



# ***Billerica Board of Health***

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Sandra Giroux, Chair  
Marie O'Rourke, Vice Chair  
Mike Grady, Secretary  
Robert Reader  
Elizabeth Villar, Ph.D.

Richard Berube, Director

## **BOARD OF HEALTH MINUTES June 3, 2019**

Sandra Giroux, Chair called the meeting to order at 7:00 p.m. Also in attendance were Marie O'Rourke, Vice Chair, Mike Grady, Secretary, Robert Reader, Dr. Elizabeth Villar, Richard Berube, Director and Joanne White, Recording Clerk.

### **OPEN MICROPHONE**

Mrs. Giroux asked if anyone was present for open microphone.

No one was present for open microphone.

### **ACCEPTANCE OF MINUTES**

Mr. Reader made a motion to accept the Meeting Minutes of April 1, 2019 with a correction. Mr. Grady seconded. Four (4) voted in favor. One vote abstained (Dr. Villar).

### **BOARD OF HEALTH BUSINESS**

#### **Health Department Activity Reports**

Mrs. Giroux stated the first item under Board of Health Business is the Health Department Activity Reports.

Copies of the Health Department Activity Reports for the months of April and May are included in the Board's package.

Mr. Berube explained that Christine West, Public Health Nurse continues with her routine activities (i.e. blood pressure and blood sugar checks, lead testing for children, communicable disease reporting/follow ups and weekly visits to the Council On Aging for blood pressure checks).

Christine is reviewing camp applications and preparing the paperwork for inspections. Health Agent, Phavy Pheng will assist Christine with the camp inspections.

Mr. Berube explained that the Board of Health received a limited dose of the new shingles vaccine. Camp inspections will begin in June.

Mrs. Giroux explained that a couple of people were not completely happy and complained on social media about the Board of Health rules for disposing of sharps containers.

Mr. Berube stated that the Board of Health provides a service to the community on a daily basis for dropping off sharp containers. Other communities provide limited times to drop off sharp containers. Some communities only provide the service once a year. This is an unfunded mandate that was thrust upon us. There is no appreciation for the service that the Board of Health provides.

Mrs. Giroux stated that the new Sharps Disposal Program will be re-advertised with specific instructions on the proper disposal and the size of sharp containers that are accepted.

Mrs. Giroux asked the Board Members if they had any questions regarding Christine's report.

The Board Members did not have any questions.

Mr. Giroux stated the next report is from Health Agent, Phavy Pheng.

Mr. Berube stated that Phavy has been very busy with the new and old cases.

Mr. Grady complimented Phavy on a great job she has done in closing out twenty-two (22) cases.

Mrs. Giroux asked the Board Members if they had any questions regarding Phavy's report.

The Board Members did not have any questions.

Mrs. Giroux stated that the last report is from Health Agent, Shelagh Collins.

Mrs. Giroux asked how Shelagh is doing.

Mr. Berube explained that Shelagh is doing very well. Gary Courtemanche the former Health Agent came back for two (2) weeks to work with Shelagh. It was very beneficial. Shelagh has attended a lot of training classes. A Health Agent needs training of the food code and regulations. Shelagh has also been going to Title 5 Soil Evaluator training. Shelagh has gone on a few complaints by herself which she has handled very well.

Mrs. Giroux asked the Board Members if they had any questions regarding Shelagh's report.

The Board Members did not have any questions.

**Substance Abuse Prevention Committee - Report**

Mrs. Giroux stated the next item is a report from the Substance Abuse Prevention Committee.

Mike DeLucia, one of the Board of Health Representatives of the Substance Abuse Prevention Committee, identified himself. Mr. DeLucia explained that the report does not include the results of the census from the students. The result should be ready in the fall. The next Billerica Substance Abuse Forum will be held in September, which is Drug Awareness month. Over two hundred (200) people attended the Billerica Substance Abuse Forum at the Marshall Middle School. At the forum a presentation was given to help educate parents, teachers and students on the early warning signs of substance use disorder. The Overdose Awareness Vigil was very successful. This year's Overdose Awareness Vigil included a Proclamation by Governor Charles Baker acknowledging the opioid epidemic and the lives it has claimed. It also featured a reading of the names of Billerica residents lost to overdose. There is a huge vaping problem in town. Sgt. Tara Connors and Mike Higgins met with the high schools and implemented testing protocols. Vaping/Juuling is a big issue in Billerica. Vaping sensors will be installed in all bathrooms at the new Billerica Memorial High School. Sargent Tara Connors and Mike Higgins are coordinating with the Schools Administration on response protocols. Vaping usually does not smell or has a strong smell. In Billerica 50% is Marijuana use and 50% is Vaping use. However, alcohol is still the biggest problem, marijuana and vaping are the second biggest problem. Mike Higgins, the Substance Abuse Coordinator, organizes the Billerica Adolescent Recovery (BAR) Program. Other communities that do not offer this program are paying Mike Higgins for their students to go to this training. The training is a 4 week extensive program. Narcan training is being done every two (2) months in the Town Hall. Mr. DeLucia explained the number of Opioid Related Overdose Deaths. 2019 year to date we have only lost four (4) lives to overdose. Mike Higgins, the Fire Department and the Police Department visit each family, offer treatment options and teach Narcan and provide assistance to the individual and/or a family member. May was one of our most successful months. There were only a total of five (5) overdoses. Only one (1) overdose was a fatality. So far in 2019 there have been a total of twenty-two (22) overdoses, fifteen (15) were administered Narcan and there were three (3) fatalities. We have been purchasing Narcan through the state because it is cheaper. Dina Favreau, Chair of the Substance Abuse Prevention Committee put this report together. Mr. DeLucia asked the Board Members if they had any questions.

The Board Members did not have any questions.

The Board Members thanked Mr. DeLucia for his presentation.

Mr. DeLucia stated that he would come back in December or January with an updated report.

**Central Mass Mosquito Control Update – Aerial Larvicide Results**

Mrs. Giroux stated the next item is Central Mass Mosquito Control Update regarding the Aerial Larvicide results.

Mr. Berube stated that the Aerial Larvicide results in Billerica indicated a reduction of 96%. It was the best results out of the three (3) towns that participated in the aerial application.

Mrs. Giroux commented that everyone should have received a reverse 911 that larvicide spraying will be done in June.

Mr. Berube asked what was the call about and who did it come from.

Mrs. Giroux replied the call came from Clancy Main, in the Town Managers office. The call was to inform Billerica residents that larvicide spraying will be done in June weather permitting. Mr. Main also stated the six (6) other states will be sprayed.

Mr. Berube commented that Clancy should not have sent out a message without seeking my authorization. Mr. Berube explained that he received an email today from Tim Deschamps, Executive Director for the Central Mass Mosquito Control Project asking me about this phone call that residents in Billerica were getting. The information is not accurate. The residents were confused because they thought that larvicide spraying was going to be done in the summer. The spraying that will be done is localized out of the back of a truck. I will explain to Clancy what spraying is being done.

### **Healthy Communities Tobacco Control Program – Compliance Check Report**

Mrs. Giroux stated the next item is the Compliance Check Report from the Healthy Communities Tobacco Control Program.

Mr. Berube explained Ron Beauregard, Healthy Communities Tobacco Coordinator is not present tonight because he got delayed at the Chelmsford Board of Health Meeting. The results of the compliance check report is one of the best compliance reports that we have received in a long time. There was only one sale of tobacco products to a minor.

### **Cancellation of July Board of Health Meeting**

Mrs. Giroux stated the next item is the cancellation of the July Board of Health Meeting.

Mr. Berube explained that he would like to cancel the July Board of Health Meeting. Joanne White and myself will be on vacation. By the time we come back and put together an agenda it would be too close to the August meeting. The next Board of Health meeting is scheduled for August 5, 2019.

### **Miscellaneous**

Mr. Berube explained that Mooyah Burgers has gone out of business.

Mr. Berube explained that Turnpike Market is advertising that they are selling homemade muffins. Gary and Shelagh paid Mr. Patel a visit to verify if the muffins are being made at Turnpike Market. It is the responsibility of the owner, when there is a change in their food service operation pursuant to the food code they must notify the Board of Health because it may be subject to a review and require Board of Health approval. Come to find out he is getting the muffins from an establishment in Medway. We did some investigating and found out that they did not have a license to sell the muffins. I sent Shelagh to Turnpike Market to Cease and Desist the sale of the muffins. I had a phone conversation with the owner and he indicated to me that he was not going to cooperate.

I informed Mr. Patel that I was going to fine him if he did not get the message. I also told him that I was going to bring him before the Board and close him down. He informed me that he was going to talk to the Town Manager. I just want to make the Board aware of this situation.

Mr. Grady explained that he went to Turnpike Market and tried to purchase the muffins. They told him that they had run out. Mr. Grady stated that if you make the muffins here, how can you run out? Mr. Grady commented that he could not smell the muffins baking. He told me he ran out of trays for the muffins. I asked him why don't you buy more trays. He replied that he does not have enough baking pans. I told him to have a nice day and walked out.

Dr. Villar asked is Java's Brewin going to reopen.

Mrs. Giroux replied no.

Mr. Grady asked Mr. Berube if the Tilted Kilt closed officially.

Mr. Berube stated that he did an inspection a couple of weeks ago and they were still operating at that time.

Mr. Grady commented that he was told that the business was in the process of being sold.

**7:15 p.m. Middlesex Canal Commission – 2 Old Elm Street – Requesting a Variance and Stormwater Management Permit**

Mrs. Giroux stated the first hearing is Middlesex Canal Committee, 2 Old Elm Street, requesting a Variance and Stormwater Management Permit.

Matt Hamor, provided the Board Members with large scale drawings of the proposed project.

Matt Hamor, Landplex Civil Engineering & Surveying, identified himself. Mr. Hamor explained that he was representing the Middlesex Canal Association. The applicant has a museum in the Faulkner Mills. Mr. Hamor pointed to the plans and showed the location of the abandoned property with the old brick building that the Middlesex Canal Association owns. The applicant has received a Variance from the Zoning Board of Appeals (ZBA) for the non-conforming lot as well as some parking related to the use of the building. The ZBA granted a special permit variance for the reduction of the parking area. Mr. Hamor pointed to the plans and explained the Green Engineering Flood Plain (GEFP) and the FEMA Flood Plain. That elevation is 113.9. The owner is seeking a variance from the Billerica Board of Health Regulations. We have received a pending Order of Conditions from the Conservation Commission that has conditions recommended by Brian Dunn, MBL Land Development & Permitting Corporation. Brian Dunn is the consulting engineer for the Conservation Commission and the Board of Health. Brian Dunn has reviewed this project. Mr. Hamor pointed to the plans and explained the one hundred (100) foot and two hundred (200) foot set-backs to the Concord River. The proposed project will utilize the existing parking area to the south adjacent to the existing brick building to accommodate our parking. There will be eight (8) parking spaces and some restoration of the entire bank of the river. The proposed plan is to install an infiltration trench along the perimeter of the parking lot in order to improve the stormwater that is going across the parking lot. The water will go into the trench, recharge into the soil and then the water will be clean and surcharge out of that trench. The proposed improvement to the existing

paved parking area will consist of removing portions of previously disturbed areas outside of the twenty-five (25) foot "No Alteration Zone". Additional compensatory "cut" earth work is proposed for minor filling which is necessary for the proposed helical piles necessary to support the proposed foot bridge and observation deck. There will be a temporary construction storage area. An operation and maintenance plan will be submitted to the Board of Health. The proposal is for a footbridge that will expand across the canal and be secured by helical piles. A footbridge is necessary to provide handicap access to the vestibule. Mr. Hamor pointed to the vestibule and explained how people would come into the museum and check in.

Mrs. O'Rourke asked if the current museum is moving into this site.

Mr. Hamor replied yes. Mr. Hamor explained how the low pressure sewer will be connected. There will be a small food prep area. There will be no meals. A wash sink will be installed within the kitchen area. The wash sink will have a 75 pound internal grease trap underneath the sink. There will be another grease trap in the floor of the building before the water gets to the low pressure sewer pump. Floor plans of the entire building are available. Mr. Hamor pointed to the plans and explained where the erosion and sedimentation control barrier would be. Some vegetation will be planted around the area. Construction fencing will be installed inside of the straw wattles to stop any debris from going into the river.

Mrs. Giroux asked Mr. Berube for his comments.

Mr. Berube stated that Mr. Hamor has explained the project very well. The primary issue that the Board of Health is concerned with is providing compensatory flood storage for any filling of the flood plain which is minor. As an additional benefit they are providing is stormwater management which at this time there is no problem. We have been working with the Middlesex Canal Commission on this project for four (4) years. It is a challenging project. What is being proposed is going to be a fantastic project and will be an improvement to the neighborhood and a benefit to the town. I fully support this project and recommend granting the variance and stormwater management approval.

Mrs. Giroux asked the Board Members if they had any questions.

Mr. Reader asked who owns the property where the parking lot is.

Mr. Hamor replied Pace Industries. Pace Industries also owns Faulkner Mills.

Mr. Reader asked are you going to get a lease for parking.

Mr. Hamor replied yes, we have an active Easement Agreement for the parking. That verbiage was included when we were granted permission from the Zoning Board of Appeals. Also as part of that easement the applicant will be taking responsibility for maintaining the stormwater devices that will be implemented.

Mr. Reader asked when will this project commence.

Mr. Hamor replied right away. The drawings are 99% complete. We will begin to repair the roof and repaint the bricks on the outside.

Mrs. O'Rourke commented that there will be a view of the falls. It will be a nice project and nice addition to the town.

Mr. Hamor replied yes, that is important.

Mrs. Giroux asked how much of the brick work is salvageable.

Mr. Hamor replied all of it. If some of the bricks are totally ruined they will be replaced with similar ones.

Mrs. Giroux asked if any abutters were present.

No abutters were present.

Mr. Berube stated that the Board should include the conditions recommended by Brian Dunn on his most recent report revised My 21, 2019.

Mr. Grady made a motion to grant a Variance and Stormwater Management approval to the Middlesex Canal Association, 2 Old Elm Street, N. Billerica in order to redevelop an existing building into a museum within one hundred (100) feet of Flood Plain. The conditions should include the recommendations made by Brian Dunn, MBL on the updated report of May 21, 2019 based on the following findings of fact and pursuant to the following conditions:

**FINDINGS OF FACT**

- 1) The work described in the applicant's request is within an area subject to protection under the Billerica Health's Rules and Regulations, Chapter 5, Section 5.5.005 (1) (2) and Chapter 6 inclusive.
- 2) The Board of Health conducted a public hearing on June 3, 2019 and properly notified abutters in accordance with Billerica Health Regulations, Chapter 1, Section 1.2.007.
- 3) The applicant proposes to convert an old brick warehouse building into the new Middlesex Canal Association Museum. The scope of the work includes the construction of entrance deck, vestibule and an observation deck and a footbridge that crosses the existing canal to the proposed parking area in order to facilitate compliance with the Americans with Disabilities Act (ADA). A portion of the proposed work is within the FEMA Flood Plain and Green Engineering Flood Plain. Compensatory flood storage will be provided for any filling of the Flood Plain resulting from the proposed work.
- 4) The project will improve stormwater management over the current existing conditions. Stormwater runoff from the designated parking area will be mitigated through a proposed infiltration trench.
- 5) The project was reviewed by Brian M. Dunn of MBL Land Development & Permitting, Corp., the Board of Health's Consulting Engineer, for potential impacts to the Flood Plain as well as compliance with applicable drainage regulations.

- 6) The Board of Health will impose reasonable conditions to ensure the project is constructed in accordance with approved plans.
- 7) The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

**CONDITIONS**

Standard Conditions # 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17, 19, 24, 25, 26, 27, 28 and 29.

- A) All construction must be in accordance with the following plans submitted for review and approval:
  - a) Notice of Intent Plan prepared for the Middlesex Canal Association by Landplex, dated September 11, 2018 and revised to May 15, 2019 and stamped by Robert M. Gill, RPE#24181.
  - b) Existing Conditions Plan prepared for the Middlesex Canal Association by Landplex, dated April 1, 2019 and revised to May 15, 2019 and stamped by Robert M. Gill, RS#29867
- B) The approved Operation and Maintenance Plan for the stormwater management system must be submitted to the Board of Health prior to the approval of an occupancy permit.
- C) An Agent of the Board of Health or its designees shall observe the subsurface soil condition in the area of excavation for the subsurface stormwater infiltration systems. The system shall not be constructed until the subsurface soils have been deemed suitable for infiltration.
- D) The applicant shall address all outstanding review comments in the peer engineering report updated to May 26, 2019 from the Board of Health's Consulting Engineer MBL Land Development & Permitting, Corp., (Attachment "A"). Revised documents shall be provided to the Board of Health and the Board of Health's Consulting Engineer.
- E) Provide the following documents:
  - a) Details for the footbridge and the vestibule for the work proposed along the bank.
  - b) Details for the proposed sewer forcemain design and construction, with a plan and profile and sewer connection details.
  - c) Location of existing drainage outlet as shown on the PACE parking lot, since Billerica GIS shows that this outlet in the general location of the footbridge landing.
  - d) A signed illicit discharge form from the applicant.
  - e) A copy of the ZBA approval for the file.

Mrs. O'Rourke seconded. So voted unanimously.

**7:25 p.m. Turnpike Mobil – 612 Middlesex Turnpike – Show Cause Hearing for Permit Suspension – Second Violation of Tobacco Control Regulations**

Mrs. Giroux stated the last hearing is Turnpike Mobil, 612 Middlesex Turnpike Show Cause Hearing for Permit Suspension for a second violation of Tobacco Control Regulations.

John Padellaro, Manager of the Turnpike Mobil, 612 Middlesex Turnpike identified himself. Mr. Padellaro explained that he is present tonight because we failed a tobacco compliance check. This isn't our first failure. I want to apologize. I feel ashamed and embarrassed. Complacency set in and the employee let his guard down. I reviewed the tape the next day after the incident and I saw that the employee made no effort to do her job properly. Subsequently, the employee was terminated. After the last incident, we programmed our registers so that the scanning apparatus would recognize license and date of birth. Unfortunately, the employee on duty did not use the scanner. Since our most recent incident I contacted a service provider for the gas pumps and cash registers and requested that they come out and reprogram the registers and make them further restrictive to sell tobacco. Currently, we have a scanner that can scan a license and also prompts a screen when you ring up a tobacco product to enter the date or press Ok. I attempted to eliminate that screen entirely and rely only on the ID scan. In order to properly sell a pack of cigarettes you would physically have to scan the ID. My service technician said that could not be done. What he could do was eliminate the OK so that you could not just press OK you would have to put in the date or scan the license. Sean Maloney, the owner is present tonight. We both agree that we need to put a stop to selling tobacco products to a minor. We both feel that we can. We need to find someone who can help us program our registers.

Mrs. Giroux stated that you have had ten (10) failed compliance checks. You seem to space them out so that you have not lost your license. You barely made the cut off so that you do not have three (3) in a row.

Mr. Padellaro stated that he is not proud of that. Unfortunately it is human error. I wish we could get to the point where they could only scan the ID so that there would be no other way to make a sale

Mrs. Giroux asked the Board Members if they had any questions.

Mr. Grady recommended that Mr. Padellaro reach out to Cumberland Farms and Alltown for help. At Cumberland Farms the last two managers lost their jobs because of this problem. They did not want to deal with it anymore. Mr. Grady stated that your service provider does not want to lose your business

Mr. Padellaro stated that he did reach out to Cumberland Farms.

Sean Maloney, owner of Turnpike Mobil identified. Mr. Maloney stated that with the new hardware we have I can't believe that our service provider is telling us, that it can't be done.

Mrs. Giroux replied it can be done.

Mr. Grady stated that your service provider does not want to lose your business. Mr. Berube .can help you get in touch with the regional manager from Cumberland Farms.

Mr. Padellaro stated that when I told the service provider that we wanted to change to the way Cumberland Farms is doing business. He told me no. He told me they are demanding a license for the sale. Their program is not set up to scan.

Mr. Grady explained that you could probably go to Alltown on Republic Road and get the information you need regarding the system they use.

Mr. Maloney explained that he wants to eliminate putting in the age manually. All we want is to be able to scan. We do not want the cashier to be able to put in the age. The provider is saying that with our system it can't be done.

Mrs. O'Rourke stated that she is disappointed.

Mrs. Giroux agreed.

Mr. Padellaro replied we are also disappointed and embarrassed. We want to do better.

Mrs. Giroux stated if you want to keep your license you are going to have to do better.

Mr. Berube stated that per the Board of Health Regulations, if someone does not look forty (40) years of age you are supposed to ask for their license. I don't know how someone seventeen (17) years old can pass for forty (40). Many establishments have adopted the policy of checking ID's for everyone no matter what age they look like.

Mr. Padellaro replied which is what we are proposing.

Mr. Maloney stated whether you are twenty-one (21) or seventy (70) you need to show an ID.

Mr. Padellaro stated that he does not feel that his help is taking this issue seriously.

Mrs. O'Rourke made a motion to suspend the Tobacco Product Sales Permit for Turnpike Mobil, 612 Middlesex Turnpike, Billerica, MA for (7) consecutive days.

Dr. Villar seconded. Four (4) voted in favor. One (1) vote opposed (Robert Reader).

Mr. Padellaro stated that he is embarrassed and he appreciated the Boards time.

Mr. Grady made a motion to adjourn. Mrs. O'Rourke seconded.

The Board adjourned at 8:05 p.m.

Respectfully submitted,

Mike Grady  
Secretary

Joanne M. White  
Recording Clerk