

## **Needham Board of Health Minutes**

**December 14, 2018, 7:00 to 9:00 AM**

Board: Edward Cosgrove, PhD, Vice Chair  
Stephen Epstein, MD, MPP, Chair; and  
Kathleen Ward Brown, ScD, Member

Staff Present: Timothy Muir McDonald, Director; Tara Gurge, Assistant Director; Maryanne Dinell; Carol Read; Diane Acosta; Dawn Stiller; Tiffney Zike; Catherine Delano

Convene: Rosemary Recreation Complex, 178 Rosemary Street, Multi-purpose Room

Guests: Tobacco Adam Ponte, attorney from Fletcher, Tilton PC, speaking for the Coalition of Responsible Retailing and the New England Repair Association; DJ Wilson, Massachusetts Municipal Association; Jabar Sassine, Owner Mobil station on Great Plain Ave; John Brenner, 7 Eleven Regional; Ford Peckham, Town Meeting Member; Hiron Patel, 7 Eleven Owner Highland Ave. Lester Hartman, Pediatrician and Needham Resident; Pam Nelson, Retailers Association; Lauren Smith, Tobacco Free Massachusetts; Denise Garlick, State Representative; John Shear, New England Retail Store Association and Needham Resident; Chris Banthin, Public Health Advocates Inc.; Ken Farbstein, NIATX Foundation

Guests: Concussion Michael Landon, Needham Baseball; David Diccio, Park & Recreation; Patricia Carey, Park and Recreation; Doug Fox Needham Junior Football

**Dr. Stephen Epstein, Chair of the Board of Health, called the meeting to order at 7:04 am.**

### **Minutes November 16**

**Dr. Cosgrove made a motion to delay approval of the November minutes until next meeting. Dr. Brown seconded. Unanimous decision to approve the November minutes at the January meeting.**

### **Staff Reports**

#### **Public Health Nurse Report – Ms. Tiffney Zike**

Ms. Zike reported that there were two dog bites in November. The Public Health Division will not be receiving new flu vaccine because of the continued monitoring of the HVAC system in the building.

Ms. Zike said that we have seen our first two cases of flu this week. Dr. Epstein noted that the efficacy of this year's vaccine is not yet known.

#### **Traveling Meals Coordinator Report – Ms. Maryanne Dinell**

Twelve clients of the Traveling Meals Program received Thanksgiving Day meals courtesy of the Needham Community Council and the Rotary Club of Needham. Christmas Day meals will be delivered courtesy of the Needham Community Council and Temple Beth Shalom's Project Ezra, making it possible for the volunteers of the Traveling Meals Program to enjoy these holidays with their families.

**Substance Abuse Coordinator Report – Ms. Catherine Delano**

Ms. Delano reported that S.A.L.S.A. (Students Advocating for Life without Substance Abuse) won a \$1000.00 award for the District Attorney's office Community Prevention competition. Ms. Delano said that the staff is changing the SPAN (Substance Prevention Alliance of Needham) action teams to be community, youth, and parent focused. The team is building on a stronger volunteer base and managing the meeting structure differently. Ms. Delano noted her team has been working closely with Needham High School to screen the film *If They Had Known* addressing issue of mixing alcohol with prescription drugs in the senior health classes. At the end of each screening there will be panel discussion to discuss the issues and answer questions.

Ms. Delano is continuing clinical work with some students through Youth and Family Services.

The Needham Housing Survey, first sent by email, will be sent out again because of a low response rate. They have been sent via U.S. mail with a postage-paid return envelope.

**Regional Substance Abuse Coordinator Report – Ms. Carol Read**

We are continuing regional work on targeting retail access to alcohol. Across the region sales to minors, as reported by police, were significant at the second regional compliance check. The detailed data will be presented to the Board at the January meeting.

Ms. Read reported that people who attended TIPS (Training for Intervention Procedures) in November participated in surveys in which they identified two main challenges: patrons who are already intoxicated when they arrive at an establishment and; sales to underage individuals. The overall goal of the Substance Abuse Prevention Collaborative (SAPC) program is to prevent sales to minors and increase road safety.

In response to a question from Dr. Cosgrove, Mr. McDonald noted that eight pouring establishments and one package store sold to underage individuals. The topic of underage alcohol service has not been addressed yet by the Select Board. Mr. McDonald said that more information is available for the Board's review. Dr. Cosgrove noted the need to develop a strategy for the Select Board to encourage an educational approach at the beginning of the compliance check program and moving to punitive later only as needed. Dr. Cosgrove requested that the Board receive the date for the Select Board hearing ahead of time so one member of the Board can attend. Mr. McDonald will provide the date.

There was some discussion about the attendance requirements for TIPS. Ms. Read said that nearly all of the 180 staff who attended the SAPC TIPS felt that in-person training should be required by the state. Dr. Brown asked about the current requirement for TIPS participation. Mr. McDonald responded that managers, assistant managers, and bartenders are required to attend training. In Needham, we require people to attend TIPS in-person rather than participate online. The Town Manager and the Select Board adopted those requirements into its alcohol regulation after urging from the Board of Health. The Public Health Division's long term goal is to have all staff who serve or sell alcohol trained in person.

Dr. Cosgrove said that if there are continued violations in pouring establishments the Board should make an extra effort to change the requirement to include all staff including wait staff. He noted the on-line course should be a refresher in the intervening years. He also mentioned working with statewide groups to advocate for mandatory training and separately work with Representative Garlick's office.

Mr. McDonald said that the upcoming January training is free for attendees. Needham needs to decide how often to offer free trainings in light of budget constraints as the cost is \$40.00 per person. The January TIPS, offered in Needham, will be funded by the Public Health Division.

The Photo Voice project was shown in conjunction with the Park and Recreation on December 1 at the Plugged in Band concert.

#### **Environmental Health Report – Ms. Tara Gurge**

Ms. Monica Pancare has been hired as a part-time inspector.

Ms. Diane Acosta is working on all the permit renewals.

The Gyro Greek restaurant pre-operation inspection is next Tuesday at 1056 Great Plain Ave.

Eat Well is going into the former UPS store location on Great Plain Ave soon but the permit process is a little behind since they have not yet submitted all the required food permit plan items.

Ms. Gurge said that she and Ms. Acosta have met with Bernhard Kirstein, the interim director of the Needham Housing Authority. He is aware of the resident moisture concerns and is prepared for mandatory recycling which will be effective in January. He will educate residents and obtain recycling receptacles for all residents.

#228 Mark Tree Rd. will be demolished soon. Forest Street, an area not served by Town sewage, has had septic installed.

Ms. Gurge provided an update on nuisance complaints. The shared dumpsters on Chapel Street have been an issue. One has required multiple visits to clear a pest problem caused by garbage bags left on the ground. Earlier this year there was a problem with the dumpster shared by CVS and the neighboring day care center.

#### **Director's Report – Mr. Timothy Muir McDonald**

Policies and procedures continue to be updated and revised.

The accessory dwelling unit proposal is in process at the Planning Department and is also being monitored by the staff as the plan is debated and revised.

#### **Safety at Home**

Mr. McDonald provided an update on Safety at Home Program (Rachel (Greenberg) Cain run jointly with Aging Services. Referrals have come from the public health nurses, social workers, and Ms. Dinell. They are looking for more clients and need new referral sources. Dr. Cosgrove suggested advertising the program on the electronic sign at the Center at the Heights and the electronic sign at the transfer station.

#### **Goals Calendar Year 2019 and Calendar Year 2020**

Mr. McDonald has incorporated the Board's November suggestions to the latest draft of the Board of Health goals. The Be Fit goal was moved to the long term section as resources have not yet been identified. The Board agreed to consider the goals for the calendar year rather than the fiscal year. **Dr.**

**Cosgrove made a motion to approve the goals with the change to calendar year. Dr. Brown seconded the motion. Upon the motion duly made and seconded, the goals for calendar year 2019 and 2010 were approved. The motion was carried. The vote was unanimous.**

#### Finance Committee/Budget Planning

Mr. McDonald said that funding for emergency preparedness remains an issue. The current Emergency Management Administrator, Rebecca Ping, was recalled to active duty with the Navy and is currently stationed in the Middle East. To provide the needed resources to support the Town's preparedness needs, the Public Health and Fire Departments will request full funding for the year. Historically the position has been housed at the Fire Department but works closely with Health and Human Services. This year Fire, Police, Public Works, and Health and Human Services will address the Finance Committee as a group to highlight the value of the emergency preparedness efforts underway and reinforce the staffing needs of the preparedness cycle (a process improvement model).

Board recommendations for obtaining the full time emergency management position:

- Dr. Epstein suggested raising the snow emergency of winter 2018 snow emergency. Lack of coordination was complicated when the high school, the official warming site for seniors, lost power on a weekend.
- Dr. Brown concurred with Dr. Epstein and also emphasized points Dr. Cosgrove made about the experience in North Andover in the recent Merrimack Valley gas explosions.
- Dr. Epstein also mentioned that the economic impact in emergencies can be significant when staff is not prepared to mobilize coverage.

There was a brief discussion about synthetic turf as the Town is discussing its replacement. Although there had been early concerns about the possibility of chemical runoff into ground water, the turf is being considered for replacement because it is no longer a good playing field. The initial annual testing was switched to every other year and the tests in fall 2018 did not find anything of concern. Mr. McDonald will add the results to the January Board packet for a final review. Ms. Gurge maintains the protocol for high school fields.

#### Tobacco

The period for public comment on the proposed tobacco regulation change ended at midnight December 13. The Board has not had time to review all the comments so there will be no votes taken until the January meeting.

Mr. McDonald noted he had attended a hearing in Somerville on December 13, where a similar regulation was proposed. Somerville voted to enact the regulation.

The Board agreed to hear from everyone who is in attendance but those who did not attend Wednesday night will be given priority. Those who attended Wednesday night will be asked to add any additional comments.

**Continuation of Tobacco Article 1 Tobacco Regulation Hearing. Dr. Cosgrove Moved to Reopen the Hearing. Dr. Brown seconded the motion. The motion was carried. The vote was unanimous. Dr. Epstein reopened the hearing at 7:57 am with a limit of three minutes for each presenter.**

**Representative Denise Garlick** spoke about her commitment to the revision of article 1. She noted that she was a former Chair of the Board of Health and that one of her first votes was to restrict the sale of

tobacco for those under the age of twenty-one. Representative Garlick said that menthol is cheap, easy to obtain, and makes e-cigarettes easier to smoke and harder to quit. Research has shown that a reduction in youth access leads to reduced smoking rates.

**John Brenner** spoke. He is the eastern Massachusetts representative for Seven Eleven stores and notes they are not corporately managed but franchised. It would provide a serious financial burden to each store at the level of \$20,000.00.

**Ford Peckham**, a member of Town Meeting spoke. He noted that he feels strongly that anything that can be done to reduce smoking should be done and he would support such a move at Town Meeting. Mr. Peckham would like to see changes to make smoking as inconvenient possible.

**John Shaer**, a representative of the New England Retail Stores Association and a Needham resident, spoke. He said that he does not support adding menthol, mint, and wintergreen to the tobacco ban. Mr. Shaer said that sales to minors do not happen. His view is that, given the retail stores compliance records, Needham youth are obtaining the products elsewhere. Mr. Shaer would like to see the Chief of Police, the Board of Health, the Board of Education, and retailers come up with a plan that would address purchase, use, and possession with an enforcement plan. Since store owners have a strong compliance record for not selling to those under 21 and, since mint, menthol, and wintergreen products are a huge part of revenues, they should not be removed as business would suffer.

**Lauren Smith**, a pediatrician and former Medical Director and Acting Commissioner of the MA Department of Public Health, spoke next. Dr. Smith also has two children in high school. Dr. Smith daily sees the onslaught of advertising aimed at youth. She said that the argument that e-cigarettes, especially menthol, are supports for those trying to quit combustibles does not hold up. There is substantial risk because the flavors are known to appeal to youth. Easing youth into using these products undermines the argument that this is risk reduction. Menthol marketing targets Hispanics, African Americans, and members of the LGBT community as well. Dr. Smith sees a structured and intentional effort on the part of the e-cigarette and tobacco companies to target youth and other communities with the intention of getting them addicted. She applauded the Board of Health for calling out these issues. Dr. Epstein asked Dr. Smith to s reference materials to the Board.

**John Schlittler**, Chief of Police in Needham, introduced himself by saying that he has two sons in high school. Chief Schlittler's concern is that a personal use and possession by-law, the one recommended by some advocates in the audience, is not enforceable from a police perspective. Individuals are not required to identify themselves, there is no recourse if they don't pay the fine, and all MA criminal courts will dismiss the cases. People understand there are no teeth in such a proposed bylaw. A juvenile cannot be successfully charged for any crime that is punishable by 6 months or less in the House of Corrections. He noted that he feels education at a younger age could help youth understand the dangers of substance use and misuse, and that his two school resource officers could assist with this effort.

**Mr. McDonald** said that he had briefly conferred with Town Counsel and that enforcement of personal use and possession laws does not fall under the powers of the Board of Health and would need to be addressed by either a general by-law at Town Meeting or through the Select Board by a warrant petition.

### **Additional Public Comments by December 12 attendees**

**Hiron Patel**, the owner of the Seven Eleven on Highland Avenue, said he has a sterling track record in not selling tobacco products to those under age 21. In his opinion Needham youth are obtaining online or maybe in other towns.

**Adam Ponte**, a lawyer from the Fletcher Tilton law firm representing the Coalition for Responsible Retailing, thanked the Board for reviewing all the materials and delaying the vote. He brought citations with him, as Dr. Epstein had requested citations in November. He referenced the Royal College of Physicians, UK 2016 report page 99, section 6.3, displacement nicotine therapy replaced by e-cigarettes. The same study on page 102 discussed quit rates using nicotine reduction therapy in conjunction with e-cigarettes. Those who followed this program have the same 66% quit rate as other forms. Mr. Ponte also noted that on page 127 “there is much lower level of risk than the use of combustible products”. Mr. Ponte recommends a task force be created to examine the regulation and the data over a short period of time. Mr. Ponte said that Mr. Patel has agreed to serve on the task force. He suggested options including restricted hours of sale or and prohibiting large window displays and/or counter advertisements.

**Dr. Lester Hartman**, a pediatrician and a Needham resident, spoke next. Dr. Hartman spoke with Attorney General Maura Healy about this proposed change and will enter their conversation into evidence. He is also entering a report that shows geneticists latest research showing that mint and menthol affect hundreds of genes.

**DJ Wilson**, of the Massachusetts Municipal Association, noted that Ms. Sbarra ran into car trouble this morning but she will be providing the Board of Health with the following study later today: “Menthol Cigarettes and the Public Health Standard—A Systematic Review” from December 2017. This is a compendium of 82 peer reviewed studies on menthol and the strength and the associations that the removal of menthol from cigarettes can provide. The study shows the removal of menthol will have public health benefits. Mr. Wilson noted that the idea of a task force was a strategy during the Tobacco 21 debate. His organization recommends avoiding a task force. Mr. Wilson said that when restaurants were required to go smoke free there was an outcry that many would go out of business but this has not proven to be the case. Advertising has always been the third rail of tobacco control at the local level since advertising, including signage, has a first amendment implication. Even voluntary advertising restrictions cannot be defended in court.

**Chris Banthin** noted that Mr. Ponte’s Royal Physicians citations are from another country as a harm reduction strategy. The Director of Tobacco Control at the US FDA noted “what I did not predict was that in 2018 youth use of e cigarettes and other end product electronics would become an epidemic.” An epidemic is not part of a harm reduction strategy, an epidemic is a public health crisis that calls for a response.

**Ken Farbstein.** Mr. Farbstein noted some discrepancies within Mr. Ponte quotes from British Royal College as somewhat irrelevant. In particular his review of page 127 because in Europe the concentration of nicotine for Juul is lower than in the US so its addictive qualities are consequently lower. He also noted that under UK codes of practice the act of smoking in advertisements is prohibited which also does not apply in the US because we do not have these prohibitions. The glamorization of e-cigarettes use advertising is commonplace in the U.S.

**Dr. Cosgrove said that he and the other Board members need to check all the references. He also noted he will do more of his own research. Dr. Cosgrove made a motion to close the hearing. Dr. Brown seconded. Upon motion duly made and seconded the Tobacco Hearing was closed at 8:35 am. The vote was unanimous.**

Mr. McDonald said that the town website will provide the January Board meeting date and time.

**Article 24 Public Hearing on Concussions began at 8:35. Dr. Epstein made a motion to open the hearing. Dr. Cosgrove seconded. Upon motion duly made and seconded the Concussion Hearing was opened.**

Ms. Zike led the discussion on the draft regulations and the comments from Wednesday night meeting. Discussion included training for volunteers and for coaches, the number of trained people required on a field at one time, and the process of for parental notification. A discussion of the notification time required to the Public Health Division was also discussed.

A new edited version will be sent to the Board ahead of the January meeting and voted on at that meeting. Once approved, a pilot will begin in the spring 2019 with a full roll out in fall 2019.

**Dr. Epstein made a motion to close the concussion hearing. The motion was seconded by Dr. Cosgrove. Upon the motion duly made and seconded the concussion hearing was closed at 8:50. The motion was carried. The Vote was unanimous.**

#### **Other Business**

A general discussion of all the proposed tobacco regulation change materials ensued. Possible phase in timelines were discussed in the event that the regulation is changed.

**Dr. Cosgrove made a motion to adjourn the meeting at 9:01 am. Dr. Brown seconded. Upon motion duly made and seconded, the meeting was adjourned at 9:02 am.**

**Next meetings is:**

**January 11 7 to 9 am, 178 Hillside Ave., Rosemary Complex**

Minutes Respectfully Submitted,  
Faith Crisley, Recording Secretary