

**CITY OF SALEM
BOARD OF HEALTH
MEETING MINUTES**
Virtual Meeting held via Zoom
and
Recorded by SATV
April 12, 2022

MEMBERS PRESENT: Dr. Jeremy Schiller, Chair, Geraldine Yuhas, Sara Moore, Datanis Elias

EXCUSED: Paul Kirby

OTHERS PRESENT: David Greenbaum, Health Agent, Suzanne Darmody, Public Health Nurse, Maureen Davis, Clerk of the Board, Megan Riccardi, City Council Liaison, Joyce Redford, Director, North Shore/Cape Ann Tobacco Policy Program

TOPIC

DISCUSSION/ACTION

1. Call to Order

J. Schiller read the portion of the agenda regarding remote participation of the meeting, etc.

7:02pm

**2. Approval of Minutes
(March 1, 2022)**

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

Roll call vote:

D. Elias – yes

S. Moore – yes

G. Yuhas – yes

J. Schiller - yes

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

**3. Joyce Redford, Director,
North Shore/Cape Ann Tobacco
Policy Program – Tobacco Control
Program Updates, including State
Law and Delta products**

J. Redford said state law went into effect June 1, 2020. There was conflicting language within the regulation and the state law; one said “may” and one said “shall.” In section 665.040 Requirements for Retail Establishments, Section D, the sale of tobacco products by a retail establishment to a person under 21 states it “shall” result in a suspension for up to 30 consecutive days. There are a lot of components to the state law, and then there are additional components to your local regulation. For example, if a retailer had a flavored tobacco product, it would be a state fine of \$1,000.00 for a first violation. The state legislature saw that a sale to a minor is more egregious, and she agrees, and felt it should constitute not simply a \$1,000.00 fine, but also a suspension. She has recommended to three boards so far that a 2-day or a 3-day suspension is reasonable. Gloucester voted to adopt a 3-day suspension. She said it would be great if our 16-community collaborative was all on the same page. The reason she does not recommend a one-day suspension is because it requires the retailer to remove all of the tobacco and nicotine products out of their establishment and off-premise and then bring it all back; that is unreasonable. Communities can vote on the language, and we don’t have to have a public hearing because it is a state law. If communities agree, her

goal is to notify the nearly 400 retailers in our collaborative that effective on a certain date we will be enforcing this, so it will not be without notice. She would like to officially adopt a timeline and share it with retailers. She said once we get decisions from the boards, and as we are doing inspections, we will be verbally notifying retailers that it has been adopted that a first sale to a minor includes both a fine and a suspension.

D. Greenbaum agreed with J. Redford that this needs to be done and said we can possibly put it on the agenda as a vote in May.

J. Schiller shared his screen of the language in DPH regulation 105 CMR “665.040 Requirements for Retail Establishments”. Section D has the word “shall” regarding suspensions. He feels we should have clear, set times for suspensions so establishments know what to expect.

J. Redford feels a consistency within the collaborative would make sense. She is hoping to have this enacted by July 1st and would like to have at least 30 days notification to the retailers. She confirmed with J. Schiller that if the Board votes in May that would provide 30 days of notification to retailers of an effective date of July 1st.

She said the suspension applies only to a sale to a minor, not for the other components of the state law, such as flavors. According to the language, the Board has discretion to go all the way up to 30 days, but in her opinion, it makes sense to be less than our current second violation, which is a 7-day suspension, and she feels a 3-day suspension is reasonable.

She is all about educating our retailers, so they have the best chance to do the right thing every time.

S. Moore wondered what the proposed language would look like and would like to have it for review at the May meeting.

J. Redford said if the proposed timeframe is three days, that one paragraph will change; instead of “up to” it will say three days and she will provide that language to the Board.

J. Schiller said all we would be changing is from up to 30 consecutive business days to three consecutive business days.

J. Redford said we have the authority to enforce state law. You cannot go below state law; you can go above it, but not below it. She thinks we could insert the language of that specific paragraph into the local regulation.

S. Moore thinks it would make sense to have it in both places. It would be helpful to be consistent across the region.

J. Redford agreed with J. Schiller about having clear, set times for suspensions. The word “shall” really does make a difference, so everybody gets treated the same way. It will help the Board and the City with the issue so you can consistently enforce the same way. We are just marrying your local regulation with state law. She will provide the language to the Board prior to the May meeting. You will be adopting your new regulation to reflect state law.

D. Greenbaum said he will put it on the agenda for a vote for the May 10th meeting.

J. Redford said Delta 8, 9, and 10 are synthetically altered hemp products. Some of the retailers who sell these products tried to say that the Farm Bill from MDAR (MA Dept. of Agricultural Resources) took hemp out of their bill saying it was not a controlled substance. It allowed for hemp to be used in clothing and manufacturing. Language was taken out of the bill so that it is no longer allowed to be eaten, as in a gummy, or for therapeutic uses, such as a vitamin, or claim any health effects. If hemp is synthetically

altered, it is a controlled substance in MA. It cannot be sold or processed in MA. She cited one of the smokable products that was found at a regular retailer in Salem. She said it has a warning statement right on the package that says it is a controlled substance. She provided the Board with photos of smokable, vapable and edible Delta products. The packaging and flavors are appealing to young people. In her opinion, edibles are the most alarming. We do not have jurisdiction over it. Manufacturers are using the same logos, fonts, and colors on the packaging as the original products, such as Doritos, Skittles, Nerds, etc. Most parents do not know what Delta is and are unaware of the dangers because the products look just like the normal products. This is a controlled substance that can get you high, and they are hidden in plain sight in retail stores. She felt it was imperative for the Board to know these products are out there. She sent the information to the school resource officers she had contact information for. She is informing the boards when she finds products in their communities, she is fining if it is something vapable, and she will be informing the police departments when she identifies the product in a store. This product is prohibited, even in the adult-only establishments.

J. Schiller asked why the Cannabis Control Commission has not taken action to regulate these products.

J. Redford said because it is not marijuana. The Cannabis Control Commission does not regulate hemp. Only the Dept. of Revenue and the police department can confiscate product; we do not confiscate product. She can only let the retailer know that she will be reporting it to the police department. She said it is complicated, but it is important for the Board to know about it, so you do not hear it from a school or a parent whose child is using this product. We are going to do everything we can to remind retailers that this is not a product they can carry.

S. Moore asked if the retailers understand what these products are.

J. Redford said either way, it is ultimately the retailers' responsibility to know what they are selling.

D. Elias asked what happens once the police confiscate the product? Are they formally charged?

J. Redford said they could be, but it is unlikely the police would move forward with that unless it was much bigger. The retailer's next step would be to hire a lawyer to sue to get the product back. She suspects most retailers would not want to be in the paper saying they want a controlled substance back to sell it, and they cannot sell it.

She will be at the May 10th meeting.

Item 6d on the agenda was taken out of order to allow M. Riccardi to provide Council updates prior to attending another meeting.

M. Riccardi said the Urban Agriculture Ordinance is going back before the Council with positive recommendation from the Planning Board. The Council needs to vote on it by May 26th because there is a timeline related to the Planning Board. She is hopeful that the Board can review the Board of Health regulation at the May 10th meeting, and vote on it or have a solid draft that the Council can have in coordination with the ordinance review in May. Either she or Kerry Murphy can assist with any questions.

The Public Health, Safety and Environment Committee is continuing to work on a draft for a ban on polystyrene foam for food service

establishments, as well as requiring compostable materials. Comments or questions can be sent to the Chair, Conrad Prosniewski. In the current draft, the Health Agent has the authority to provide exemptions to food service establishments and is the enforcing agency.

Chief Miller from the Police Department will be at the Council meeting this Thursday providing the Council with an update on the new community resource dog program that is being implemented. There may also be a special guest there as well.

4. Budget Update

D. Greenbaum reported that he submitted his proposed budget to the Mayor for review. They met and discussed it. He requested some additional staffing in this year's budget. COVID really highlighted the need for an additional public health nurse. He is hopeful we can get some additional nursing services.

The State's Attorneys General sued the opioid makers and won a huge settlement. The State is going to get an influx of money as well as some money coming into cities and towns. He is hopeful we can get a substance use disorder person to come in and help coordinate activities around reducing opioid overdoses and substance use disorder. Salem has relatively low overdose numbers, but our overdose death numbers are high. These are the two additional positions he requested in his budget proposal. He hopes to know more and have an update by the June meeting. He is hopeful the Mayor will see the importance of these two positions.

5. Chairperson Communications

J. Schiller reported that he and the Mayor gave a talk a couple of weeks ago at a synagogue in Swampscott. They talked about public health and anti-Semitism that happened. It was interesting and it really made him appreciate our Board and how we are all on the same page, and also the support we have had from the Mayor about calling out some of the reprehensible stuff that happened.

He confirmed that our first in-person meeting will be in May.

D. Greenbaum said there will be an element of remote participation for the public

6. Public Health Announcements /Reports/Updates

a. Public Health Nurse Report

S. Darmody said we are not seeing a huge increase in day-to-day COVID cases, but we are seeing some more cases. We are seeing more flu cases recently, especially since the beginning of March.

She reported she has five active TB cases and some new arrivals in need of testing and chest x-rays. She is working with closely with the pulmonary clinic.

D. Greenbaum said we are seeing an increase in COVID cases, but not an increase in hospitalizations or deaths. The hospitals are still in good shape. J. Schiller said that is a good metric to look at.

b. Health Agent Report

Information was covered in Item 4.

c. Administrative Report

Copy available at BOH office.

**7. New Business/Scheduling of Future
Agenda Items**

- **Items that could not be anticipated prior to the posting of the agenda**

S. Moore asked if the Board could have soil testing information provided to them before the vote on the Urban Agriculture Regulation.

D. Greenbaum said Kerry Murphy acquired information from three different resources. He will send the information to the Board before the vote.

D. Greenbaum said Paul Kirby had inquired about getting an update from Healthy Streets. He met with Wendy Kent, who is doing some work around the opioid epidemic and has been doing substance use disorder work for decades, and she mentioned she could come to a meeting as well and update the Board on some of the things she has been working on. He will try to get that on the agenda sometime this summer.

MEETING ADJOURNED:

G. Yuhas motioned to adjourn. D. Elias 2nd.

Roll call vote:

S. Moore – yes

G. Yuhas - yes

D. Elias – yes

J. Schiller – yes

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

7:59pm

Respectfully submitted,

Maureen Davis
Clerk of the Board

***Next regularly scheduled meeting is Tuesday, May 10, 2022 at 7:00pm
At City Hall Annex, 98 Washington Street, 1st Floor, Salem, MA***