have found enforcement to go smoothly. The FDA has prohibited flavored cigarettes for many years, however, cigars are not covered by this prohibition. In Newburyport there are not too many retailers that offer these flavored tobacco products. The purpose of the changed regulation is to reduce attraction in an open environment to teenagers. This is considered a restriction (not a ban) because sale of flavored cigars will be allowed within retail tobacco stores (i.e. stores that do not allow entry to customers under age of 19, no food products may be sold there and products that are sold are primarily related to tobacco.) Mr. Beauregard does not anticipate any retail tobacco stores to come into existence in Newburyport.
- **Expanded definition of “tobacco products”** - Initially the terminology in the regulation was “nicotine delivery product” it is now considered more effective to refer to all of these products as “tobacco products” Even the “no nicotine” products are frequently found to contain some minimal amount of nicotine.
- **Section 4.4.013** would prohibit any new tobacco establishments to be within 500 feet of a school. The Board noted that there are no establishments within 500 feet of any school in Newburyport and regulations prohibit the issuance of any new tobacco permits in the City. Mr. Beauregard noted that typically a tobacco permit ‘follows’ the business owner, not the physical location/facility. Mr. Beauregard stated that adoption of this regulation would, at worst, be superfluous.
- **Cigar Pricing** - Section 4.5.001 The recommended changes would close a loophole and would be easier to enforce. The change is intended to capture the cheap cigars (Double Diamonds, Golden Flower, etc.) The new language is simpler and increases the price-point of cigars: Single cigars may be sold at \$2.50 or higher and two or more cigars must be sold at \$5 or higher.
- **Section 4.3.003** - Mr. Beauregard recommends that the last sentence in the section be eliminated since other parts of the section require that the buyer’s age be verified by the seller. Mr. Beauregard recommends that the section be changed to require that anyone under the age of 40 be required to show identification/proof of age. The state requires an age of 27; however, it is possible for some individuals who are younger than 19 to appear to be over the age of 27; using an age of 40 is a more clear distinction. He further suggests that signage noting that “Identification is required for anyone who appears under the age of 40” be mandatory. The fine for selling tobacco to anyone under 19 would remain the same: \$200 for first violation, \$250 for second violation issued within 36 months of the first violation; and \$300 for a third violation. Mr. Beauregard will find out whether there is an age stipulated for carding individuals for the purchase of alcohol.

**Motion:** A motion to hold a public meeting to consider the proposed change to the Tobacco Regulations at the October 19, 2017 meeting was made by Dr. Merabi and seconded by Dr. Slocum. All in favor - 3; opposed - 0.

Director Giacalone stated that a public meeting notice will be posted in the newspaper, and notification letters will be sent to all Tobacco Permit Holders.

**Tobacco Control - Participating Municipality Agreement** - The Participating Municipality Agreement for Tobacco Control expires at the end of this fiscal year. A renewal of the Agreement was signed by the Chairman of the Board and by Mr. Beauregard. One new town (Chelmsford) is to be added to the Coalition, however, Groveland and Georgetown will no longer be included because of state requirements. The state requires that 40% of communities in the Coalition must be considered "Communities of Need" (as defined by poverty level, percentage of residents covered by Mass Health, percentage of high smoking rates.) In our Coalition, the communities of need include: Haverhill, Salisbury, Methuen, Dracut, Chelmsford, and Billerica.

**Proposed Ordinance to Ban Smoking at the Tot Lot and Area around the Fountain on Inn Street.** The Board discussed the proposal that had been forwarded to them by City Council. The Board agreed that Director Giacalone will contact Councilor Eigerman and express the Board's decision that they are in agreement with the discouragement of smoking in and around the Inn Street playground.

**State Law regarding Smoking in Public Places** - Mr. Beauregard explained that Section 17 of the MGL "prohibits smoking in public places." This refers to non-private place (ie train stations, stores etc.) There is a provision under 270 that if smoke from the outside of an establishment is able to migrate to an indoor public space (such as a public building, or a common hallway within an apartment complex), smoking shall be prohibited in that outside area. Mr. Beauregard explained that if smoke migrates into a residential living area (ie apartment), smoking in that outside area is NOT prohibited (since the smoke did not migrate into a common hallway, which can be considered a 'workplace.')

**Flu Clinics – Director Giacalone:** A copy of the dates of Flu Clinics that will be offered by the Health Department were provided to Board Members. The Clinics will be managed by the Public Health Nurse from Hamilton and will be assisted by two Newburyport nurses that have worked at city flu clinics in the past.

**MAVEN Report – Director Giacalone** - A report of communicable diseases reported in Newburyport for the prior month was provided to the Board of Health.

**Food Establishments – Director Giacalone:**

- West Row Cafe expects to open for business in November
- Riverwalk Brewery is relocating and the prior location will be taken up by a producer of Mead known as "Bear Brewery." The owner has been challenging the requirements of the Health Department, specifically disputing the need for a hand sink and a three compartment sink at the establishment.
- Riverside Cafe - Pest control reports have been favorable and no further sanitation issues have been noted or reported.
- Agave - The City Food Inspector, Chris Webb, inspected the establishment after the Department received a report of rodent on the premises. An increase in pest control management was enforced. No further issues/reports have been received.
- Famous Pizza - It is believed that no liquor license is being pursued for this location.
- Szechuan Taste - The previous owners vacated the premises without prior notice to the Department. To date, the Health Department has not received any inquiries or permit applications for this location.

- Two ice cream shops have opened in town: Harbor Creamery on Pleasant Street and Hodgies' on Low Street.
- Leo's Pizza had a grill fire today. The restaurant was ordered closed until the grill is professionally serviced and properly cleaned.

**Housing Issues:**

- The abandoned house at 288 Water Street is being purchased and will be demolished within the next few weeks.
- The Department was called to inspect the residence of an elderly gentleman at James Steam Mill who has limited mobility and is primarily bedridden. The Health Director was successful in convincing the gentleman to seek hospitalization but cannot force him to get long term care.

**Motion to adjourn** made by Dr. Slocum; seconded by Dr. Merabi. 8:29 pm