

**BOARD OF HEALTH**  
**Hearing Room, Second Floor-City Hall: 210 Main Street**  
**September 19, 2019 Minutes**

**BOH Members Present:** Joanne Levin; Suzanne Smith; Cynthia Suopis; William Hargraves; and Laurent Levy

**BOH Members Absent:** None

**Staff:** Merridith O’Leary, Director, and Melissa Roberts-Cote, BOH Clerk

**Staff Absent:** None

**Meeting opened September 19, 2019** at 5:30 pm by Joanne Levin

**I. Public Comment Session:** Two people spoke during public comment.

**II. Presentation- Chris Mason, City of Northampton Energy and Sustainability Officer.**

Mr. Mason introduced to the board the International Energy Conservation Code (IECC) which is a model code for boosting the energy efficiency of buildings. He explained that adopting the IECC would maximize building energy efficiency and safety. Currently Massachusetts uses a “Stretch Code” which has been adopted across Massachusetts and requires buildings to meet a higher energy efficient standard than the “base” code. Building energy efficient homes will result in a cost-effective home, with decreased energy bills for the homeowners. The City of Northampton Planning Department is seeking members to join the IECC and represent the city in voting on various questions that supports this effort. The members would be voting on each line item in this initiative. Voters may vote according to their own wishes, and are not told how to vote by the city. Voting would begin at the end of November. It was decided that Director O’Leary, Cynthia Suopis, Laurent Levy, and Clerk Melissa Roberts-Cote from the Health Department will all be voting.

**III. Discussion: Regulation of the City of Northampton Board of Health Restricting the Sale of Tobacco Products and Nicotine Delivery Products**

The Board has been discussing various options for changing the current sales regulation. Director O’Leary would like to discuss two new options to add to the list of potential changes. The first would be redefining the definition for Tobacconist, which is also known as “adult only retail tobacco store” and consider new model language. The second proposal would be adding language regarding the permissible distance between any permitted “adult only retail tobacco store” and a school. Cheryl Sbarra, J.D., Director of Policy and Law, Massachusetts Association of Health Boards (MAHB) attended the meeting and stated that there are 13 municipalities that have made some of the changes that Northampton is considering. Joanne Levin and Cynthia Suopis inquired about the appropriate number of retail tobacco establishments, as Northampton would like to reduce the number of stores through attrition. Attorney Sbarra stated that TAFI sheets tells the number of stores in each municipality, and we can see where Northampton falls regarding stores per capita. Attorney Sbarra said that the Boston Board of Health is looking into putting a cap on adult only retail tobacco stores and changing the definition for adult only retail tobacco stores as noted above. Cambridge city council directed their Health Department to draft an ordinance or regulation that would address vaping by students and youth. Director O’Leary stated that Amherst and Easthampton are also looking to remove the menthol, mint, wintergreen from convenience stores, and West Springfield is looking to remove all Electronic Nicotine Delivery (ENDS) products from convenience stores. Attorney Sbarra advised that there have been lawsuits, although none completed in western Massachusetts to date. She

will forward the other previous written decisions for review. Suzanne Smith inquired what would happen should a lawsuit be filed. Attorney Sbarra advised that the lawsuits have been served to the Board of Health. The Public Health Advocacy Institute (PHAI) at Northeastern University School of Law would be notified as well as the City Solicitor. PHAI has been providing assistance to municipalities to prepare the defense documents for these lawsuits. Should a lawsuit be filed it would be the municipalities responsibility to contact Mark Gottlieb, J.D., Executive Director and Christopher Bantlin, J.D., Director at PHAI to inquire if they would assist with representation. Joanne Levin asked what the financial impact would be on the city. Attorney Sbarra indicated it varies city to city as to how involved the city solicitor is in the drafting of these documents. There is one lawsuit in Suffolk Superior Court where a motion to dismiss has been filed on behalf of Barnstable, Billerica, Framingham, Somerville, Sharon, Swansea, and Walpole. The hearing has not been heard to date. Governor Baker is considering putting an emergency order in place around vaping products until the Center for Disease Control and Prevention (CDC) and Food and Drug Administration (FDA) make a ruling around the ENDS products. Cynthia Suopis asked if a Board of Health has the authority to consider a moratorium for the ENDS products. Attorney Sbarra suggested consulting the city solicitor and considering getting the backing of PHAI prior to a moratorium.

The discussion moved to the amendments under consideration. A vote was taken on the amendments (see document for listed items) to consider for the City of Northampton Board of Health Restricting the Sale of Tobacco Products and Nicotine Delivery Products.

**Vote #1:** Motion made by Suzanne Smith to move forward with the amendments: Change definition of “Characterizing Flavor” to INCLUDE menthol, mint and wintergreen, reduce tobacco permits through attrition, and cap the number of Tobacconist Establishments. These changes would have an effective date of January 1, 2020 and a November hearing date. Seconded by William Hargraves at 7:37 p.m. Vote (4-1 Cynthia Suopis)

**Vote #2:** Motion made by Laurent Levy to move forward as above with an effective date of January 1, 2020 and add proposal to restrict all tobacco and ENDS to Tobacconist Establishment) with an effective date of January 1, 2021, and a November hearing date. Seconded by Cynthia Suopis at 7:38 p.m. Vote (4-1 Suzanne Smith)

The chair also made note that she would like the board to consider adding marijuana accessories to the regulation and having a restriction that they be sold adult only retail tobacco store.

#### **IV. Review Minutes**

##### **A. Meeting Minutes from August 19, 2019.**

**Motion: Approved:** Minutes are tabled to the next meeting. Director O’Leary will clarify with Attorney Seewald regarding Open Meeting Law and verify the sentence “*He explained that any matter that is discussed between two members outside of open session is not a quorum and does not violate the OML*”. Minutes will be brought to the next meeting for approval.

#### **V. Department Updates**

- a. An article summarizing ways to increase measles vaccination was presented by Dr. Levin and a list of possible Board of Health actions was distributed for consideration. Director

O'Leary mentioned that with a new Health and Safety Director joining the schools, this might be a good time to proceed with this initiative.

- b. The Mayor's office has ordered a butt receptacle for the Smoke Free Pulaski Park. It will be put at the bottom of the stairs in the Round House Lot near the trash and recycling receptacle. Cessation cards that will be used during enforcement/education have been completed. The rough draft for the signage was shown to the board. The board would like to include some changes. The final draft will be sent out for printing.
- c. The Flu Clinic Schedule was given to the board members.
- d. Director O'Leary informed the board that the Public Health Nurse will be decreasing her hours by 7 hours to 28 hours a week and the part-time Health Inspector will be increasing her hours by 7 hours to 35 hours a week. This has been approved by the Mayor.
- e. The Pioneer Valley Mosquito Control District (PVMCD) reported that due to some access restrictions this season and due to flooding, service was limited in the spring of 2019. There were 2,284 basins treated this season (see report). In addition to the catch basins, there were wet and swampy areas that were treated behind Walter Salvo House and Fruit Street. No mosquitoes were found to be positive for disease so far this fall.
- f. Director O'Leary discussed the Biobot Analytics Project. Massachusetts Department of Public Health (MDPH) has selected Northampton as a pilot location. The Biobot project will analyze wastewater from sampling sites. The data collected will help estimate actual consumption to estimate the number of nonfatal overdose in residential communities through the detection of naloxone/Narcan and provide feedback on the intervention efficacy.

**Meeting Closed: Motion to Close Meeting:** Motion to close the Board of Health meeting by Cynthia Suopis, seconded by Suzanne Smith, all in favor (5-0)

**Meeting closed at 8:06 pm.**

The next scheduled Board of Health Meeting: October 17, 2019

Melissa Roberts-Cote, BOH Clerk

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## **BOARD OF HEALTH**

Date: September 19, 2019

**Hearing Room, City Hall, 210 Main Street, Northampton**

### **Meeting Document List**

The following documents were available to the Board of Health during their scheduled meeting.

These documents are available for review at the:

**Northampton Health Department, 212 Main Street, Northampton, MA 01060**

- Meeting Agenda
- August 19, 2019 Minutes
- Local Government Have the Power to Move Energy Codes Forward
- Article: A Better Building Code
- Article: Energy Efficient Codes Coalition
- Letter from Attorney Adam Ponte, Fletcher Tilton Attorneys at law
- Document: Amendments to consider for the City of Northampton Board of Health Restricting the Sale of Tobacco Products and Nicotine Delivery Products
- Draft Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products
- 2019 Flu Vaccine Schedule
- 2019 Northampton Mosquito Control Report
- Massachusetts Department of Public Health Biobot Analytics