

**CITY OF GLOUCESTER
Board of Health
Minutes of the Meeting
June 6, 2019
5:30 p.m.
City Hall Annex
3 Pond Road
Gloucester, MA 01930**

Board members present: Chairperson: Dr. Richard Sagall; Vice–Chairperson: Robert Harris; Frederick Cowan; Claudia Schweitzer; and Joe Rosa. Present from the Health Department: Health Director, Karin Carroll; Assistant Director: Max Schenk; Food Inspector: Rosalie Nicasastro; Health Inspector: Marcus Costonis; North Shore Tobacco Control Program Director: Joyce Redford. Other City Representatives: Regional Prevention Director: Amy Epstein; Building Inspector: Bill Sanborn; Zoning Enforcement Officer: Greg Cefalo; and Ward 4 City Councilor: Valerie Gilman.

The meeting started at 5:33 p.m.

This meeting was recorded by audio in accordance with State Open Meeting Law.

PUBLIC ORAL COMMUNICATION

There was no “Public Oral Communication”.

APPROVAL OF MINUTES

MOTION by Mr. Rosa to approve the Gloucester Board of Health minutes of the meeting of May 2nd, 2019 as written. **Seconded** by Mr. Harris. **CARRIED.** *Mr. Cowan and Ms. Schweitzer abstained.*

The Septic Review Subcommittee Minutes of May 30, 2019 was continued until the July meeting.

STANDING COMMITTEE REPORTS

The Septic Review Subcommittee report of May 30, 2019 was continued to the July meeting.

NEW BUSINESS

Attorney Nora R. Adukonis, representing Sandpiper Bakery, 65 Middle Street, Appeal of Health Department Order Dated April 18, 2019:

Mr. Schenk recused himself from the agenda item since he has a relationship with the tenant on the third floor. *Ms. Schweitzer* stated that she is an acquaintance of the tenants on the second floor.

Attorney Adukonis was not present.

Ms. Carroll stated that there was an appeal by Sandpiper Bakery to be heard tonight but they requested a stay until the July meeting. She stated that the bakery is trying to work through some of the issues of the order.

Margaret Russell of 65 Middle Street appeared before the board. *Ms. Russell* stated Sandpiper Bakery is a tenant in Condominium Unit 1. *Ms. Russell* stated that she owns and resides in unit 2 and the odor and noise coming into her residence from the Sandpiper Bakery is unhealthy. She stated that the noise starts at 6:15 a.m. She described and in one case demonstrated the source of the noise inherent in the operation of this bakery. She stated that both sides have hired lawyers. She stated that she does not want the bakery to close, she just wants noise abatement and the proper exhaust system installed. She stated that she had a licensed engineer come and look at the system and he told her that it was an inadequate system for volume of the bakery's production. She stated that she offered to financially help install some insulation but the bakery refused her offer. She stated that she doesn't think she should have to wait another month for this to be addressed.

Ms. Carroll stated that the code violations were for improper ventilation for odor and moisture and the lack of a rubber mat to assist in the noise issue.

Mr. Costonis stated that he has witnessed the noise on one visit. He stated that there are steps that can be taken to alleviate some of the tenants concerns and it has been almost 48 days and they have not heard about the compliance issues from the bakery regarding the Class 2 hood.

Ms. Nicastro asked if the noise from the sink has subsided since the owner told her it was fixed and the owner also told her they do not start the baking process until 7 a.m. *Ms. Russell* responded that she has not noticed any change from the noise from the sink.

The previous citation issued 14 days ago by *Mr. Costonis* was discussed. Due to the time elapsed, a new citation will be issued giving the bakery 7 days to address the non-compliance. The board discussed the appeal and will determine if satisfactory progress has been made. This will be decided at a special meeting on June 20, 2019.

Changes to the Gloucester Board of Health “Regulation to Ensure the Sanitary and Safe Operation of Adult-Use Marijuana Establishments and the Sale of the Adult-Use Marijuana” (Rev. 11/1/2018):

Additions to Section: “Statement of Purpose and Authority” “Whereas G.L. c. 128, §§116 - 123 permits the growing of hemp for commercial purposes and designates the Massachusetts Department of Agricultural Resources (MDAR) as the regulatory authority; and”

“Whereas MDAR requires that until the agency enacts regulations, hemp products grown and processed in Massachusetts must obtain a license issued by MDAR unless otherwise authorized by federal law, and these products must be tested by an approved Massachusetts independent laboratory or a Federally approved laboratory to determine that the THC and pesticide levels are within the standards set by MDAR; and”

“Therefore, in furtherance of its mission to protect, promote and preserve the health and well-being of all Gloucester residents and pursuant to the authority granted to it pursuant to G. L. c. 111, §31, the Gloucester Board of Health enacts a Regulation to Ensure the Sanitary and Safe Operation of Adult Use Marijuana Establishments and the sale of Adult-Use Marijuana and Cannabidiol.”

Additions to Section: “2. Definitions.”

“Colocated Marijuana Operations (CMO): An entity operating under both and RMD registration pursuant to 935 CMR 501.000: Medical Use of Marijuana, and under at least one Marijuana Establishment license pursuant to 935 CMR 500.000: Adult Use of Marijuana, on the same premise. Colocated marijuana operations pertain to cultivation, product manufacturing, and retail, but not any other adult-use license.”

“Edible Hemp/CBD products: A hemp or CBD product that is to be consumed by humans by eating or drinking.”

“Hemp: The plant of the genus cannabis and any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol (THC) concentration that does not exceed 0.3 per cent on a dry weight basis or per volume or weight of marijuana product or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content, or any product labelled as “Hemp” with the exception of products labelled “hulled hemp seeds”, “hemp seed protein” and “hemp seed oil”.”

“Registered Marijuana Dispensary (RMD): An entity formerly and validly registered under 105 CMR 725.000: Implementation of and Act for the Humanitarian Medical Use of Marijuana or currently and validly registered under 935 CMR 501.100, that acquired, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.”

Addition of Section: "10. CBD/Hemp Products and Sales"

1. No person shall sell CBD or Hemp infused food products unless approved by the Gloucester Board of Health. Approval requires the following: a. MDAR license or equivalent. b. Independent laboratory testing that confirms that the CBD or hemp contains less than 0.3 per cent THC and is pesticide free. c. Written plan for policies and procedures for adding product to food. d. Posting on menu or menu board disclosing that CBD or hemp has been added to the food product.

2. No person shall sell Edible Hemp/CBD products to a person under the minimum legal sales age of 21.

3. All Self Service Displays of Edible Hemp/CBD products are prohibited.

4. All Vending Machine sales of Edible Hemp/CBD products are prohibited.

The Board of Health discussed the proposed draft amendments to the Adult Use Marijuana Regulations.

Chairperson Sagall asked if anyone from the public would like to speak.

Councilor Gilman appeared before the board. She stated *Ms. Carroll* and herself went to the CCC public hearing in Boston and spoke and one of the derivatives of that meeting was that the CDC was going to regulate gummies and flavored products. *Ms. Carroll* stated that the CDC only regulates gummies with THC, not CBD.

Mr. Cowan asked if the Health Department is funded now for compliance checks for marijuana products. *Ms. Carroll* stated that we are not funded at this point for compliance checks. Councilor Gilman offered to lobby for that funding.

Ms. Redford stated that the board may want to look into a permit fee for CBD products so they are aware who is selling the products. *Mrs. Nicastro* concurred. The board agreed to add a permit fee.

The board agreed to put the draft amended regulations on the July agenda for a vote.

Update Presented by Amy Epstein, Regional Prevention Director, on Prevention Programming:

Amy Epstein, Regional Prevention Director appeared before the board. She stated that they have put together a youth provider network and their first big event will be on June 20, 2019 at 9 a.m. at Cruiseport and it will be Balancing Adverse Childhood Experiences (ACEs) with Hope.

She stated that they have been working with the schools to take confiscated vape items and putting them in shadow boxes to give to pediatricians to educate children and parents.

Discussion Regarding Vaping in Gloucester Public Schools Jeff Destino, Asst Principal, O'Maley Innovation Middle School Graham Epple, Health Educator:

Graham Epple and Jeff Destino appeared before the board. They presented board members with a presentation on the newly implemented vaping diversion program at the O'Maley Middle School. They stated that since they observed and have modified a successful Vaping Diversion Program developed in Belmont the number of students caught with vapes has gone down since the previous year. They stated that the program is an alternative to a five-day out of school suspension where instead students are suspended for one day and then meet with teachers and counselors and are educated on the dangers of vaping. Their plan too, is to modify this Vaping Diversion Program for use eventually in the Elementary Schools.

Ms. Gilman thanked them for developing the program and stated that they need to educate the parents on the issue and hold the young adults culpable for buying the products for underage children.

Ms. Epstein commented that vapes sold to Middle School students are three times as expensive as those sold to underage High School students.

Ms. Redford stated that the industry is the culprit for children becoming addicted to vape products and education with the youth is the way to address the issue.

The board thanked Mr. Epple and Mr. Destino for their presentation.

NSDJ Real Estate, LLC, Represented by Demoura/Smith LLC, Appeal of Building Department Enforcement of Chapter 13 of the City Code of Ordinances Regarding Noise at 159 East Main Street (Map 63 / Lot 26):

Mr. Schenk stated that this item is an appeal on the process that was followed on a noise complaint at 159 East Main Street.

Greg Cefalo, Zoning Inspector appeared before the board. He asked if abutters were notified of the public Board of Health meeting. *Mr. Schenk* responded that is not required in the appeal process.

Attorney Ken Demoura appeared before the board on behalf of the owner. He stated that he will speak on the process of noise complaint but they will still appeal the claims that were on the violation in the first place.

Mr. Schenk stated that the way the appeal was written was as to how the notification was made, so if they wanted to appeal the initial complaint of the sound level that would have to be a separate appeal.

Mr. Demoura stated that the notification letter does not comply with Section 13-15A of the noise ordinance. He stated that the letter was not sent by certified mail.

Mr. Sanborn provided the certified letter that was never picked up by the applicant. The applicant verified that the address on the letter was accurate. *Mr. Demoura* stated that he will withdraw that part of the appeal.

Mr. Demoura stated that they did not receive notice on what the violations were or any corrective suggestions. *Mr. Sanborn* stated that the violations are in the report. *Mr. Demoura* stated that that report was not attached to the violation or the order that they are appealing.

The board agreed to have the Building Department reissue the violation.

Appeal by David Hanna, Manager, 7-Eleven Store #34413A (44-50 Bass Ave,) of the Enforcement Order Dated May 7, 2019 for Violation of Section D(1) of the Board of Health Regulation "Tobacco and Nicotine Delivery Product Sales to Minors Prohibited":

Mr. Schenk stated that the owner of the business wanted to be on the agenda to discuss the possibility of expunging the violation from his record. He was not appealing that the violation had occurred.

The store owner was not present.

MOTION by Ms. Schweitzer to uphold the violation enforcement as it stands. **Seconded** by Mr. Harris. **CARRIED.**

OLD BUSINESS

Update: Appeal by Ramona Faherty of Health Department Enforcement Orders for Properties Located at 3 Smith Street and 45 Rocky Neck Avenue:

The property owner was not present.

Mr. Schenk stated that an enforcement order was sent back in April and since then the Health Department has done some investigating and discovered that Ms. Faherty is not in violation under the Massachusetts ordinance. He recommended that the Board of Health modify the Certificate of Rental Dwelling regulation to state that anyone in need of a new rental certificate would have to have vertical balusters no more than 4.5 inches apart for any railing outside or inside for safety. The board agreed to make that modification. *Mr. Schenk* acknowledged that this change will affect many rental dwellings.

MONTHLY REPORTS

Presented by Max Schenk

The following “Monthly Report” was given to Board members.

[May Monthly Report](#)

Mr. Schenk thanked the public health nurse for her assistance in the Hepatitis A outbreak in Rockport.

Mr. Schenk stated that the Compact grant was approved for \$84,000 for regional senior transportation in support of the Mass in Motion grant.

Mr. Schenk stated that they have been monitoring the water quality at the beaches more closely since the numbers have been elevated. They are trying to find the source of the pollution in Good Harbor Creek.

Chairperson Sagall stated that they have missed the Animal Control report two months in a row now. *Mr. Schenk* stated that he will make sure it is included next month.

CONCERNS OF BOARD MEMBERS

Fluoridation in Water- *Chairperson Sagall* stated that the group that is anti-fluoride in drinking water has been attending the Conservation Committee meetings in Gloucester and Rockport. He stated that Rockport Conservation Committee passed a resolution coming out against fluoride in drinking water based on environmental contamination. He stated that the Rockport Board of Health is in favor of fluoridation in drinking water. He stated in his testimony before Gloucester’s Conservation Commission that he has done extensive research and could not find any evidence of contamination from fluoride in the environment.

Next Regular Monthly Meeting Board of Health- The next Board of Health monthly meeting will be on July 11, 2019 at the CATA Training Room at 5:30 p.m.

MOTION by Mr. Rosa to adjourn.
Seconded by Mr. Harris. **CARRIED.**
MEETING ADJOURNED – 7:36 p.m.

Respectfully submitted,

Bobbi Orlando

Accepted by:

Richard Sagall, Chairperson

Documents Referenced:

June 2019 Board of Health Agenda

May 2, 2019 Board of Health Minutes

May 2019 Monthly Department Reports