

**CITY OF GLOUCESTER
Board of Health
Minutes of the Meeting
April 4, 2019
5:30 p.m.
City Hall Annex
3 Pond Road
Gloucester, MA 01930**

Board members present: Chairperson: Dr. Richard Sagall; Joe Rosa; and Claudia Schweitzer. Present from the Health Department: Health Director, Karin Carroll; Assistant Director: Max Schenk. Absent: Frederick Cowan and Vice-Chairperson: Robert Harris.

The meeting started at 5:30 p.m.

This meeting was recorded by audio in accordance with State Open Meeting Law.

PUBLIC ORAL COMMUNICATION

There was no "Public Oral Communication".

APPROVAL OF MINUTES

The Board of Health tabled the Gloucester Board of Health minutes of the meeting of March 7th, 2019 due to lack of a quorum.

The Board of Health tabled the Gloucester Board of Health Septic Review Subcommittee minutes of the meeting of March 22nd, 2019 due to lack of a quorum.

STANDING COMMITTEE REPORTS

The Board of Health tabled the Gloucester Board of Health Septic Review Subcommittee report of the meeting of March 22nd, 2019 due to lack of a quorum.

NEW BUSINESS

Proposed Changes to the Gloucester Board of Health "Regulation to Ensure the Sanitary and Safe Operation of Adult-Use Marijuana Establishments and the Sale of the Adult-Use Marijuana" (Rev. 11/1/2018):

Cannabidiol (CBD) based products-

- Limit the age of purchase to 21

- Per MGL 128, Section 118, require Massachusetts Department of Agriculture license for processing hemp in food to ensure CBD oils are hemp-based and containing no tetrahydrocannabinol (THC)
- Require any establishment selling CBD products to obtain the appropriate Massachusetts Department of Agriculture license.

Ms. Carroll stated that they are seeing more and more CBD products and the CDC has been going back and forth as to who regulates these items. She stated that they were recently asked if a pizza shop could put CBD in pizza. She stated that the Massachusetts Department of Agriculture regulates all hemp products and anytime that hemp is being processed a permit must be obtained from that department. She stated that Gloucester does not currently have an age limit on purchasing CBD products. She stated that the advice from the City Solicitor was to err on the side of caution.

Mr. Rosa stated that this level of proposed regulation is warranted; CBD is claimed to be bioactive.

Ms. Carroll stated that she would get some more information and the board agreed to discuss the item again at the next Board of Health meeting.

Proposed Changes to the Gloucester Board of Health "Regulation Restricting the Sale of Tobacco Products" (Rev. 5/1/19):

Ms. Carroll stated that at a previous meeting they discussed capping the number of tobacco licenses in Gloucester. The board discussed the discrepancy in the number of licenses that there is in Gloucester. *Mr. Schenk* stated that he will look into the discrepancy and the item will be on the agenda for the next meeting.

OLD BUSINESS

Appeal by Ramona Faherty of Health Department Enforcement Orders for Properties Located at 3 Smith Street and 45 Rocky Neck Avenue. Atty Michael J. Faherty representing.-

Mr. Schenk stated that this issue was on the last meeting's agenda and he sent an email that he thought was the current email but it was not the correct address and Mr. Faherty did not receive the letter. He stated that there is a provision in the State Sanitary Code that allows vertical balusters on railings now. He gave a background of the allowance for square footage in a bedroom as well. He stated that the Health Department stands behind their enforcement for the provisions for the railing and the baluster requirements.

Ramona, Brendan, and Michael Faherty of 83 Mount Pleasant Avenue appeared before the board. *Mr. Michael Faherty* stated that the letters that the Board of Health sent on October 31, 2018 and December 1, 2018 were not written as enforcement letters. He stated that the letter stated that the issue would be referred to the Board of Health and does not include any

enforcement action. He stated that the claim that they ignored Mr. Costonis is not true and he has an affidavit from his son outlining his communications with Mr. Costonis. He stated that his son spoke with Mr. Costonis on December 12. He stated that his son told Mr. Costonis at that time that he would research the State Building and Sanitary Codes and get back to him. He stated that his son left a voicemail for Mr. Costonis around December 15 and he did not hear back. He stated that they felt they had dealt with the issue at that time and then they received a letter on February 22, 2019 and filed an appeal within seven days of that letter.

Mr. Michael Faherty stated that there are two codes: the Building Code and the Sanitary Code and that the Building Code deals with structures, buildings, etc and they clearly have jurisdiction over the stairway. He stated that in 1990, they applied for permits to expand the third floor and the Building Inspector at the time came to the property and said there were problems with the roof and they had the fixed the roof and had the third floor converted into an apartment space and obtained an occupancy permit. He stated that the International Code states that the Building Code is clearly responsible for means of egress. He stated that the State Building Code trumps the Sanitary Code. He referenced CMR 102.6, and stated that the legal occupancy of any structure existing on the adoption of the Building Code shall be permitted to continue without change except as specifically covered in the Building Code or as deemed necessary by the Building Official. He stated that this is the same structure that was built in 1990 and it has not been altered in any way and they have an occupancy permit from that year to prove it was deemed efficient. He stated that the ladder effect on the stairs has not appeared on any of the International Codes and the Massachusetts Building Code since 2001, it is only referenced in the State Sanitary Code. He stated that all the tenants at the Smith Street address are all adults. He stated that his wife has owned the property for twenty-three years and there has never been an incident where someone has fallen or got caught on the stairway. He stated that even if they were liable, which he stated they are not, they are not being charged with the right section since they have already satisfied sections A and D. He stated that there was an inspection in 2016 and there were no issues found at the property at that time. He stated that if they thought it was dangerous they would correct it.

Mr. Brendan Faherty stated that the only mention of the direction of balusters on the stairways is in the 2000 Building Code and since then any horizontal balusters is accepted.

Mr. Schenk stated that he would like the information and its rebuttal in writing so he can take the information to the proper departments for review. *Mr. Faherty* stated that he would provide that information for Mr. Schenk.

The board agreed to continue the issue until the June Board of Health meeting.

MONTHLY REPORTS

Presented by Max Schenk

The following "Monthly Report" was given to Board members.

March Monthly Report

Ms. Carroll stated that they had two emails from the Governor's cabinet member's staff who will be in Gloucester on April 26 and will focus on public health and prevention as well as Mass in Motion and their substance abuse prevention.

Ms. Carroll stated that they just had their first budget meeting and they are requesting more funds for their overtime budget. She stated that they asked for money for the Visiting Moms' program and to resupply Narcan in public places and for their grant-writer position.

Ms. Carroll stated that they looked back at the grants they obtained in the last five years and the total they have accessed through grants in the past five years is 2.7 million dollars.

Ms. Carroll stated that they hired a dental hygienist for the Dental Center. She stated that the Food Inspector position has been reposted and will close on April 12.

Ms. Carroll stated that they received the NERAC - Stop the Bleed grant which will supply some tourniquets and training for all municipal buildings. She stated that they wrote a grant for the Compact Grant Senior Transportation to Health Things and have not heard from them yet.

CONCERNS OF BOARD MEMBERS

Fluoride in Drinking Water- *Chairperson Sagall* stated that Manchester voted to keep fluoride in their drinking water. He stated that he will speak at to Rockport Board of Health about the issue on Tuesday.

Next Regular Monthly Meeting Board of Health- The next Board of Health monthly meeting will be on May 2, 2019 at the CATA Training Room at 5:30 p.m. *Mr. Schenk* and *Ms. Schweitzer* stated that they cannot attend the May meeting.


MOTION by Mr. Cowan to adjourn.
Seconded by Mr. Harris. **CARRIED.**
MEETING ADJOURNED – 6:39 p.m.

Respectfully submitted,



Bobbi Orlando

Accepted by:



Richard Sagall, Chairperson

Documents Referenced:

April 2019 Board of Health Agenda

March 7, 2019 Board of Health Minutes

March 2019 Monthly Department Reports