ANDOVER BOARD OF HEALTH

Minutes
August 1, 2019, 6:00 P.M.
CD&P First Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:00 p.m. Present were Ms. Pamela Linzer, Chair, Gopala K. Dwarakanath, M.D., Clerk, and Mr. Thomas G. Carbone, Director of Public Health.

I. Appointments & Hearings

- NA

II. Approval of Minutes

- # 1 – April 8, 2019

  Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to approve the Minutes of April 8, 2019. Unanimous approval.

- #2 – May 20, 2019 – Meeting Notes (no quorum) – Ms. Linzer mentioned that she heard a summary of Merrimack College Fellow Danielle Murray’s work and Mr. LeRoy Watkins for Viking Sports, but that no action was taken due to the lack of a quorum.

  Motion by Ms. Linzer, seconded by Dr. Dwarakanath to approve the Meeting notes from May 20, 2019. Unanimous approval.

- #3 – Appointment of Staff as Agents – Mr. Carbone stated that at the beginning of each fiscal year, the Board makes appointments of Health Agents and other Staff.

  Staff Appointments - In accordance with the provisions of M.G.L.c. 111, §30, the Board of Health appoints the following persons to serve as its agents and officers for the fiscal period of July 1, 2019, through June 30, 2020, and beyond as necessary to serve at the pleasure of the Board. Said appointment is for regulatory authority only and does not guarantee any salary or fee.

  A. Permanent Staff

    Thomas G. Carbone as Director of Public Health
    Joanne Belanger, R.N. as Assistant Director of Public Health
    Carolina Bencosme as Inspector
    Patricia Crafts as Health Agent.
    Cherie Monahan, N.P., R.N. as Public Health Nurse
    Ronald Beauregard as Agent (Healthy Communities Tobacco Control Program)
    Robert Douglas as Agent (Conservation Director)
B. **Contract Staff (on call as needed)**
   - Nanci MacKenzie as Public Health Nurse
   - Sharon Thomson as Public Health Nurse
   - Rita Casper as Public Health Nurse
   - Susan Sawyer as Agent (Tewksbury Health Director)
   - Brian Lagrass as Agent (North Andover Health Director)

C. **Emergency Appointments** – In accordance with the provisions of M.G.L.c. 111, §30, the Board of Health hereby authorizes the Director of Public Health or the next person in succession to make emergency appointments of Health Agents with the verbal approval of the Chairman of the Board of Health or a member in succession, and the Town Manager. Said appointments shall expire in 7 days unless otherwise extended by the Board of Health, and shall be for emergency purposes only.

> Please note that this final section is intended to ease the use of mutual aid services from other communities in the event of an emergency requiring swift response. It transfers the Board’s authority to those responding agents and legalizes their actions. Said responding agents will be under the direction of a permanently appointed agent.

**Motion by Dr. Dwarakanath, seconded by Ms. Linzer, to approve all appointments listed above per Mr. Carbone’s Memo of July 1, 2019. Unanimous approval.**

- **#4 – Plastic & Polystyrene Bylaw Update** – Mr. Carbone informed the Board that out of approximately 150 establishments, about a third of them have been visited concerning the plastic bag and polystyrene bylaws. Health Inspector Carolina Bencosme is visiting our 30 Corporate Café establishments to get them up to date. Mr. Carbone has spoken with the Town Manager and cleared keeping on our Contractor, Rae Dick, to help finish these visits. The Staff is checking in face-to-face with the responsible parties, looking at what they have in stock and answering any questions they may have. Ms. Linzer stated that she thought the checks on the Bylaw would be done along with the regular inspections, so she was pleased that Mr. Carbone was taking that one step further. Mr. Carbone replied that he wanted the time to be spent just to solve any questions regarding the Bylaw, not about other food questions.

Mr. Carbone stated that we are now into the time where the six month waivers allowed by the Bylaw have ended. Due to a delay in implementing the Bylaw, we are still going to have a lot of establishments that are not in compliance because we have
not finished our face-to-face visits yet. He anticipates that over the next month, more establishments will be requesting waivers. Mr. Carbone reviewed the Bylaw with the Board. The bylaw allowed a six-month waiver and the intent was that establishments had six months from January 1, 2019 to exhaust all non-compliant items. Ms. Linzer stated that she had no issue with extending the time for another six months if that is what is needed. Dr. Dwarakanath stated that it was hard for all the establishments to have a face-to-face meeting with Staff in six months. He knew it would take some time since they may have had a lot of the banned items in stock. Mr. Carbone replied that, in theory, the establishments should have exhausted their stock by now. The establishments were well informed via mailings, e-mails, and newspaper articles. Ms. Linzer asked Mr. Carbone if he felt another six months was needed. Mr. Carbone replied that if the Board is still willing to see waivers he will do them month by month as we have been doing. Dr. Dwarakanath had a concern that a six-month period may be too long of a time to allow compliance. Ms. Linzer stated that they would not be giving any new waivers to establishments that have already applied, but would only consider new waivers for ones that haven’t been visited yet.

Mr. Carbone stated that Grassfields is asking for a four-month waiver for straws and utensils. He put a recommended date of September 1, 2019 because it has been the outlier from everything the Board has been doing before this. They have four cases of plastic straws to use up and a four-month extension would be out to November and that amount of time is not acceptable. Dr. Dwarakanath stated that he felt two months should be enough time for their waiver request.

*Motion by Dr. Dwarakanath, seconded by Ms. Linzer, to approve the extension of a plastic and polystyrene waiver for Grassfields to be completed by October 1, 2019. Unanimous approval.*

*Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to extend the six-month period of compliance to get the rest of the education done with the outside Contractor. Unanimous approval.*

### III. Old Business

- **#5 - Board Member Replacement** – Mr. Carbone stated that after review of Talent Bank Applicants, he spoke with a few candidates. Town Manager Andrew Flanagan told Mr. Carbone to coordinate with Ms. Linzer, and if she is comfortable with the applicant, he will make make the appointment to fill the open spot on the Board. Mr. Carbone suggested that Ms. Linzer give the preferred candidate a call and speak with her about the position. Ms. Linzer will connect and if she is satisfied with the interview, Mr. Flanagan will put her on for the appointment to the vacant seat on the Board of Health.

### IV. Subdivision Definitive Plans

- **N/A**
V. **Septic System Variances/Local Upgrade Approval**

- **#6 – 82 Greenwood Road** – LUA to allow SAS to be 15’ from a Foundation, 20’ Required; SAS to be 6’ from a lot line, 10’ Required (Affirm Director’s Administrative Approval) – Mr. Carbone explained that this was an LUA he approved and that he just needed the Board to affirm his decision.

  *Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to affirm the Director’s administrative approval of the LUA to allow the SAS to be 15’ from a foundation where 20’ is required, and allow the SAS to be 6’ from a lot line where 10’ is required at 82 Greenwood Road. Unanimous approval.*

- **#7 – 7 Old School House Road** – LUA to allow SAS to be 4’ above the SHWT, 5’ required. (Affirm Director’s Administrative Approval) – Mr. Carbone explained that this was an LUA he approved and the Board needed to affirm his decision.

  *Motion by Ms. Linzer, seconded by Dr. Dwarakanath, to affirm the Director’s administrative approval of the LUA to allow the SAS to be 4’ above the SHWT where 5’ is required at 7 Old School House Road. Unanimous approval.*

- **#8 – 20 Sheridan Road** – LUA to allow SAS to be 3’ above the SHWT, 4’ Required – Mr. Carbone explained that the LUA is needed because the sewer line inside the house is under the basement and a pump would be needed if full compliance was met. Mr. Carbone recommended the Board approve the LUA.

  *Motion by Dr. Dwarakanath, seconded by Ms. Linzer to approve the LUA to allow the SAS to be 3’ above the SHWT, where 4’ is required at 20 Sheridan Road. Unanimous approval.*

VI. **Staff Reports**

A. **#9 - Director’s Reports:**

- **CBD Discussion (Not on Agenda)** – Ms. Linzer asked to discuss CBD and recent discoveries that Mr. Carbone has made concerning CBD businesses. There is a business currently open in Ipswich and Newburyport that is considering locating in Andover. The use of CBD is legal so there is not a lot from a public health standpoint that can be done. Mr. Carbone spoke with the Building Inspector for Zoning and was told that this would be considered a Retail store. After meeting with the proponent it became clearer as to what they want to do. This company carries edibles such as gummies, which are not allowed; MDPH has issued an advisory that states that the FDA doesn’t approve CBD as a food additive, so it cannot be added to food of any kind. They have lip balms, creams and pods for vaping. Mr. Carbone spoke with Ron Beauregard, Director of the Healthy Communities Tobacco Control Program, about the issue with the vaping pods. Since they have vaping products, Mr. Beauregard is of the opinion they would have to get a Tobacco License because the Board regulates the delivery device, i.e. electronic pen, and the liquid in the cartridge whether or not it
contains nicotine. Mr. Carbone has been having conversations with Town Counsel to make sure the Board is doing things correctly.

Mr. Carbone reached out to the Health Directors in the Ipswich and Newburyport Health Departments for some information about the establishment. The Director in Ipswich said their Tobacco Regulations are not written like ours, so they don’t cover vaping. He then contacted the Newburyport Director and their Board of Health ruled that this company needed to have a Retail Tobacco Sales License in order to sell the vaping products, but Newburyport has a cap on how many Retail Tobacco Licenses can be granted, and there are none available.

Ms. Linzer had concerns that there are no real regulations to refer to. Customers don’t know if the product they are getting contains THC because there are no labeling requirements for ingredients. Mr. Carbone stated that this company had engaged a nurse to advise clients on the best product for their health needs. As a nurse, Ms. Linzer sees problems in the workplace because patients come in with CDB products they want the nurses to use, and the nurses do not want to administer them because they are not labeled and the ingredients are unknown. Mr. Carbone stated that distinguishing if a product is edible or not is also a concern due to products such as pills or oils that are intended to be ingested.

Dr. Dwarakanath asked about the involvement of Town Counsel in the Board’s decisions. Mr. Carbone explained that he has been having conversations with Town Counsel about this. The Board may be able to issue a moratorium on the sale of all CBD products in the community. Some things, such as cosmetics are legal but the Board could possibly narrow it down to consumables and edibles based on the FDA argument. Mr. Carbone asked the Board Members if they would like to have a further conversation at the next BOH meeting that may include some official action. Ms. Linzer stated that she wanted Andover to have the safest CBD products. With issuing a moratorium, the Board could prevent the opening of a business until there is a chance to get some regulations in place on this issue. There is a future ahead for CDB products and she would just like to make sure they are good products that are sold safely. Mr. Carbone stated that he will share the Board’s concerns with Town Counsel and will inform the Board on what his suggestions are.

- **Important Dates:**
  - August 19, 2019 at 6 p.m. - Board of Health Meeting
  - September 16, 2019 at 6 p.m. – Board of Health Meeting
  - October 12 to 20, 2019 – Director’s Vacation
  - October 21, 2019 – Board of Health Meeting

B. **#10 – Community Health Reports for May and June, 2019**- The Community Health Reports for May and June, 2019 were for informational purposes only.
C. #11 – Environmental Health Reports for May and June 2019 – The Environmental Health Reports for May and June, 2019 were for informational purposes only.

VII. Board Member Reports

- N/A

VIII. Adjournment

*Motion by Dr. Dwarakanath, seconded by Ms. Linzer, to adjourn at 6:40 p.m. Unanimous approval.*

Per the New Open Meeting Law, the following is a list of the documents that were either distributed to the Andover Board of Health before the meeting in a packet, or at the meeting.

3. May 20, 2019 Meeting Notes (no quorum)
4. Memo from Mr. Carbone to the BOH, dated 7/1/2019 listing the Annual Staff Appointments for the July 1, 2019 to June 30, 2020 fiscal year.
5. Memo from Mr. Carbone to the BOH with an update on the Polystyrene Bylaw.
7. Memo from Mr. Carbone concerning LUA requests from 82 Greenwood Rd., 7 Old School House Rd. and 20 Sheridan Rd.