

**CITY OF GLOUCESTER
Board of Health
Minutes of the Meeting
September 8th , 2016
6:30 p.m.
City Hall Annex
3 Pond Road
Gloucester, MA 01930**

Board members present: Chairperson: Dr. Richard Sagall; Vice–Chairperson: Robert Harris; Frederick Cowan; Joe Rosa and Claudia Schweitzer. Present from the Health Department: Public Health Director: Karin Carroll; Assistant Director: Max Schenk; Food Inspector: Rosalie Nicaastro; Health Inspector: Marcus Costonis.

This meeting is being 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. Cowan to approve the Gloucester Board of Health Septic Subcommittee minutes of the meeting of August 3rd , 2016 as written. **Seconded** by Dr. Sagall. **CARRIED.** Mr. Rosa **abstained.**

MOTION by Ms. Schweitzer to approve the Gloucester Board of Health minutes of the meeting of August 3rd , 2016 as written. **Seconded** by Mr. Cowan. **CARRIED.**

NEW BUSINESS

Public Hearing – Adoption of the Document “Food Code – 2013” issued by the Department of Health and Human Services, Public Health Service, Food and Drug Administration-

Mr. Schenk stated that this is an initiative that is occurring region-wide and it is part of a grant that Sharon Cameron in Peabody had applied for to update the 1999 State Food Code so that there is more uniformity throughout the cities.

Ms. Nicaastro stated that the change will not be much of a burden for the Health Department. She stated that there are changes but her and Mr. Costonis are attending a training on September 12, 2016 to learn about the changes with the new Food Code. She reviewed some of the changes with board members.

Mr. Cowan asked if other surrounding communities have adopted the new food code. *Mr. Schenk* responded that most surrounding communities are planning on adopting or have adopted the new code to go into effect by December 1, 2016.

Chairperson Sagall asked if there was anyone in the audience that would like to speak for or against adopting the new 2013 Food Code. There was no one.

The board closed the public hearing on the issue and agreed to vote on the issue at the next public meeting.

Vote to Temporarily Suspend Enforcement of Section 8.2 of the Board of Health Onsite Wastewater Regulation, Specifically for the Operations and Maintenance Requirement for the Presby Treatment System –

Mr. Harris stated that the Board of Health is proposing to do away with the operations and maintenance requirement for plans proposed with the Presby Water Treatment system because there is nothing to inspect on these systems. *Chairperson Sagall* stated that they decided to make this a temporary suspension so residents are not forced to pay unnecessary maintenance fees on their Presby systems.

Mr. Cowan stated that he has not been assured that the Presby system is as fail safe as the manufacturer implies and the system is not as sophisticated as other systems that can be tested. He stated that for the duration of time that the Presby system does not have a testing port nothing useful would come from requiring testing and too many people would take advantage of the system if the manufacturer does not modify the system.

The board discussed how the Presby system works. *Ms. Schweitzer* suggested that they discuss their concerns with the engineers that design the plans. *Mr. Schenk* suggested that the board brings this back to the Septic Review Subcommittee to further look into the issue. The board agreed to bring the issue back to the Septic Review Subcommittee.

MOTION by Mr. Cowan to continue the item for the purposes of continuing the discussion of the Septic Review Subcommittee meeting and to temporarily suspend the requirement of testing on the Presby water treatment systems. **Seconded** by Mr. Harris. **CARRIED.**

Per Section 4(3)(d) of the Gloucester Board of Health Regulation "Smoking in Workplaces and Public Places" a Request by Tyler Palm, Palm Ventures LLC, to Permit Smoking in a Retail Tobacco Store Located at 242 Main Street, Unit 3 (Map 13 / Lot 12-3) -

Mr. Schenk stated that Mr. Palm contacted the Health Department regarding the permission of smoking electronic cigarettes in a vape store. He stated that in discussion with Joyce Redford she stated that this would not be allowed however the Gloucester Workplace Regulation, section 4(3)(d), does state that "smoking is also hereby prohibited in retail tobacco stores that have not received permission from the Gloucester Board of Health to permit smoking in their establishments."

Tyler Palm of 7 Archelas Place, West Newbury appeared before the board. He stated that the reason he wants to permit e-cigarette use in the store because he does not want people going out on the street because they could potentially bother other people on the street. He stated that more than 90% of his income will be from e-cigarette products and will not sell any other tobacco products other than e-cigarette items and possibly some soda in a refrigerator. He stated that he would like to offer his customers a sample of products for a fee.

Mr. Cowan asked if it would be a club environment. *Mr. Palm* responded that you call it that; it would be like a smoking bar but with only electronic cigarettes but nothing would be lit on fire; you're essentially exhaling moisture.

Mr. Cowan asked if food and beverages would be served. *Mr. Palm* responded that he might have soda for sale.

Mr. Cowan asked if customers would come with their own equipment and purchase capsules to put into their own devices. *Mr. Palm* responded that it is not capsules but liquid they would put into a device and customers would have their own disposable mouth piece that the store would provide so it is sanitary.

Mr. Harris asked how large the space was and how many employees Mr. Palm would have working there.

Mr. Palm responded that the store is about 750 square feet and has two rooms with a bathroom and he would be the only employee until he can afford to hire more.

Mr. Cowan asked how he would handle security if he was the only one there. *Mr. Palm* responded that he would require an id before people entered the establishment.

Mr. Cowan stated that he is concerned with people under 21 entering the business.

Mr. Palm stated that all samples will have no nicotine in them. *Ms. Carroll* stated that there is some confusion whether there is or isn't any nicotine in products that state there is zero nicotine in them. *Chairperson Sagall* stated that there is the same confusion regarding many different supplements sold as well.

Mr. Palm stated that all his products will come from California where there are rules in place, not from China.

Chairperson Sagall asked if there was a Massachusetts tobacco tax on the items. *Mr. Palm* responded that none of the items he sells will require a Massachusetts tobacco tax just the standard sales tax.

Mr. Cowan stated that he would like to see the establishment.

The board suggested that *Mr. Palm* inquire to get objective certified data on the zero nicotine products that he plans on selling for sampling.

Ms. Nicastro asked about the sanitary procedures for the establishments. *Mr. Palm* reviewed his sanitary procedure for his products with the board.

Rick Firey of 6 Carriage Lane, South Hamilton appeared before the board. He stated that he runs a business incubator called Invented Labs in Amesbury. He stated that his business helps young adults with learning differences get out of their parents house and create businesses. He stated that his company is helping *Mr. Palm* with his business.

OLD BUSINESS

Update - Complaint Regarding Tobacco Compliance Inspection – Jeff's Variety 71 Eastern Avenue-

Mr. Schenk stated that he received a phone call from *Ms. Redford*, who has been deputized by the Board of Health as a special agent so that she can perform tobacco compliant inspections in the community. He stated that it appears that there was a confrontation during an inspection at Jeff's Variety on Monday, June 13, 2016 when *Ms. Redford* and an FDA inspector were performing an inspection. He stated that *Ms. Redford* asked to gain access behind the counter and *Mr. Tarr* refused her access citing concern for the security of personal property and other expensive items such as lottery tickets.

Ms. Carroll stated that they need to pick up and finish the inspection because it is not complete. She stated that *Ms. Redford* needs to go behind the counter to see the cigars and the pricing and to check for singles and other tobacco products. She stated that it is common practice for *Ms. Redford* to go behind the counter and she was not singling out *Mr. Tarr's* establishment. She stated that *Ms. Redford* is an agent of the Board of Health so she has all the inspection authority of a board member. She stated that a Health Department staff person will accompany *Ms. Redford* to finish the inspection.

Ms. Schweitzer stated that *Mr. Tarr* should be apprised that *Ms. Redford* is allowed to go behind the counter. *Ms. Redford* responded that she is happy to stop by and discuss the issue with *Mr. Tarr*.

Mr. Cowan stated that *Mr. Tarr* was concerned because of a previous incident where items were stolen from behind the counter. *Ms. Carroll* responded that *Mr. Tarr* does not have to leave the area while the

inspection is occurring. She stated that many times store owners will hide single cigars under the counter and Ms. Redford needs to check for that and she needs to take random samples not samples that are handed to her by a store owner. She stated that she will confirm Ms. Redford's protocol for all stores.

2 Gardner Terrace (Map 110 / Lot 50) Margaret Botticello, Owner

Update to: Failure to comply with Health Department order re: trash in yard.

Mr. Schenk stated that this is an ongoing issue where the property has become very enclosed and cluttered. He stated that there is no food garbage but other items including overgrown plants and construction materials. He stated that the Health Department has received complaints from neighbors about rats coming from the subject property. A neighbor had bird feeders that have since been removed and the rats seem to have disappeared. He stated that the Health Department has been out at the site several times and *Mr. Costonis* took some photographs today for the board to review. He stated that there were some initial improvements but not much has been done since. He stated that if they had definitive proof that the rats were coming from the property he would recommend that they move forward more aggressively however there is no definitive evidence that the property is providing harborage for the rats.

Mr. Cowan asked if the walkway was clear. *Mr. Costonis* responded that the walkway was open to 28 inches and is now down to 18 inches and emergency personnel would have difficulty getting a gurney into the house. He stated that he has not seen any evidence of rats at the property.

MOTION by *Mr. Cowan* that the Gloucester Board of Health dispense the enforcement order for 2 Gardner Terrace. **Seconded** by *Mr. Harris*. **CARRIED.**

Updates: North Shore Health Project's Harm Reduction Program Update-

Ms. Carroll stated that she met with Susan Coviello because they did need an extension on vacating the Healthy Gloucester Collaborative from their current location. She stated that *Ms. Coviello* was very accommodating and said that things are moving along slowly.

Chairperson Sagall requested that this item appear under the "Director's Report" in the future.

MONTHLY REPORTS

Presented by Karin Carroll & Max Schenk

Mr. Schenk submitted the following "Monthly Report" to Board members.



Adobe Acrobat
Document

Ms. Carroll stated that they just obtained the letter of award from the Stop grant. *Mr. Schenk* stated that the Stop Act grant will assist in alcohol risk reduction. He stated that the grant is \$47,000 per year for four years. He stated that Jenna Newbegin did an amazing job working on obtaining the grant.

Ms. Carroll stated that the Health Department has been gearing up for flu season and they are planning the clinics.

CONCERNS OF BOARD MEMBERS

2 Pilot's Hill- Ms. Schweitzer asked for an update on 2 Pilot's Hill. Mr. Schenk stated that there is no update. He stated that Mr. Costonis has done site visits. He stated that there does not appear to be any inhabitants at the residence. Mr. Cowan asked if there were any taxes due at the property. Mr. Schenk responded that it is not in tax title at this time.

School Notifications From the Health Department- Mr. Harris stated that if there was any information from the Health Department that needs to go out to parents, there are folders that all elementary students take home every day and notices can be given to principals to go home with students.

Welcome Karin Carroll- The board welcomed Karin Carroll as the Public Health Director.

Grading for Restaurants- Chairperson Sagall stated that other communities have been placing restaurant grading systems for the new food code in the front windows of the establishments. The board agreed that that was a good idea and to research how other communities are using the grading system. Ms. Schweitzer asked if this would create more work for Ms. Nicastro. Ms. Schweitzer stated that she is going to the MHOA conference in October and she will ask for some information from the State at the conference.

Septic Subcommittee - Chairperson Sagall asked how much leeway the Septic Review Subcommittee should give inspectors with variances. Mr. Schenk stated that the Septic Review Subcommittee oversees property setbacks to wells and Board enforced setbacks that are above and beyond Title 5. Local upgrade approvals can be handled by the Health Department. Anything that does not fall within the regulations has to come before the board for approval.

Next Regular Monthly Meeting Board of Health- The next Board of Health monthly meeting will be on October 6, 2016 at the CATA Training Room at 5:30 p.m. Ms. Schweitzer will not be able to attend that meeting.

MOTION by Ms. Schweitzer to adjourn.
Seconded by Mr. Harris. **CARRIED.**
MEETING ADJOURNED – 8:09 p.m.

Respectfully submitted,

Bobbi Orlando

Accepted by:

Richard Sagall, Chairperson

Documents Referenced:
August 4, 2016 Board of Health Agenda
July 7, 2016 Board of Health Minutes
August 2016 Monthly Department Reports

