

**Newburyport Board of Health Meeting  
January 21, 2016**

**Date of Approval: 2/28/2016**

**Attendees:**

*Chairperson of the Board: Dr. Robin Blair  
Board Member: Dr. Daryl Colden  
City Health Director: Frank Giacalone  
Note Taker: Patricia McAlarney*

**Call to Order:** Meeting called to order at 7:07 p.m.

**Review of Board of Health Meeting Minutes** – Review and approval of the minutes from the November meeting was tabled until the next meeting

**Report of Health Department Activities** - The Director's Newsletter was distributed to provide a summary of topics to be discussed at the meeting.

**Public Health Nurse Update:** Pam Palombo has been working on several MAVEN cases this month. She has also provided several CPR training classes for City Employees and for the general public. Training was provided to staff of the Department of Public Services last week. The Health Department will pay for the certification cards for this class but going forward the cost of cards and equipment will be charged to the Department receiving the CPR/First Aid training. The Board of Health had previously voted that members of the general public ages 14 - 17 years of age would be offered CPR classes at no cost, residents 17 years and older would be charged \$15 per class which would cover the cost of certification cards and training supplies. All funds collected are deposited into the Medical Revolving Account.

Ms. Palombo has also been involved with grants supporting several projects such as "Nourishing the North Shore (NNS)". The NNS Committee is working to have repairs made to the greenhouse located at Opportunity Works and are working toward getting additional grants. Ms. Palombo will be offering a series of eight cooking and nutrition classes for senior citizens. At year end, she seized an opportunity to obtain a large quantity of vegetables for the local food pantry by participating in gleaning the fields at a local farm.

March is Addiction Prevention Awareness Month. Director Giacalone met with the Director of Youth Services and discussed getting the Health Department involved with the Beacon Coalition to support efforts to combat substance abuse. Board Member Daryl Colden stated that he would like to see the Health Department address the opioid issue and indicated that he will provide Director Giacalone with contact information for two local resources: Gary Gastman, the new Director of the Link House and Mike Guidi a physician who established a program in Haverhill that engages youth and focuses on avoidance of drugs and substance abuse. Dr. Guidi lectures about opiate addiction. Newburyport has seen a rise in opiate overdoses. In 2012 there was one overdose and in 2014 there were five (These figures were from state data of overdoses). Newburyport

Police Officers now routinely carry Narcan which is critical in saving lives in the event of an overdose. The Board noted that additional work on education and prevention of substance abuse is needed. Director Giacalone noted that the Mass. Health Officers' Association (MHOA) is working on developing an Opioid Tool Kit for use by local Public Health Officials. It was noted that the Health Department should strive to coordinate efforts with the police, hospital and the Mass. Department of Public Health. Director Giacalone will determine what affiliations already exist through the Beacon Coalition and Youth Services and will report back to the Board.

**Weights & Measures** - The City's Sealer of Weights & Measures, Jimmy Cassidy, has resigned his position. He had completed his 2015 inspections. The Director is working with the Mayor's Office to consider referring the City's inspections to the State as was done before Mr. Cassidy was hired. Director Giacalone has spoken with Charles Carroll, the State Director of the Division of Standards and expects to receive additional information from him this week. It appears that there will be little variation in net cost/income using State Inspectors versus Jimmy Cassidy.

**Body Art Regulations** - The Health Department was approached by an individual who is interested in obtaining a license to perform micropigmentation/permanent make-up in Newburyport. She is currently licensed and practices in the state of Maine. There are currently no licensed body art practitioners in the City, however, the City does have body art regulations in place that were voted upon in 2005 along with all other Board of Health regulations. Director Giacalone explained that in reviewing the City's Body Art Regulations he determined that while they were originally based upon the state regulations, there are some sections of the regulation that appear to be missing and need to be updated to be more comprehensive and better aligned with the state regulations. Director Giacalone and Board Member, Daryl Colden both expressed that micropigmentation differs from traditional tattooing in that it is essentially medical in nature and should be performed under the supervision of a medical doctor. Board Member, Daryl Colden also noted that the Body Art Regulations should stipulate that parental consent is required for anyone under 18 years of age who wishes to be tattooed, sterile/aseptic technique must be followed, etc. Director Giacalone indicated that these specifications appear to be adequately covered in the model state regulations which are fairly strict and include parental consent for minors, and requirements for the physical facility which includes a hand sink at each workstation, ultrasonic and autoclave machinery that must be tested monthly. Inspection of body art establishments would be performed by Director Giacalone who has experience enforcing the State model regulations and inspecting tattoo establishments in Saugus, MA.

Although the City does have regulations for tattooing, Director Giacalone recommends that they also be 'tightened up' with regard to credentialing of the Body Art Practitioner. Director Giacalone noted that he was unable to find any State specifications for credentials or certifications that body art practitioners must possess in order to perform either micropigmentation or tattooing. And, there is no State Board that oversees Body Art Practices/Practitioners. Director Giacalone noted that Saugus and other communities require tattoo artists to pass a college level course in Anatomy and Physiology. There is also a skin course provided by the Quincy Health Department that is comprehensive and specifically geared to the art of tattooing which is accepted by many Boards of Health as

a certification for tattoo practitioners. There are also many online courses available but they are of varying quality.

The Board voted

**Motion made by Daryl Colden to separate out permanent make-up/micropigmentation from the tattooing regulations and the former will need to be under the supervision or guidance of a medical provider.**

**The regulation shall be amended to ban micropigmentation. The definition of ‘tattooing’ will be amended to state, “does not include micropigmentation.” The regulation will stipulate that Piercing Practitioners must pass a college level Anatomy & Physiology course. Tattoo Practitioners will be required to pass either a college level Anatomy & Physiology course or pass an equivalent course that is approved by the Board of Health.**

**Banning Smoking at Library** - The Board noted that this proposal should come from City Council, rather than the Board of Health. It will be very difficult for the Health Department to enforce the ban since the Director would have to actually observe the violation. The Board suggested that the Library could install signs that may serve as a deterrent; the signs may also state that violators may be subject to fines. Director Giacalone will contact City Councilor Cronin and inform him that the Board of Health prefers that the proposal originate from City Council. If Councilor Cronin would like to discuss the issue with the Board of Health prior to the Council meeting, he may attend the next Board of Health meeting. If Councilor Cronin doesn't want the proposal to originate from the City Council then Councilor Cronin, the Board of Health and the Health Director will need to discuss the issue further.

**Tobacco Permit for Mobil Station at 76 Storey Ave** - The owner/manager of the Mobil Station at 76 Storey Ave came to the Health Department with plans to renovate the facility. In the course of plan review, it was noted that a few years ago Circle K purchased all of the Mobil on the Run franchises. There has been no change of ownership of the franchisee and therefore the Board determined that the Mobil Station/Circle K has had no change to their City permits (food permit and tobacco permit remain in effect, as usual)

**Tobacco Permit for Shell Station on 75 Storey Ave.** – The Shell Station at 75 Storey Ave. is being forced to relocate to an adjacent property. A CVS is being built at the previous (current) location. Since there is no change in ownership of the Shell station, the Board determined that the store's tobacco permit is not affected.

**Tobacco Permit for the Mobil Station on High Street** - Director Giacalone received email from the owner of the Mobil Station on High Street. The station was audited by the FDA in a sting operation in January when a store employee was observed selling tobacco to a minor. The Health Department cannot apply the City's penalty for tobacco sale to a minor. The FDA requested a copy of the local Board of Health Tobacco License, however, the 2016 permits have not yet been released, pending tonight's Board of Health meeting. The Mobil Station's renewal application had been submitted in a complete and timely manner prior to the December 31 expiration date. The owner of the Mobil Station

has informed the Health Department that as a result of this violation, they no longer wish to sell tobacco products. They are interested in obtaining their 2016 permit for the sole purpose of demonstrating to the FDA that the store was duly licensed as of the date of violation. After that date the establishment plans to permanently cease selling tobacco. The owner indicated that she understood that once the permit is given up it cannot be re-issued. The Health Director will issue a letter re-affirming that the Mobil Station is voluntarily relinquishing their tobacco permit; and will issue an effective date of February 29, 2016 for the expiration of the tobacco license to allow the owners to change their mind, if they so choose. The Board decided that in the future, routine renewal applications for tobacco permits do not need to be brought before the Board; renewals will be handled by the Health Department.

**Tobacco Regulations** - Director Giacalone informed the Board of a discrepancy in City Regulations regarding permitting dates for the annual issuance of tobacco permits. The current regulations state that tobacco permits will renew on a fiscal year basis rather than the (correct) calendar year schedule. A motion was made by Board Member, Daryl Colden, to change the permitting schedule for renewal of tobacco sales' permits from fiscal to annual - The motion was seconded by Dr. Blair. Two votes in favor, none opposed. Motion passed.

**Tobacco Control** - A request was received from a City resident for the Board to reconsider raising the age at which tobacco may be purchased. While the Board was in favor of increasing the purchase age for tobacco to 21 years of age, they held multiple hearings over the course of several months to hear public statements and faced strong opposition. The issue "boiled down to fiscal health vs physical health". However, by raising age to 19, the Board of Health did help to get tobacco out of high schools. Also the Board's action to reduce the number of tobacco permits through attrition will help. There is a bill currently under consideration by the state that may soon increase the purchase age of tobacco to age 21. The Board determined that at this time they will not change the local regulation and will instead wait to hear the outcome of the State's decision regarding increasing the purchase age for tobacco to age 21.

**Flavored Tobacco Ban** - Other towns have adopted a total ban on the sale of electronic cigarettes and of flavored tobacco regardless of the purchaser's age because the flavored tobacco products are being packaged and marketed in a way that appeals to children. Director Giacalone will provide the Board with a list of towns that have banned these products so the Board can evaluate for trends. Director Giacalone will invite the Director of Tobacco Control, Ron Beauregard, to attend a future Board meeting to address this issue.

**Housing Violation at 9-11 Garden Street** - The owner of 9-11 Garden Street has completed many of the required repairs to his property. Some exterior repairs are still incomplete, but approximately 80-90% of work is finished. Director Giacalone inspected the interior of the property and found no existing violations. The tenants continue to reside at the residence. The roof still needs to be repaired; however, the Building Department has also inspected the property and agrees that it is within compliance limits.

**Housing Violation at 17 Moseley Ave** - The owner of 17 Moseley Ave. is an elderly woman who, some years ago, allowed a man to live at the residence in exchange for

doing household chores. The male proceeded to create unsanitary conditions at the home which was recently discovered by the Fire Department when they responded to an emergency call regarding a burst pipe. For the past year (approximately) the owner has not resided at the property and continues to live at a nursing facility in Amesbury. The occupant who created the unsanitary condition has also moved out of the residence and is not expected to be allowed back to the property. The pastor of the owner's church organized a group of volunteers that has worked diligently to clean the property. A realtor is involved in trying to sell the property.

**Housing Violation at 26 Charles Street** - The City worked with the Attorney General's Office and the case went before the court. The owner was given until the end of March to make the necessary repairs and bring the property into compliance. The Building Department is involved in this case and repairs are underway.

**Synthetic Marijuana Regulations** - The Board discussed the need to update the current regulation to remove any incorrect reference to Town of Attleboro (from which our Regulations were modeled) and replace the references to City of Newburyport. The Board also discussed whether the fines for sale of synthetic marijuana should remain as currently stated or to mimic the monetary fines associated with violation of tobacco regulations.

**Food Establishment / Inspectional Service Fee:** The current system of food establishments paying food inspectors directly for inspectional services is under consideration for revision. Under the proposed new system the City would assume responsibility for charging establishments for the cost of inspections; likely as an annual fee at the time of permit renewal. At the November Board of Health meeting, Interim Health Director Joe Tabbi proposed an annual inspection fee of \$200 for all food establishments. Mr. Tabbi based the \$200 amount on an assumed bi-annual routine inspection at \$65 per inspection, and two re-inspections at \$35/inspection. Director Giacalone explained to the Board that \$200 may be excessive since not all establishments require a re-inspection following a routine inspection since they may not have any critical violations. Food Inspector Kristin Shaw reported that last year she performed 140 routine inspections and only 27 re-inspections. Food Consultants, Kristin Shaw and Chris Webb, both agree that the current billing situation should be changed so that food establishments will no longer pay them directly. Having the City assume responsibility for assessing inspection fees will improve accounting and transparency.

Director Giacalone told the Board that in his work as a food inspector he has observed different methods of assigning inspection fees. The City of Beverly pays inspectors on a "per inspection basis." Middleton charges according to the type of food establishment - for example an inspection of a retail store is paid at \$45 per inspection, and a high risk establishment such as a nursing home would be paid at \$100. Most communities charge the establishment based on a flat rate. The time required for inspections varies depending on the type of food establishment. Inspection of a simple gas station that sells hot dogs, for example, would take approximately a half-hour. Restaurant inspections can take one to two hours. And convenience stores take less time. Dr. Blair suggested that the Board consider charging establishments \$150 that would cover two inspections per year. If multiple re-inspections are necessary, the establishment would be fined.

Kristin Shaw indicated that she had been instructed by the prior Director to only inspect some of the smaller retail stores once per year; however, Chris Webb indicated that he inspects all establishments twice per year. Director Giacalone is currently researching the history and pattern of number of inspections per year for the retail establishments. Some communities assign a higher fee for retail establishments that have a greater square footage (ie over 10,000 square feet.)

Newburyport currently charges food establishments \$100 for a food permit, with restaurants being charged an additional \$5 per seat (with a maximum fee of \$550.)

Director Giacalone suggests that an additional permit fee of \$165 for each food establishment should be sufficient to cover the inspection costs. This would cover two routine inspections at \$65 per inspection and one re-inspection annually. Since not all inspections lead to a re-inspection, the \$165 fee should suffice.

Director Giacalone will complete his review of the City's inspection history and will devise a proposal for an inspectional fee structure and mechanism for depositing the inspection fees (ie to which account) and for paying the City Food Inspectors (ie from either a personnel line item or from a revolving account.) The proposal will be submitted to the Board so that a vote may be taken at the next meeting.

**Board of Health Meeting Schedule** – The Board discussed changing the schedule of meetings from the third Thursday of each month to an alternative Thursday but determined the schedule will remain unchanged. Meetings will continue to be held on the third Thursday of each month.

**Site Plan Review - Hillside Center for Sustainable Living** – Site Plans for the proposed Hillside Center for Sustainable Living were reviewed by the Board for informational purposes only.

**Board Members** –The Board discussed the upcoming renewal of Patricia Lawrence's appointment to the Board and decided that Director Giacalone would submit a letter of support to the Mayor encouraging reappointment of Ms. Lawrence.

**Budget Narratives** – Director Giacalone informed the Board that he is presently working on establishing goals for next year. The three goals he is submitting with the narratives are:

- Increased involvement with Youth Services
- Establishment of a Hoarding Task Force
- Increased automation and information sharing by the Health Department

**Board of Health Guidelines** – Director Giacalone will provide the Board Members with electronic copies of the guidelines which have proven to be helpful resources for Boards of Health.

**Meeting adjourned at 8:25 pm**