

Town of Concord
Board of Health

Minutes of the Meeting
January 17, 2023

PRESENT: Jill Block, MPH
Mark Haddad, Esq.
Dr. Randy Kring
Kurt Herman, PG

Melanie Dineen, Public Health Director
Karen Byrne, Senior Administrative Assistant

1. OPEN MEETING

Chairman Jill Block opened the meeting at 7:00 p.m. stating that it was held on the Zoom Platform in accordance with the Town of Concord's Policy Directive and Guidelines dated April 1, 2020, as amended. She read a brief statement outlining the meeting protocol and noted that the meeting was being recorded and available for later viewing on the Town's website. All Board votes will be taken via roll call starting with attendance. Board Members present (Block, Haddad, Herman, Kring).

2. INTRODUCTION OF NEWLY APPOINTED BOARD OF HEALTH MEMBERS

The Chair expressed her gratitude that the Board of Health had its full compliment of members and stated that she was sorry that Jim Whalen had an unexpected conflict. She took this time to provide an overview of the many issues that the Board of Health and Health Division deal with, which meant that a wide skillset of expertise was needed for this Board, and she was pleased that the appointments of Dr. Kring and Kurt Herman closed the circle in that area. Ms. Block then asked all members to briefly introduce themselves.

Jill Block, MPH stated that she had over 30 years' experience working in public health dealing with opioid misuse, youth risk behaviors and has had the opportunity to work in many communities with both the state and local public health entities to use her expertise. She was first introduced to the Concord Health Division via a Heath Concord Community Health Grant to which many things were achieved but that there was more to be done.

Mark Haddad, Esq., a corporate lawyer and partner at Foley Hoag LLP, has served on the Board of Health for nearly two terms learning a lot about the complexities dealt with in a Health Division and the issues brought before the Board of Health. He joked that to SR Admin. Karen Byrne's dismay he is best known for his editing skills of the minutes (she disagreed and welcomed any all comments).

Dr. Randy Kring, ER Physician at Emerson Hospital Emergency Department and who works very closely with former member Dr. Deborah Greene said that he was very happy to be able to join the Board at this time. He has expertise in the ER as well as teaching at UMass Medical and Maine

Medical but felt he could bring a unique perspective of the issues that he was currently seeing in the ED over the past few months with a significant increase in mental and behavioral health issues in all age groups.

Kurt Herman, PG has lived in Concord for the past 15-years noting that he has an academic background in engineering and geology with over twenty-five years' experience in the field dealing with environmental and remedial cleanup sites as well as water quality analysis. The company where he is currently working is called Gradient where he is a principal and COO, and he looks forward to contributing to some of the issues he understands the Board will be dealing with as it relates to the cleanup of the former NMI/Starmet site as well as White Pond.

The Chair said she was thrilled to have everyone present and at next month's meeting they would have the opportunity to meet Jim Whalen, CRNA who has a wide-ranging skillset as well.

3. INTRODUCTION OF NEW TOBACCO COMPLIANCE OFFICER

Public Health Director Melanie Dineen and Chair Jill Block introduced Marissa Morello, the Town's Tobacco Compliance Officer who works via a Regional Tobacco Control Grant that includes Concord, Bedford, Lexington and Wilmington.

Ms. Morello provided the Board with an overview of what her role was in educating the establishments in town (there are 14 establishments in Concord who have licenses to sell tobacco and nicotine products) for full compliance of the local and state regulations. She spent the first couple of months in late November and December visiting the facilities and ensuring that owners had proper signage, the rules and regulations, and that they understood the importance of compliance. During those visits she stated that most were very appreciate of her help and assistance. Ms. Morello said that compliance was the goal, and that Concord was in good shape.

Part of the role of the Compliance Officer is to also ensure that no one is selling tobacco products of any kind to people under the age of 21 and to conduct sting operations where a person underage goes into a store to see if they could purchase. This past weekend a sale was made to a minor from one Concord facility. State regulations require that for a first-time offense the offender pay a \$1,000 fine with a license suspension of a specific number of days to be set or voted upon by the Board of Health - no exceptions. She said that it was important to remember that the State Law that was enacted in December 2019 trumps the Town of Concord Local Regulation, whichever is more stringent.

After a lengthy discussion, knowing that it would be discussing revising its local regulations as the next agenda item, it was decided that it was necessary to take a vote on the time for license suspension specifically since that was in the new State Regulation and that the local regulation did not address license suspension after the first offense. Cheryl Sbarra, Esq. from Massachusetts Associated Health Boards reminded the Board that a permit/license was a privilege not a right but that the offender would have an opportunity, once being served the Order to Cease and Desist the Sale of Tobacco, to appeal and be heard before the Board of Health.

Mark Haddad moved that the Board of Health for the purposes of this enforcement letter set the suspension of the Sale of Tobacco/Nicotine Products for 3 consecutive business days as well as pay the fine set in the State Regulation for a first offense. Dr. Kring seconded it. All VOTED in favor. (Block, Haddad, Herman, Kring - yes; motion carried 4-0).

Ms. Morello will draft the Cease and Desist and Violation Order Letter for the Public Health Director's signature. The letter will be hand delivered and sent via Certified Mail.

The Board thanked Ms. Morello and commended her on her dedication and efforts.

4. Discussion - Current Local Tobacco Regulations vs State Regulations

In December 2019, the Board of Health tabled moving forward (after multiple public meetings and closing a contentious public hearing on a newly proposed Local Tobacco Regulation reviewed by Town Council and determined defensible in a court of law), since former Governor Baker enacted a State Tobacco Regulation that covered many of the same items in the newly proposed Concord regulation. At that time, Attorney Cheryl Sbarra (MAHB) had also reviewed it and provided much guidance to the Board. Then, the Covid-19 Pandemic hit and threw the world upside down and the Board decided to delay a final vote on the newly proposed regulation for a period of six months to see if the State Regulation would accomplish and cover the Board's intent relating to tobacco/nicotine products in Public Health. Covid-19 obviously lasted much longer than anyone could have imagined and the six months came and went several cycles.

Attorney Sbarra provided the Board with a document that incorporated the existing 2014 Local Regulation with the current State Regulations and highlighted the differences for the Board to review. After a long discussion, the consensus was since the current State Regulation met and/or exceeded what the Board was proposing in 2019 that it could simply adopt the State Regulation as its own with the caveat to include the more stringent local items in the 2014 regulation. Ms. Sbarra said that was perfectly legal and a legitimate way to move forward. She recommended that once she provided the draft to the Board it considers holding a Public Meeting even though it legally did not have to do so, but it provided transparency. The establishments affected are already having to comply with both regulations so it should not be a surprise to any of them.

This issue will be brought forth at either the February or March meeting dependent upon a quorum and legal notices published in newspaper.

5. BOARD MEMBER REPORTS

Jill Block advised the Board that she attended a meeting on PFAS (Per- and Polyfluorinated Substances) as it related to the upcoming replacement of turf fields in Concord. She said that it was very interesting and she expected that the Board of Health will be called upon to comment, recommend or take a position at this year's Town Meeting on the issue. Studies have shown that there is PFAS filtering out of the turf fields and what that means from a public health perspective. She said it was a head's up notification.

Dr. Kring said that he was pleased to hear that the Board of Health and Health Division was proposing to tackle or implement programs, discussions on mental and behavioral health issues. In the Emergency Room during the past few months, he noted that patients visiting the ER for those issues far outweighed Covid-19 and Upper Respiratory issues by far. He was not minimizing any of the other diseases, but it was clear to him this was something that communities needed to start acting upon sooner rather than later.

6. PHD & STAFF MEMBER REPORTS

Public Health Director Dineen updated the Board on a few items that the Health Division had been working on since the Board last met. She summarized the Annual Reports for both the Division and Board stating they had been submitted to the Town Manager's Office for inclusion in the Town's Annual Report. Senior Administrative Assistant Byrne has been working diligently with the Finance Department to ensure that a supplemental nursing contract be implemented in conjunction with the Great Meadows Public Health Collaboration and Public Health Nurse Katie Mayer, as well as the Weights and Measures contract with the Commonwealth of Massachusetts Division of Standards. Ms. Byrne is also working on several other contracts and agreements overseen by the Health Division. Public Health Inspector Gabrielle White has inspected well over forty properties for compliance with the Local and State Animal Regulations for submission of the "Barn Book" to the State. Environmental Health Inspector Michael Funaiole has continued to work on receiving the necessary certifications required for his position, work with our consultant Ted Doucette, PE on soil testing and plan reviews.

PHD Dineen stated that she and Chair Jill Block have been working together to create an agenda for an upcoming meeting of interested stakeholders in Town to Review Public Health Services and potentially a Town Needs Assessment focusing on public health. She reviewed a slide of the 10 Essential Public Health Services which will be used as a guide in opening the discussions as well as review current town-wide activities and brainstorm with this group regarding the Concord Community and how the Health Division and work with others to maximize efforts. That meeting is tentatively scheduled for Monday, January 23, 2023, at 141 Keyes Road.

7. BOARD CALENDAR & MINUTES

The Board reviewed the upcoming 2023 calendar and discussed how it may begin to incorporate meeting back in person with either hybrid and/or zoom options. Several tweaks were made to the calendar and Sr. Admin Karen Byrne will work on securing a meeting room and/or schedule the zoom meetings accordingly. The next regularly scheduled meeting is hybrid on February 15th dependent upon a quorum.

The minutes of the September 20, 2022, meeting were reviewed and discussed. Mark Haddad moved to APPROVE the minutes with minor edits. Jill Block seconded it. All VOTED in favor. (Motion carried 4-0).

The minutes of the November 15, 2022, meeting were reviewed and discussed. Mark Haddad moved to APPROVE the minutes with minor edits. Jill Block seconded it. All VOTED in favor. (Motion carried 4-0).

The meeting adjourned at approximately 8:45 p.m. Motion made by Mark Haddad; seconded by Dr. Kring all VOTED in favor to adjourn. (Block, Haddad, Herman, Kring; 4-0).

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Signature Page

Respectfully submitted by,

Karen M. Byrne, Senior Administrative Assistant
Concord Board of Health

Jill Block, MPH, Chair

Mark Haddad, Esq.

Dr. Randy Kring

Kurt Herman, PG