

**Newburyport Board of Health Meeting
January 16, 2014**

Date of Approval: 3/20/2014

Attendees:

*Chairperson of the Board: Dr. Robin Blair
Board Member: Dr. Susan Beluk
Board Member: Patricia Lawrence
City Health Director: Robert Bracey
Energy & Recycle Coordinator: Molly Ettenborough
Note Taker: Patricia McAlarney*

Call to Order: 7:00 PM – Dr. Blair called the meeting to order.

Approval of Minutes: Dr. Beluk moved to approve the Minutes of the December 19, 2013. The motion was seconded by Dr. Blair. All members voted in favor of approval; no votes opposed. Minutes of December 19, 2013 were approved.

Health Chairman Announcements: None

Public Comments: None

Energy and Recycling Coordinator Update – Molly Ettenborough:

- ^ Foundry Square – Molly Ettenborough reported that a possible solution has been identified for the trash collection issue at the Foundry Square condominium. Municipal trash collection could be offered to the Foundry if the Association is willing to sign a waiver releasing the City from liability for any damage caused to the (private) roads by the trash trucks. A draft of the waiver will be reviewed by City Solicitors before presentation to the Foundry. Trash barrels would be stored inside the Foundry each week until the date of pick up. Molly Ettenborough explained to the Board that determination of which condominiums in the city qualify for municipal trash collection is based on various factors including 'grandfathering' and City Zoning. Director, Robert Bracey, explained that the State Housing Code states that trash must be collected, but does not specify whether it is a private or municipal responsibility. Molly Ettenborough stated that she will forward a copy of the City Ordinance and the proposed waiver of liability for the Board to review prior to the next meeting.
- ^ Molly Ettenborough informed the Board that she has contacted Department of Public Services to have the dumpsters removed from the location on Toppans Lane where they have resided since the “One Lucky Guy Road Race” in November.
- ^ The issue of plastic bags in Newburyport has become increasingly contentious. The alliance supporting a ban on plastic bags has hired North Winds Strategies to further their cause and Surf Riders International has contacted Molly

Ettenborough to state their support for the initiative. The ban would apply to thin, single use, 'poly' bags commonly used at grocery stores. These thin bags are especially problematic when they enter the residential recycling system since they jam the recycling machinery; they also cause littering problems because they are so lightweight that they can easily become airborne. Molly Ettenborough stated that the Mayor prefers not to have plastic bags banned in the City but prefers instead to provide disincentive for the use of bags by having retailers charge a fee to customers for each bag they provide. Banning of plastic bags would require a system of monitoring and enforcement. Director, Robert Bracey stated that if the City were to adopt a ban on plastic bags as a Board of Health Regulation, the Health Department would have to enforce the rule and violations could be cause for revocation of a Food Establishment's Permit to Operate.

Weights & Measures: Director, Robert Bracey, stated that there have been no issues associated with weights and measures for gas stations or retailers; everything is going well.

Regional Animal Control Services: Director, Robert Bracey, reported that the regionalization of services, which includes West Newbury, is going smoothly. A second 'on-call' person is due to begin in the next week or two. Calls from the West Newbury Police Department will go directly to the Animal Control Officer, Matt Lipinski, who will handle the call or, if he is not on-call, dispatch the call to the "on-call" staff member. If Matt Lipinski is not on duty, the Police Department would contact the Newburyport Health Department and the Office Manager, Patti McAlarney, would dispatch the appropriate on-call person. Currently, only West Newbury and Newburyport are included in the regional services. There has been some preliminary discussion about adding Amesbury and Salisbury to the regionalization; however, this is not currently being pursued. Director Bracey informed the Board that he will keep them apprised of any progress or changes to the current status. There was discussion among the Board as to whether Animal Control Services rightly belongs under the purview of the Health Department or whether it should be under the Police Department since it is a public safety issue. Director Bracey noted that the structure of Animal Control Services varies among communities. He estimated that in approximately 60% of communities Animal Control falls under the Police Department since many ACO's are licensed to carry firearms (due, in part, to rabies concerns) and because ACOs often serve a dual function as Animal Inspector.

Public Health Nursing – Director Bracey reported that the Flu Clinic Season is winding down but there are still a few walk-ins for flu vaccines each week. The Department anticipates rolling out the Shingles Vaccine Program within the next few weeks. Director Bracey indicated that he would like to propose a future discussion with the Board concerning charging a nominal (\$5) fee for vaccines. He also stated that the fee could be waived for persons that donate a non-perishable food item for the local food pantry. He noted that this strategy was used very successfully with the Health Department in Stoneham, MA. There was

some discussion about individuals that may have difficulty affording either the fee or the donated food item. Director Bracey noted that as the annual supply of flu vaccine supplied by the state decreases, it may be necessary for the Health Department to privately purchase additional vaccine. Charging a small fee would help to pay for these purchases.

Health Department Website: Director, Robert Bracey, informed the Board that the Health Department Staff is working diligently to expand and update the information included on the Health Department section of the City's new website.

Snow Removal Enforcement: Discussion ensued among the Board concerning whether enforcement of the City's Ordinance regarding Sidewalk Snow Removal should be under the purview of the Board of Health. Director Bracey informed the Board that he had engaged in recent discussions with the Director of Policy and Administration, Peter Lombardi, and had reminded Mr. Lombardi that the Board of Health had neither the staff nor the resources to enforce the snow removal ordinance. Mr. Bracey also stated that he is frequently able to handle snow removal complaints by calling the establishment and informing them of the requirement that the sidewalks be maintained free of snow.

The Board made a motion to: *Move to advise that the Health Director draft a letter to the Mayor on behalf of the Board of Health stating that sidewalk snow removal should not be under the purview of the Board of Health.*

The motion was seconded. Robin Blair, Susan Beluk and Patricia Lawrence voted in favor of the motion. There were no opposing votes. The motion was passed.

Food Protection -

- ⤴ Oreganos – Director Bracey stated that Food Inspector, Chris Webb, had successfully completed the required six inspections of the establishment. Pest control is being well managed and the owner is being cooperative. Based on Mr. Webb's findings, Director Bracey recommended that the Board of Health allow the inspections to revert back to the usual schedule of bi-annual food inspections for this establishment.
- ⤴ Director Bracey informed that Board that during the cold weather this past month there were a couple of food establishments that had pipes burst. These situations were all inspected and there were no residual issues.
- ⤴ Famous Pizza – Director Bracey informed the Board that he had met with neighbors of Famous Pizza a year and half ago to discuss their concerns which included: overflowing dumpsters, employees defecating outside the establishment, loud noises and loud condensers. Chris Webb conducted a noise level reading which was found to be within normal limits. Suggestions were made to Famous Pizza to help reduce and/or deflect the noise; and these tactics were completed. Councilor, Thomas O'Brien, has conducted several meetings. Mayor Holaday asked City Departments to review their files for any information related to Famous Pizza. A review of Health Department files revealed that there was no Site Plan on file; as a result of this, Director Bracey required that Famous Pizza

submit 'As Built' plans for review. The As Built plans and proposed plans were not to his satisfaction. The plan included a drive-through section and addition of two rental units on the second floor of the establishment. In addition, the Attorney for Famous Pizza, Mark Janos, submitted a request to reclaim a small parcel of land adjacent to the establishment. City Council reviewed the proposal and denied the request to acquire the land. The Health Department advised Famous Pizza that March 1 would be the deadline for them to comply with City Code; specifically Famous Pizza would need to either add a bathroom or reduce the number of seats in the establishment. Mayor Holaday indicated that if Famous Pizza removes the seats and acts in good faith of compliance that she would possibly support Famous Pizza's request for new construction. Director Bracey stated that he, too, would support the new construction since this would also allow the Health Department to include on the Food Permit certain restrictions that would address some of the neighbor's prior concerns.

Tobacco Control:

Director Bracey presented 18 applications for Renewal of Permit to Sell Tobacco Products and recommended that the Board approve them all for renewal. He explained that all of the applicants were in good standing with the Health Department and that none of the establishments have any outstanding citations for tobacco violations (He specifically stated that the three establishments that had previously been noted to have been in violation by the FDA had been issued *warnings*, not citations.) Director Bracey also explained that if the Board approves regulations that prohibit pharmacies from selling tobacco products, those establishments would lose their permit when the regulation takes effect (possibly July 1, 2013.)

Director Bracey suggested that if new regulations are implemented, the application to Sell Tobacco Products should include a sign-off by other Departments so that the Health Department would be aware if any establishment was not in good standing with other City Departments. This procedure would allow the Health Department to hold the Tobacco Permit to a higher standard. Patricia Lawrence questioned whether the application process needs to be spelled out in the regulation. Director Bracey suggested that this question be posed to the City Solicitor when they review the proposed regulation

The Board requested that the following changes be made to the proposed Regulations:

- DELETE: 4.2.010 MINOR: Any individual who is under the age of eighteen (18).
- CHANGE: all reference of "18" years of age to "19" years of age.
- Section 3: TOBACCO AND NICOTINE DELIVERY PRODUCT SALES
Delete not being the minor's parent or legal guardian.
- Delete: in 4.3.002(3) "minors"

- ADD: in section 4.4.0.0 - Issuance and holding of a Tobacco and Nicotine Delivery Product Sales Permit shall be conditioned on an applicant's on-going compliance with current Massachusetts Department of Revenue requirements and policies and local City requirements including, but not limited to, minimum retail prices of tobacco products.
- ADD: in section 4.4.0.1 – If Permit Holder is found to be in violation after a Hearing before the Board of Health, the violator shall receive:
- ADD: in section 4.4.012 - No permit renewal will be denied based on the requirements of this subsection "or the subsection 14.001" except any permit holder who has failed to renew his/her permit within 30 days of expiration will be treated as a first-time permit applicant.
- ADD: in section 14.001 -
- ADD: in section 14.001 (a) – a requirement that the establishment will have to undergo mandatory education and an appearance before the Board of Health.
- CHANGE: in section 14.001 (b)change the word "may" to "shall"
- ADD: in section 14.001(c)change the word "may" to "shall" and add "with potential for revocation of the permit"
- DELETE: section 14.001 (d)

Director Bracey suggested that Director of Tobacco Control, Ron Beauregard, be asked to provide a definition of "mandatory education" which could be included in the regulations.

Director Bracey suggested that no change be made to the wording in section 16.002(c) since it applies to second hand smoke in workplaces.

It was decided by the Board that a Public Hearing would be scheduled for March 20, 2014 which would allow sufficient time to post public notice. If the Board has votes to approve new regulations, they will take effect July 1, 2014.

Meeting adjourned 8:53 pm.