

Town of Concord  
Board of Health

Minutes of the Meeting  
Monday, May 6, 2019

PRESENT: Raymond Considine, Chairman  
Dr. Deborah Greene  
Alma Healey  
Mark Haddad  
Jill Block

Susan G. Rask, Public Health Director  
Karen M. Byrne, Administrative Assistant

OTHERS: Christopher Banthin, JD, Senior Staff Attorney, Public Health Advocacy Institute, Northeastern University of Law; Dr. Alan Woodward, former Chief Emerson Emergency Department; former Board of Health Chairman/Member

1. **Open Meeting**

The Chair opened the meeting at approximately 7:00 p.m.

2. **DISCUSSION - Tobacco Regulations/ Vaping (Continued)**

- **Proposed Changes to Existing Tobacco/Nicotine Delivery Products Regulations**

In March, Board members held a lengthy discussion with representatives from the School Department to brainstorm on strategies for including a public health educational component as part of any proposed changes to Tobacco/Nicotine Delivery Product Regulations. Chairman Considine felt it equally important to also include representatives from the Public Health Council and/or other interested medical sources where eliminating and/or curbing the use of tobacco or nicotine delivery devices was a high priority. He was pleased to welcome Christopher Banthin, J.D., Senior Staff Attorney, Public Health Advocacy Institute, Northeastern University School of Law and Dr. Alan Woodward, (former) Board of Health Chair/Member and (former) Chief of Emergency Medicine Emerson Hospital both have been instrumental over the years to move this public health topic forward. Chairman Considine asked both to speak with the Board of Health to give some framework on how it might best move forward.

Mr. Banthin offered the Board some background on his role as the Program Director of the Tobacco Control Resource Center overseeing tobacco research and policy development projects at the Public Health Advocacy Institute. Advising municipalities, state and federal lawmakers, and nongovernmental health organizations has been foremost in his fight against

the tobacco industry and what he felt was continued attempts to market to children creating an atmosphere making it easier for young people to start smoking and/or vaping.

Mr. Banthin told the Board that comprehensive tobacco regulations to restrict youth access to tobacco/vaping products had recently been passed in the towns of Needham, Ashland, Swampscott, Framingham and Somerville. He spent a significant amount of time summarizing how these towns (Needham, Ashland, Swampscott and Framingham) successfully dealt with moving forward to regulate tobacco products to Adult-Only Retail Establishments (21 and older) including menthol (combustible and vape) which in the past had been difficult to do without significant push back from retailers and the tobacco industry; he carefully laid out the differences between those regulations and the regulation put forth by the City of Somerville.

Mr. Banthin informed Board members that the City of Somerville enacted regulations that were slated to go into effect in January 2019 but were delayed due to ongoing litigation. The lawsuit came about in his opinion, because Somerville's Board of Health had taken a very different approach to curb youth access to flavored tobacco/vape products. He explained that the main component and focus of the lawsuit brought forward by Fletcher Tilton on behalf of the Coalition for Responsible Retailing was not the restriction to Adult-Only Retail Establishments but that the restrictions included all "tobacco flavored" products as well as menthol and mint. Traditional tobacco products (cigars & cigarettes) can be sold in retail.

In closing, Mr. Banthin said that his recommendation to any health board he was advising on this type of regulation would be that it was critical to move all nicotine products (flavored or otherwise) including vaping devices and traditional combustible tobacco products to Adult-Only Retail Establishments (21 and older) because to do otherwise could leave an impression that "some tobacco products were ok or safe to use" when well documented evidence to the contrary spoke for itself.

At this point, Dr. Alan Woodward, former Board of Health Chair and Director of Emergency Medicine at Emerson Hospital joined the discussion. Dr. Woodward reiterated that the Board of Health had the authority to move forward with regulations of any type it wanted relative to public health but he offered that it was the Board's duty in his opinion as the public health entity for the Town to protect the health of our residents/children and act on changing existing regulations to move with the ever changing tobacco/nicotine industries "attempt to addict our kids".

Dr. Woodward referred to data that suggested vaping nicotine was incredibly addictive and that vapers were receiving nearly 20x the amount of nicotine in one hit off of a vaping device than if they smoked a cigarette (minus known carcinogens). However studies showed that vape oil had toxins in it that affect lung health and had been shown to create many respiratory issues in patients. He also described scenarios where patients had experienced horrific withdrawals when addicted to nicotine; taking weeks to get it out of a person's system and at times hospitalization. Unfortunately, the doctor added there are not many programs in place for people addicted to vaping.

Dr. Deb Greene asked Dr. Woodward directly for a recommendation as a former Chair and ER Physician. Dr. Woodward felt strongly that all tobacco and vaping devices should be limited to Adult-Only (21 and older) retail stores.

Board members thanked Mr. Banthin and Dr. Woodward for their input and insight. Attorney Banthin offered his firm's legal expertise and support if the Board and/or Town wanted to do so; he said he would be willing to review material as well. Staff interjected that the Board could not agree to or accept this type of assistance for the without clearance from the Town Manager and Town Counsel.

Discussion continued on the vaping public health epidemic affecting the youth population at an alarming rate. Board members were clear that any regulation moved forward would most definitely address this aspect in some meaningful manner and all members were firm on that fact. Debate continued around the best approach to further restrict Youth access to all tobacco/nicotine/vape products.

Following further discussion, consensus was to ask Cheryl Sbarra to modify the current draft regulations and create two (2) separate versions: (1) Restricting all tobacco/nicotine/vape products to Adult-Only Retail Stores (21 or older) and (2) Restricting only flavored vaping materials to Adult-Only Retail Stores. Both regulations will likely include a phase out of Tobacco/Nicotine Delivery Establishment licenses to a total of ten in the Town and limit the number of Adult-Only Retail licenses to two (2) in the Town.

Dr. Greene said it was imperative that the Board have access to legal assistance moving forward whether from Town Counsel or Mr. Banthin. All agreed and directed Ms. Rask to inquire about the appropriate protocol to accept outside legal guidance and/or gaining access to Town Counsel.

This matter will continue to be discussed at future meetings.

### **3. CHAIRMAN AND BOARD MEMBER REPORTS**

Chairman Considine informed the Board that he had attended an interesting informational session held at Lincoln Town Hall about potential effects of wireless telecommunications on the human body. The speaker, Cecilia Doucette is a wireless safety advocate who has helped the State of Massachusetts to write legislation and safe-technology policy for various school districts. Ms. Doucette provided some interesting facts that would strongly suggest that the human body is adversely affected by wireless and other sources of electromagnetic fields (EMFs) (fatigue, headaches, concentration issues and memory problems to name a few). Some other potential public health concerns that were discussed had to do with the introduction of the new 5G wireless communication towers (described as 4G on steroids) mainly because FCC regulations prohibit local Towns from imposing additional conditions on an existing cell tower. (For example, an existing 4G cell tower regardless of location can be swapped out with 5G- equipment). Representatives from Lincoln, Bedford and Carlisle were also in attendance.

#### **4. STAFF REPORTS**

Public Health Director Susan Rask was excited to announce that the Concord Health Division had been awarded a 2019 CHNA 15 Collaborative Grant of \$25,000 for the project “Creating a Community Wide Youth Vaping Prevention Program”. The Towns of Concord, Bedford and Carlisle will be participating and working with public schools to create a multi-faceted community-wide vaping prevention program targeted to you and parents. The next step will be to draft an RFP to hire a consultant to oversee the project.

#### **5. BOARD CALENDAR & MINUTES**

The minutes of the February 11, 2019 meeting were reviewed and discussed. Mark Haddad moved to accept the minutes with minor edits. Dr. Greene seconded it. All VOTED in favor to approve.

The next regularly scheduled meeting is June 18, 2019.

Board members will revisit the summer meeting schedule in June due to existing conflicts with vacations, etc.

#### **6. REORGANIZATION OF THE BOARD**

Administrative Assistant Karen Byrne outlined that it was customary that the Board elect a new Chairperson in either April or May (before or after the meeting following the Annual Town Meeting). Historically, the Board of Health rotates the chairperson’s role so that each member serves twice during their tenure and it routinely coincides with a Board member fulfilling his/her first year on the Board.

In recent years, Board members have generously extended their respective role as Chair due to scheduling conflicts, inability to commit for a variety of reasons and/or delays in new members being appointed following the end of a term or resignation of a member. Ray Considine assumed the role as Chair in November 2016 and has held it ever since.

Although there were no official rules stating that each member of the Board should serve as Chairman during his/her term, Ms. Byrne said that by doing so individual Board members have an opportunity to attend the BOS Monthly Chair Breakfast Meetings which are geared towards information sharing with various Town Boards and Committees as well as a chance to perhaps glean another perspective as a member while running the meeting and/or being the lead on specific topics.

Because of the broad scope of issues the Board of Health routinely deals with, membership has traditionally been made up of residents with specialized expertise including but not limited to medical, legal, nursing and engineering. Over the past several years, that skillset has expanded to familiarity with public health policy and social services backgrounds. The goal has always been to have a diverse Board with interest to serve the Town by bringing expert knowledge in member’s respective fields while achieving a well balanced approach in public health issues of the day.

Board members thanked Mr. Considine for his enthusiasm and dedication to the Town and Public Health as well as his commitment to ensuring that a level of continuity was in place while the Board went through some growing pains as new members became more comfortable with their roles on the Public Health Board for the Town. His dependability and steady as you go attitude was paramount in moving the Prohibition of Retail Marijuana Sales Establishment Bylaw at Town Meeting in 2018.

After a brief discussion amongst members, Mark Haddad moved to nominate Dr. Deborah Greene as Board of Health Chairman for the upcoming year. Alma Healey seconded it. All VOTED in favor.

### **2229 Main Street Oversight Committee - Board of Health Liaison (Re-appointment)**

Deborah Farnsworth, Board of Health Liaison to the 2229 Main Street Committee's term expires at the end of May 2019. Ms. Farnsworth has provided the Board with critical technical expertise as its liaison to committee tasked with oversight of the decommissioning of the former Nuclear Metals site and she advised Public Health Director Rask that if the Board were inclined she would like to stay on to see the project to completion. Consensus was that Ms. Farnsworth was most knowledgeable on site and could continue to provide technical expertise and insight to the process. The Board directed staff to notify the Town Manager of its recommendation to keep Ms. Farnsworth on as its liaison.

The meeting adjourned at approximately 9:30 p.m.

Board of Health  
Signature Page  
Monday, May 6, 2019

Respectfully submitted by,

Karen M. O’Keefe Byrne, Administrative Assistant  
Concord Board of Health

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Raymond Considine, Chairman Dr. Deborah Greene

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Mark Haddad Alma Healey

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Jill Block