

**CITY OF SALEM
BOARD OF HEALTH
MEETING MINUTES**
Virtual Meeting held via Zoom
and
Recorded by SATV
July 7, 2021

MEMBERS PRESENT: Paul Kirby, Geraldine Yuhas, Sara Moore, Datanis Elias

OTHERS PRESENT: David Greenbaum, Health Agent, Suzanne Darmody, Public Health Nurse, Maureen Davis, Clerk of the Board, Patricia Morsillo, City Council Liaison, Joyce Redford, Director, North Shore/Cape Ann Tobacco Control Policy Program, Kerry Murphy, Health & Wellness Coordinator, Megan Riccardi, Ward Six Councilor

EXCUSED: Dr. Jeremy Schiller

TOPIC

DISCUSSION/ACTION

In Chairperson J. Schiller's absence, P. Kirby agreed to chair the meeting. P. Kirby read aloud that, pursuant to Governor Baker's orders, there exists COVID-19 Emergency Open Meeting Law Guidance regarding the implementation of virtual public meetings, etc.

1. Call to Order

7:03pm

2. Approval of Minutes

a. Special Board of Health Meeting, May 25, 2021

S. Moore motioned to approve the minutes. G. Yuhas 2nd.

Roll call vote:

G. Yuhas – approve

S. Moore – approve

D. Elias – approve

P. Kirby – approve

Motion passed by a vote of 4 to 0, with 1 absent.

b. Board of Health Meeting, June 8, 2021

G. Yuhas motioned to approve the minutes. D. Elias 2nd.

Roll call vote:

D. Elias – approve

S. Moore – approve

G. Yuhas – approve

P. Kirby – approve

Motion passed by a vote of 4 to 0, with 1 absent.

3. Update/report on recent Tobacco Control compliance checks in Salem

J. Redford, Director of the North Shore/Cape Ann Tobacco Control Policy Program said she conducted compliance checks in Salem on June 10th and June 15th. She sent an email to all the directors in the 16 municipalities they represent letting them know that they would be back out after a long pause due to COVID. She let them know she anticipated there would be an

uptick and sadly it was a significant uptick. We had a 48% failure rate, which is higher than she had anticipated.

A few retailers thought it was not their second violation as noted, but in fact it was. Their first violation was not a sale to a minor violation, but it was still a violation. The Board may want to take this into consideration for appeals because these fines are so much higher. We will not forgive a previous sale to a minor but could potentially forgive some of the other violations. Some of the other violations noted at inspections done on 9/28/20 during COVID were having banned blunt wraps, flavored tobacco, and missing manufacturers letters.

Her concern is that since 2018 the Board has had flavor restrictions, prior to the state law that went into effect June 1st, so there should be no flavored products out there three years later, regardless of the state law. They had flavors like grape, etc. It is still a violation of this regulation. At the time, the first violation would have been a \$100.00 fine, and now the second violation jumped to \$2,000.00 and a 7-day suspension. She anticipates there will be some appeals, and she is willing to attend the appeals process and provide information on the violation. The Board can then, at your discretion, decide if it is worthy of a second violation, or if you want to be specifically looking at sales to a minor violations.

Another alarming thing that happened is that we had a sale at an adult-only establishment. Prior to the June 1st state law, being an adult-only establishment meant you could sell the higher nicotine levels of vape products, but still no flavors. On 9/24/19 the Governor placed a ban on the sale of all vaping products, both flavored and non-flavored, because people were dying from using vape products. The ban fed into the June 1st enactment date when no flavored vape products at all, regardless of nicotine content, were to be sold in MA.

After the June 1st state law, if you were an adult-only establishment you had to ensure that no minor could access the establishment. The law actually indicates that establishments have a buzzer or a doorbell or something similar to stop youth from entering. If the youth have enough time to enter the establishment and ask for the product, that is a violation. Even if the youth is asked for an ID and is turned away and asked to leave the establishment, that is still a violation.

At one adult-only establishment in Salem, the youth accessed the establishment, had a conversation with the clerk and was sold liquid nicotine. The clerk behind the counter then told the youth he did not sell flavor in MA, but if the youth wanted it, he could get it for him in NH if he gave him a phone number.

The unique thing about Salem's regulation is that the Board voted to specifically say that one visit constituted one violation, regardless of how many violations occurred. So, for example, if that youth was able to access the adult-only establishment, was able to buy the product and maybe even able to buy flavor, your regulation indicates that is one violation. She suggests that be revisited, maybe not for this specific round of compliance checks because that was the statute in place, but we may want to consider these egregious violations to be stackable.

In Lynn, for example, in one adult-only establishment, the youth was able to access the establishment, buy the product, and was sold flavored nicotine. We had a history with several complaints about that establishment, including police complaints. The city agreed that the

violations were egregious, and the city solicitor felt it was valid to stack the fines. It ended up being an \$8,000.00 fine.

At another retailer in Lynn which was not adult-only, but also had many complaints against them, the youth was able to buy the product, and was able to purchase a higher level of nicotine than a regular retailer that was not adult-only should not have been selling, and it was flavored. Again, it was an \$8,000.00 fine. Hopefully, these are deterrents as they came with suspensions as well.

At another adult-only establishment in Salem the youth was allowed in and allowed to ask for the product but was then denied.

She said in Salem they used to issue a violation notice immediately after a sale indicating the date, the time, the product, what the exchange was, a description of the salesclerk and if anything unique happened. They have since decided it was not a safe idea for them to be going into the establishments immediately after these sales occurred. A youth could potentially be outed on video, since now almost 99% of the stores have some kind of video, and their identity could be put in jeopardy if they went to the next store, and they knew them. It is also unsafe due to the limitations in staff – it is just herself and the youth. It can be dangerous. For example, if she were to go into an establishment at 9:00pm after a compliance check and tell them they had an \$8,000.00 fine and a 37-day suspension, she can assure you her safety would be in jeopardy, and that of the youth.

D. Greenbaum said he personally worked with J. Redford 20 years ago and it was dangerous then, so he can just imagine how dangerous it is now.

J. Redford said we have heard from the retailers that by the time they receive notice of the violation their video does not loop back that far so they do not know who sold to a minor. She told them they should know who was working at that time. She still thinks it is a valid method of doing inspections with these high fines.

She said during the COVID shutdown she sent out letters indicating the Governor's order, both in English and in Spanish, twice, once in April and once in May. She indicated in bold the high level of fines so that retailers would be informed. They sent out a visual tool of what retailers can and cannot sell, two-sided, and in color.

During the physical inspections when they found violations of flavor in the store, they also handed out one of the state signs that is a summary of the law that should be in every retail store. At the end of the visit, she brought to their attention the line where the fines are \$1,000.00, \$2,000.00, and \$5,000.00. She said we gave them lots of information and provided them with lots of tools, and when we went out, we had these numbers, which is alarming.

She gave a shout-out to the youth because she could not do it without them. As of today, she believes we have four appeals already and she will be at each one of them to provide detailed information about the violation.

D. Greenbaum said we have had a significant number of fines paid, too. In his opinion, if the establishments do not request an appeal within the timeframe on the letter, he thinks the Board should uphold the fines.

P. Kirby thanked J. Redford for attending and for providing the information, though it was not good news. He asked her to convey the Board's thanks and appreciation to the youth for their risk-taking work.

4. Discussion of proposed urban agriculture ordinance and accompanying draft of Board of Health regulations

D. Greenbaum credited K. Murphy for her involvement with the urban agriculture ordinance.

K. Murphy said she and Meg Riccardi have been meeting as a subcommittee since last fall putting the ordinance draft together. The current urban agriculture ordinance only pertains to chickens. This ordinance expands on that by changing the wording from chickens to domestic fowl, in recognition that there are many people in Salem who also keep ducks. It also includes the keeping of bees, with some restrictions. It allows for the accessory sale of fresh uncut produce, honey from bees kept onsite and fresh eggs. All of the sales have to be from what is grown or produced onsite.

We are proposing limiting sales to 25 days per year during the growing season from May 1st to October 31st, and for no more than three days a week.

There are restrictions on things like the size of the farmstand, signage, agricultural structures such as backyard hoop houses and greenhouses, etc. Anyone who grows produce and sells it on their property will have to have a soil test done every year. The annual cost for a lead soil test is \$55.00 per year and it must be turned in to the Health Department and clearly posted where the produce is sold.

K. Murphy shared her screen of the draft of the Salem Board of Health urban agriculture regulation. She and M. Riccardi met with D. Greenbaum a few months ago and he provided them with feedback which they incorporated into the draft. She said they borrowed heavily from the City of Somerville's ordinance and their Board of Health regulations but tailored them for Salem.

Gardens must be maintained by the owner and composting must be done in a rodent-proof composter. Set back is five feet from the rear of the property and 10 feet from the side.

Mechanized equipment can only be used between 8:00am to 5:00pm Monday through Saturday. Equipment has to be enclosed or screened from the street.

Farmstands are allowed as a temporary accessory use for the sale of fresh uncut produce grown onsite, honey harvested from hives onsite and eggs produced by chickens onsite.

Permits are required for any domestic fowl.

D. Greenbaum said he thinks it makes sense that the Health Department house the permitting. We could potentially get someone certified to be an animal inspector and also work with animal control officer Don Famico to assist in doing inspections as needed. He anticipates there will be a significant increase in people wanting to keep chickens and bees.

K. Murphy read the requirements for keeping chickens. She read the DPH regulations about storing and maintaining eggs at 45 degrees. She asked if the temperature of eggs needs to be displayed on a log sheet.

D. Greenbaum said it would be a good idea to have it onsite, though he does not feel it needs to be posted.

P. Kirby asked how long the records would be kept.

D. Greenbaum said records would be kept for the season, May to October.

P. Kirby asked if department personnel will be requesting to view the logs as an enforcement mechanism.

D. Greenbaum said there is no enforcement language in the regulation at this time. That will need to be added at some point to lay out the penalties

for not operating within the bounds of both the regulation and the ordinance.

K. Murphy said the draft is not requiring a special permit for selling, so as of now there is no revocation clause for not following the rules because there would be nothing to revoke to prevent sales.

She spoke about the requirements to prevent noise issues and odor issues, and the need for weekly cleaning and proper waste removal. She said it is really common-sense upkeep.

She said there would be a Board of Health permit for honeybees, but they are not sure what the fee would be. They will look into what other communities are doing. We do not want it to be cost prohibitive. All beekeepers will have to notify abutters of their request to keep honeybees, in recognition that some neighbors may have bee allergies and would want to know if their neighbor was keeping a beehive next to them. The beekeepers shall sign a document attesting that the abutters have been notified and submit the document to the Salem Health Department. She spoke about maintenance of the hive and that beekeepers must comply with all aspects of the MA General Law of Beekeeping, which can be found on mass.gov.

For hives located closer than 20 feet from a principal building on an abutting lot or a side lot, beekeepers must provide a flyway barrier, at least six feet in height, so the bees go up instead of straight out. The flyway barrier shall consist of a wall, fence, dense vegetation, or a combination for a minimum of 25 feet and meet the zoning code.

Anyone who sells honey must comply with the DPH Food Protection Program for the sale of unprocessed honey. The Board of Health would have the authority to require the owner to remove the hive at their expense should it cause a nuisance.

K. Murphy said honeybees are not aggressive like wasps.

P. Kirby asked about the timeline for passage with the City Council.

D. Greenbaum said it will take a couple of passages with the City Council and there will have to be a public hearing before the Planning Board for the zoning changes with the ordinance, so he thinks we are looking at a timeline somewhere around September or October.

M. Riccardi said it would be a win if we had it done that quickly because it is a zoning change. It is currently in the Public Health Safety & Environment Committee. We would like the ordinance to go hand-in-hand with the regulation because the ordinance references the regulations. She will send an updated draft of the ordinance to the Board once she gets it.

S. Moore asked why there is language about being able to suspend, revoke, or decline to renew a permit for bees, but not for fowl.

K. Murphy suggested it should be the same for both bees and fowl. She said they can add that in.

The Board thanked K. Murphy and M. Riccardi.

5. Discussion on future Board meetings being remote or in person

D. Greenbaum said the State law has been extended under the Governor's Acts of 2020 to allow remote participation meetings to continue through April of 2022. The Board has the option to either remain remote or go back to in-person meetings. There is some desire to keep them remote through the summer and until September so the city can work out the technology kinks of hybrid meetings where people can dial-in. It would only be a dial-in so there would be no video component. By September we

could go back to in-person. He does not have any strong feelings one way or the other and he supports the Board's decision.

P. Kirby asked D. Greenbaum if he thinks we should meet in August.

D. Greenbaum said there is no backlog of non-COVID business. He thinks the next thing coming up will be the tobacco hearings. He is comfortable separating the hearings into some in September and some in October. If the need arises, we can meet in August.

The Board agreed. They also agreed to continue meeting virtually through September and then revisit the options.

D. Greenbaum said we could also decide month-to-month depending on the situation at the time.

6. Updates on COVID-19

D. Greenbaum said all the restrictions were lifted on June 15th. COVID is "over". We are working on our vaccination efforts, which includes coordinating with the hospital to find locations and events where they can bring their mobile care van and do vaccinations on site.

The vaccination site at SSU has been put on hold for now and we will probably be closing it down completely in the next couple of weeks because there is no demand for that type of clinic site any longer.

He said we are pivoting away from COVID to more routine work that had to be pushed aside during COVID. Our full-time position will start after the summer so we can transition some of the work to that staff member.

We are in a good position now; infection rates are way down, and case counts have been zero for the last week. Vaccination rates are a little lower than we would like them to be.

S. Darmody said 72% of Salem residents have had at least one dose of the vaccine. The vaccination rate of the 20-29 age group seems to be picking up, probably because it is required for college in the fall. She hopes that trend continues.

7. Discussion on Health Disparities and Race Equity

S. Moore said, according to the July 1st COVID dashboard, it still looks like there is a considerable lag for the black and Latinx population for vaccination rates. Only about 50% of both communities have been vaccinated whereas the vaccination rate is much higher among the white population.

D. Greenbaum said people are paying attention to it and we have seen the lag, too. We are trying to work to bring the vaccine to where people are so we can make it as easy as possible for them to get it. For example, Curative, who ran the Danvers mass vaccination site, has a mobile van and were at the Willows near the end of June. They had Medical Reserve Corps volunteers there doing vaccine education and encouraging people to get vaccinated. They only did seven vaccines in two days.

We have hit critical mass with the vaccine demand. The supply is so great now that people can go anywhere and get vaccinated. He feels making it as easy as possible and as accessible as possible is the way to get people to go. The health center at the Point is doing a lot of work there. The mobile van from Mass General Brigham was at the Point neighborhood on June 28th for the summer meals kick-off program. We are trying to give everybody as much opportunity as we can.

S. Darmody said the van went to a church service last Sunday and got six people vaccinated that day. They have gone to Espacio at least three times now for clinics. At this point it is just smaller numbers.

D. Greenbaum said Curative is working with the Peabody Essex Museum and are doing clinics there on a weekly basis.

There are a lot of events taking place in the next six to eight weeks that we are trying to partner and get the vans to go to. The Mass General Brigham van is going to be at Market Basket on July 23rd. We are working to get some gift cards to Market Basket to give people as they get their vaccines and hopefully that incentivizes people.

P. Kirby also mentioned the lottery for MA residents who are fully vaccinated.

P. Morsillo asked if we have heard of hesitancy because of side effects after the shot. It seems some people are worried that they may have to take time off from work because of side effects.

D. Greenbaum said he has not heard it firsthand, but he does think it is an issue that people are concerned about having to potentially take time off. He knows a lot of our businesses and restaurants are encouraging their employees to get the vaccine and they are willing to give them time off to get it.

He thinks there are some unfortunate beliefs, untruths and misinformation about the vaccine that are preventing some from getting it. With a little encouragement some may be willing to get it. All we can do is try our best to get those that are absolutely against it to consider it.

Unfortunately, there are some variants out there. The delta variant is a little scary. The people that really need to worry about these variants are those that are not getting vaccinated. Right now, the people that are dying from COVID are those that are not vaccinated. People that are vaccinated may get some side effects and they may have some symptoms, but they are far less than would be for those unvaccinated.

S. Darmody said we have tried to educate employers that it is a win-win. If an employer allows their employee time to get the vaccine, and if they do have side effects take the time off, it really benefits them too because if that person is exposed, they are no longer required to quarantine so they do not have to have employees out of work for any extended period of time.

D. Greenbaum said we are trying to get the 20–29-year-olds to understand that if they get vaccinated and they have an exposure, they can continue to go about their life doing what they want because they do not have to quarantine unless they start to show symptoms. It is a benefit to both themselves and the community as a whole for them to get the vaccine.

D. Greenbaum said Lucy Corchado reached out to him, and he gave her some links to the information from our dashboard and the state website. She is working with the Essex County Charitable Foundation to try to boost vaccination rates within the Latinx population.

8. Chairperson Communications

None.

9. Monthly Reports-Updates

a. Public Health Nurse's Report

S. Darmody said she will have a report next month. She provided an update on Legionella at Pequot Highlands. In the fall of 2019, we had a couple of cases that developed into a larger cluster. They treated their water, worked with an environmental company and water treatment company. They were very responsive and did a lot of remediation. They also installed their own water treatment system. As soon as the cases came

in this time, they immediately put in shower head filters for Legionella. They notified all the tenants to monitor for symptoms and report anything to us and to see their primary care provider if they need to be tested. We have three cases for this current cluster. They are waiting on the results from some widespread testing they did to identify the problem so they can treat it and prevent it. Hopefully, there will not be any more cases. The incubation period for Legionella is two to ten days, so once the ten days from when the filters were installed passes, we should be in the clear.

b. Health Agent's Report

D. Greenbaum said after this month he will be returning to his official reporting to the Board.

c. Administrative Report

D. Greenbaum said fiscal year 2021 ended on 6/30/21 and the new fiscal year began on 7/1/21. The new budget was passed and adopted.

S. Moore motioned to approve the reports. G. Yuhas 2nd.

Roll call vote:

G. Yuhas – approve

S. Moore – approve

D. Elias – approve

P. Kirby – approve

Motion passed by a vote of 4 to 0, with 1 absent.

d. Council Liaison Updates

P. Morsillo said the mayor provided language to start a Race Equity Commission in the fall. The Race Equity Task Force will present an update and report at that time.

The City will be holding a series of public forums regarding the work that is almost complete regarding the wetlands regulations update. There will be three public forums. The first one will be on July 13th at 6:00pm.

The first one is to educate the public on the state laws and our current local ordinance and how we are looking at changing things moving forward. It will introduce a survey to understand more of what the public is looking for in these regulations and what they understand about the current regulations. They are hoping to get a lot of people involved in that.

There is a Planning Board and City Council joint public hearing coming up on July 14th at 7:00pm. They will be discussing three items.

The first item for discussion is the change to the waterfront industrial overlay district, which is basically Shetland Park, and the proposal to disallow planned unit developments there in response to the announced huge number of units of housing to be built there.

The second item is gender neutral language for all of the zoning ordinances.

The third item is the moratorium that a group of residents brought forward in a petition form that would put a two-year moratorium on all building permits for new construction in all buffer areas of wetlands and flood plains in all zones in the city.

She explained that after the joint public hearing it goes to the Planning Board. The Planning Board discusses it and then make their recommendation to the City Council and then the City Council moves

forward. So, there is some time to work on the regulations for the urban agriculture ordinance.

10. New Business/Scheduling of Future Agenda Items

G. Yuhas asked if there were a lot more people requesting to have bees and chickens and if that was the reason for the urban agriculture ordinance. D. Greenbaum said not to his knowledge. Under the current ordinance there is no notification to us for people who want to keep them, and it really needs to be updated. There will be discussion about whether or not people who already have chickens and honeybees will be grandfathered from the new ordinance. He feels we should make everyone comply with the new ordinance.

S. Moore said the Food Policy Council conducted a food assessment several years ago that identified some of the needs in the community around food insecurity, food access, urban agriculture, and food waste. They are getting ready to revisit that assessment because lots of things have changed since then. They will use a more community engaged approach. The urban agriculture ordinance came to them as a way of addressing public health and as a solution to some of the health equity and food justice issues in the community. In doing research to see how other communities have addressed these same problems, we came across Somerville's urban agriculture ordinance.

The Board will meet in September, or sooner if the need arises.

G. Yuhas said someone called her about one of the Councilors having a fundraiser and having a bouncy house for kids. They were concerned since there will be children under 12 who are not vaccinated jumping together.

D. Greenbaum said it is a concern, but there is nothing in place anymore to prohibit it. They are within their rights to do it.

D. Greenbaum informed the Board that he will be having minor surgery at the end of the month and will be out for at least a week. He plans to take some time off at the end of the summer as well.

P. Morsillo asked if there were any updates on the rat situation in the Endicott Street area.

D. Greenbaum said we are still working on it. We sent out informational flyers about rodents to the neighborhood and got some responses and some additional complaints. One of the Ward 3 residents has been sending him emails about the issue and identifying some locations. We investigate each one and have sent out some letters based on those emails. A-1

Exterminators has done a ton of baiting in the area. He received a report from them today, but he will have to review it thoroughly before he can give a full update.

P. Morsillo asked if the restaurants in the area have been revisited.

D. Greenbaum said he has not been back to Salem House of Pizza yet, but there seems to be an issue there. We are planning to get back there soon. He reported that we are having some issues with dumpsters in the city in general. He is working with Assistant City Solicitor Vickie Caldwell about potentially starting some enforcement action that would require dumpsters to be in some sort of enclosure or screen because it is causing trash to blow about and causing potential rodent problems. We are trying to address that.

MEETING ADJOURNED:

**G. Yuhas motioned to adjourn. D. Elias 2nd.
8:17pm**

Roll call vote:

**D. Elias – approve
S. Moore – approve
G. Yuhas – approve
P. Kirby – approve**

Motion passed by a vote of 4 to 0, with 1 absent.

Respectfully submitted,

Maureen Davis
Clerk of the Board

*Next regularly scheduled meeting is
Tuesday, September 14, 2021 at 7:00pm*