

**CITY OF SALEM  
BOARD OF HEALTH  
MEETING MINUTES  
*September 12, 2017***

**MEMBERS PRESENT:** Paul Kirby, Chair, Mary Lauby, Kerry Murphy

**EXCUSED:** Dr. Jeremy Schiller, Nancy Crowder, Beth Gerard, Council Liaison

**OTHERS PRESENT:** Larry Ramdin, Health Agent, Suzanne Doty, Public Health Nurse, Maureen Davis, Clerk of the Board, Chris Lohring & Mary Ellen Leahy, Notch Brewery

**TOPIC**

**DISCUSSION/ACTION**

**1. Call to Order**

7:00pm

**Mary Lauby motioned to take agenda item #6 out of order.  
Kerry Murphy 2<sup>nd</sup> All in favor. Motion passed.**

**2. Chris Lohring – Notch Brewery:  
Request for Board to review  
Outdoor dining area surfacing  
requirements as defined by  
2013 Food Code**

All were provided with copies of Food Code pages related to surfacing requirements.

C. Lohring, owner of Notch, described his patio surface as hard-packed gravel, angular in shape so they can pack tight and is the size of pea stone.

When asked how he cleans the surface, he stated he hoses it off and removes dirty gravel, if necessary.

L. Ramdin informed the Board that Notch was originally only serving pretzels and sausage. Now there are lots of pop-ups with different kinds of food. Gravel cannot be sanitized.

C. Lohring stated there is nothing in the Code regarding *outdoor* dining.

L. Ramdin said the Code applies to *all* surfaces where food establishment patrons are dining, both indoors and outdoors.

C. Lohring said he “Googled” several places within the state that have gravel or grass outdoor surfaces who are also doing pop-ups. He provided printed pictures of his research to the Board. He also cited Antique Table (old Grapevine restaurant) and the Clam Shack at the Willows as both having gravel in their outdoor dining areas.

L. Ramdin asked if his research was just tap rooms.

C. Lohring said they were all tap rooms with pop-ups like his.

P. Kirby asked how many pop-ups they had.

C. Lohring said they average about two per month. His landlord limits him to two per month. He said he is just trying to provide customers with more than just pretzels. He can survive without pop-ups, but it’s more fun with them.

K. Murphy referred to page 527 of the Food Code handout regarding less stringent requirements for surface characteristics for temporary food establishments. She admits the clause is not clear.

C. Lohring asked L. Ramdin how a temporary event at the

Common, on grass, is different from his pop-ups.

L. Ramdin said seating is not provided by the food vendors.

M. Lauby asked if the issue is about food prep or where the food is eaten.

L. Ramdin said a food establishment includes both food prep and a dining area. Eating areas that are not under the direct control of an establishment do not have to comply to surface requirements.

Notch's patio is under their direct control.

L. Ramdin said Antique Table will be told to cast (concrete) their outdoor dining area.

P. Kirby asked what steps would need to be taken in order to put concrete or tile in place of the gravel.

C. Lohring said he would have to go before the Conservation Commission.

P. Kirby asked if he has gotten any estimates for changing the outdoor dining surface.

C. Lohring said no, because his is trying to maintain the aesthetic of a German biergarten, much like Boston Beer Garden.

M. Lauby suggested to find out if the Conservation Commission would allow hard surfaces, as they cause run-off. She also stated she has eaten food all over the country that had gravel surfaces.

P. Kirby wants to ensure a level playing field for all.

C. Lohring said so many other businesses similar to Notch in the state have gravel, but Salem does not allow it.

L. Ramdin said a few other things have come up in addition to this issue, such as outdoor storage of trash, that also needs clarification. He will be sending quite a few questions for consideration to the conference of food protection because he agrees that there is a lot of ambiguity.

The Board agreed that if the Conservation Commission won't allow hard surfaces, then we can't ask businesses to change.

C. Lohring said the Harbor Walk will be cantilevering out, so he is waiting to see what happens. He will ask his landlord Tim Clark for an update on the time frame for the Harbor Walk construction.

K. Murphy suggested we contact MAHB for guidelines of outdoor dining surfaces.

L. Ramdin said he will call Boston to see what they allow. He said Boston does not allow dogs on outdoor patios, but Salem does.

He suggested the Board should not require changes to businesses until we have more information to make an informed decision, and instead should take the matter under advisement and revisit it at a later date after more information has been gathered.

**K. Murphy motioned to continue at a later date. M. Lauby 2<sup>nd</sup> All in favor. Motion passed.**

P. Kirby said he learned some new information about the issue; the possible wrinkle with the Conservation Commission, as well as aesthetics being the reason for Notch not wishing to change the surface.

P. Kirby said he understands why gravel is not ok for permanent food establishments, but not sure about for temporary pop-ups. He would prefer there be a smooth surface if they are serving food.

L. Ramdin suggested the possibility of using the green indoor/outdoor fake grass rugs as an option. It is a cleanable/ washable surface.

K. Murphy asked if they could put clear rubber mats under the tables.

L. Ramdin said the mats would have to be on the entire surface area, not just where people are eating.

P. Kirby stated he was blindsided by some pieces of information that made him have doubts, as there are a lot of moving parts. He reiterated his respect for Larry. Both he and the Board appreciate his knowledge and passion and the intention was not to undermine him in any way.

M. Lauby said she heard the Mayor talk of wanting Salem to have a certain aesthetic and feels that sometimes we will need to filter through interpretations and look at alternatives and other considerations in order for us to be able to give people options. We will run into situations where aesthetics vs. traditional interpretation while still maintaining standards.

L. Ramdin stated that while we all like that vision of Salem, he cannot base his decisions on political opinions or wants, but must base it on a sound public health regulation. He does a lot of research on regulations and codes, etc.

### **3. Minutes of Last Meeting** (July 11, 2017)

**Mary Lauby moved to approve minutes. Kerry Murphy 2<sup>nd</sup> All in favor. Motion passed.**

### **4. Chairperson Announcements**

Nothing new to report.

### **5. Monthly Reports-Updates**

#### **a. Public Health Nurse's Report**

S. Doty noted that August was a busy month with events. It was nice to be a part of them.

She has started a contact investigation on an active Tuberculosis case with 20 contacts. Sees them Monday through Friday for directly observed therapies (DOTs).

L. Ramdin affirmed that Suzanne is extremely cautious.

K. Murphy noted lots of flu cases compared to last year.

**Copy available at the BOH office**

#### **b. Health Agent's Report**

L. Ramdin enjoyed the NEHA educational conference in Grand Rapids, MI. His main take-away was about the spread of norovirus and just how much good hand hygiene and covering coughs can reduce the spread. Use hand sanitizer when available. A brewery will be opening up in the basement of Nick's Firehouse

Coffee Shop building on Church Street. They will put in a patio with taps outside between the building and the parking lot. They would like to open soon. It is in the initial stages of plan review. Our concern will be where their spent grain will go/how they will store it because it is a huge attractor for rodents.

P. Kirby asked about the film company use policies.

L. Ramdin said caterers need permits from us and we need to know about their plans to deal with waste on their site, etc. He feels smaller productions are better for the City. He and other department heads wanted to establish ground rules. Discussions will continue and eventually we will be able to hand a packet over to the production companies detailing what they can expect should they choose to film in Salem.

M. Lauby asked for an update on our syringe service program.

L. Ramdin said the Board did the right thing in approving it. He also agreed that starting with a 1-for-1 exchange for now is best. He says Healthy Streets has already started the program. It is a mobile program to enhance the outreach. No people lining up.

P. Kirby asked if we will start getting reports.

L. Ramdin will ask Mary Wheeler for reports and will incorporate them as part of his Health Agent report.

Chief Butler will let us know if there is an increase in needle waste.

At a recent safety meeting, the Park & Rec Director was told if a needle is found not to pick it up - call the police to dispose of it. We got sharps containers from a grant, so every police cruiser has them.

P. Kirby asked about UMass Extension School doing cooking demos at the Farmers' Market.

L. Ramdin said they have been there for a couple of weeks now and will be there until the end of September. To promote the healthy incentives program where people get double credits for produce.

M. Lauby asked about the Harbor Walk expansion project.

L. Ramdin said we got final approval from the state. He believes there are more details on the Planning Department's website.

Mosquito cases in surrounding communities: Lynn, Peabody and Beverly had West Nile. Beverly had human-biters – they sprayed last week. There has been one human case of West Nile in Bristol County. Mosquito season usually wraps-up in October.

**Copy available at the BOH office**

**c. Administrative  
Report**

M. Davis showed the Board the physical temporary food permit files to compare the number of permits issued this year since the permit fee was lowered vs. the number issued in previous years. So far, there are over 120 this year vs. just a couple in years past.

P. Kirby asked about the impact on workload and if we are losing money on every pop-up.

L. Ramdin said yes, we are losing money on every pop-up. Plus, it is taxing on the inspectors' time. There is now an expectation that

they have to put in a couple of hours on Saturday and/or Sunday. P. Kirby asked what the back-up plan is if all inspectors are busy on weekends and cannot inspect pop-ups.

L. Ramdin said we have a part-time inspector who also works for Beverly, but on occasion he cannot cover for us due to other events in Beverly. We really need additional staff for weekends.

M. Lauby suggested we should report the substantial increase in pop-ups to the Mayor and discuss the need for additional part-time inspectors.

M. Lauby asked about the rejected pop-up application in July.

L. Ramdin said it was a food truck - there was conflict about where they were operating out of, and also their permit was suspended by Boston because the truck was dirty and not in compliance with the Food Code.

**Copy available at the BOH office**

**K. Murphy motioned to accept the reports. M. Lauby 2<sup>nd</sup> All in favor. Motion passed.**

**d. City Council Liaison  
Updates**

Beth Gerard not present.

**6. Reaffirmation of  
participation in North  
Shore/Cape Ann Tobacco  
Alcohol Policy Program**

**M. Lauby moved to reaffirm the Salem Board of Health's participation in North Shore/Cape Ann Tobacco Alcohol Policy Program. K. Murphy 2<sup>nd</sup> All in favor. Motion passed.**

**7. Board of Health Program Planning  
& city health status discussion**

**a. Review health assessment by  
Sarah Corley, Health  
Department summer intern**

P. Kirby asked L. Ramdin to tell the Board about the intern. L. Ramdin said we lucked out with her. Our first scheduled intern got another internship. The second intern scheduled was selected by CDC to go to Ethiopia. Finally, they gave us Sarah Corley and she was a perfect fit for our department. She is a student at Boston University who will graduate next year with a Master's degree in Public Health. Her concentration is in public policy. She is planning to get her PhD. She went out on inspections with our inspectors and worked with Suzanne at the Farmers' Market. She did a lot of good work and she got a good overview of what we do. P. Kirby will send an electronic copy of Sarah's health assessment to Kimberly Waller at Salem State University who will join us at the October BOH meeting. She was unable to make it to this meeting (item #7-b of this meeting's agenda).

M. Lauby asked if Larry met with Lisa Salerno this summer who was working with the Mayor's office.

L. Ramdin said yes, she was a summer intern from Harvard. The Harvard students developed a tool for problem properties. The

tool has helped us identify several uninhabited or problem properties because data is gathered from *all* departments to help identify problems. Before each problem properties meeting, Vickie Caldwell generates a list for us so we know which properties are foreclosed upon. We can go out and see the property and get in touch with whoever is in charge of maintenance and get the property taken care of. It is an on-going project for the Harvard students.

M. Lauby noted that there was no mention of noise under the Environmental Health category on page 30 of the health assessment.

L. Ramdin wanted the Board to know, since he was not present at the meeting in July, that Councilor Heather Famico has been speaking with other city departments, who essentially told her there is not anything they can do about the HVAC noise issues she has raised. He went out with Heather Famico to the mall and to Salem Five. Salem Five was in the process of replacing units. The rattling sound of the units downtown is normal and is due to non-use in winter. After the units are serviced they are ok. He also went to the Hawthorne Hotel. You can hear air, but the units are checked by HVAC companies and are operating within normal parameters.

He also pointed out that if something has been open and notorious for over 10 years, places have an easement. What he heard was part of normal downtown noise.

As part of new construction, he is asking how HVAC units will be shielded for noise absorption and feels the responses he has received are appropriate.

P. Kirby said he thinks it is admirable that Larry was more responsive to Heather than other city departments.

## **8. New Business / Scheduling of future agenda items**

Item #7 regarding city health status will be continued in October.

P. Kirby wondered if we should add the continued discussions on the Notch item to next month's agenda, or continue work on it outside the forum.

L. Ramdin suggested if we compile enough new information by then we will add it to the agenda. He will speak with the Conservation Commission.

P. Kirby will continue discussions with Asst. City Solicitor, Vickie Caldwell.

K. Murphy will contact the MAHB.

L. Ramdin reminded the Board that MAHB training is coming up in October or November. He will send specifics to the Board members. City rules are that the Board members initially pay for the seminar, and once the certificate of participation is provided to us we will reimburse you.

M. Lauby asked how we will gather info and updates for the Notch item.

L. Ramdin said to send all new info to him, then he will compile it and send it back out to the Board. He also reminded Board members that they can't discuss anything that requires a formal decision outside of the public meeting setting.

**9. MEETING ADJOURNED:**

**M. Lauby moved to adjourn the meeting. K. Murphy 2<sup>nd</sup>  
All in favor. Motion passed.  
9:16pm**

Respectfully submitted,

Maureen Davis  
Clerk of the Board

***Next regularly scheduled meeting is Tuesday, October 10, 2017 at 7:00pm  
At City Hall Annex, 120 Washington Street, Room 314, Salem, MA***