



Billerica Board of Health

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

Kristel Bennett, Director

BOARD OF HEALTH MINUTES February 3, 2020

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, Kristel Bennett, 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. Grady made a motion to accept the Meeting Minutes of December 9, 2019.
Mrs. O'Rourke seconded. Four (4) voted in favor, one (1) vote abstained (Robert Reader).

BOARD OF HEALTH BUSINESS

Reorganization

Mrs. Giroux stated the first item under Board of Health Business is Reorganization.

Mrs. O'Rourke made a motion to nominate Mike Grady as Chairman.

Mr. Reader seconded. So voted unanimously.

Mrs. O'Rourke made a motion to nominate Robert Reader as Vice Chairman.

Mr. Grady seconded. So voted unanimously.

Mrs. O'Rourke made a motion to nominate Sandra Giroux as Secretary.

Mr. Grady seconded. So voted unanimously.

Health Department Activity Reports

Mr. Grady stated the next item under Board of Health Business is the Health Department Activity Reports.

Copies of the Health Department Activity Reports for the month of December 2019 and January 2020 are included in the Board's package.

Mr. Grady stated the first activity report is from Health Agent, Phavy Pheng. Mr. Grady asked if the Board Members had any questions regarding Phavy's report.

Mrs. Giroux asked has there been any recent activity at 183 River Street.

Mrs. Bennett stated that she would ask Phavy about 183 River Street and report back to the Board.

Mrs. O'Rourke asked about the strong sweet odor at 6 Cook Street.

Mrs. Bennett explained that she has been investigating this issue to see if any type of action can be taken for retail manufacturing. I have contacted the Food and Drug Administration (FDA) and explained that it was across the street from the middle school. The FDA will conduct a follow up inspection. Detective Gerald Roche, Billerica Police Department investigated and saw a display of vaping products associated with the retail manufacturing system. The room was unlocked and no one was staffing the display. I feel that we have grounds to move forward with some type of enforcement action however I am not comfortable with telling them to cease operations because there are new laws in place that state how enforcement is done. Manufacturing is controlled by the FDA. I have talked to Ron Beauregard, Healthy Community Tobacco Control Coordinator and D.J. Wilson, Director of Massachusetts Municipal Association regarding the manufacturing facility and the online retailing operation. Our local regulation does not cover online retail sales. I am just trying to navigate the situation.

Mrs. O'Rourke asked Mrs. Bennett if she would keep the Board updated and report back at the next meeting any new information that she receives.

Mrs. Giroux asked about the status of the complaint at 33 Talbot Avenue. There were a lot of comments on social media regarding how the situation was being handled.

Mrs. Bennett explained that she told the residents that called the office the process that was being used. It happened over the holidays. The leasing company could not clean the appliances. A hazmat company needed to do the cleaning. The cleaning was done in a timely manner.

Mrs. O'Rourke stated that this issue was discussed at the housing meeting and cameras have been installed.

Mr. Grady stated that the next report is from Health Agent, Shelagh Collins.

Mrs. Giroux asked what is the proper protocol for service and therapy dogs that are brought into supermarkets and restaurants? It is disturbing to see a dog in a supermarket or a restaurant. Just because they have a vest on does not mean that the dog is necessarily a trained dog.

Mrs. Bennett explained that people have a feeling of entitlement. Mrs. Bennett explained that she attended a training in Stoneham about service dogs. I have reached out to the presenter, Moss Lynch and requested training for Food Service Establishments (FSE) and the general public. The training provides you with the knowledge about the two (2) questions that you can ask. Is the service animal required because of a disability and what work or task has the dog been trained to perform? There is a flyer from the Americans with Disabilities Act (ADA) that explains about service animals. Shelagh has given out the flyer to the establishments that we have received complaints from. One of the complaints that Shelagh received was a large dog was roaming around in McDonald's. Shelagh talked to the Person In Charge (PIC) and they told her that they were aware of the ADA.

Mrs. O'Rourke asked can the FSE have a rule that you are not allowed to bring a dog in unless you show proof that the dog is a service dog.

Mrs. Bennett stated that there is no specific proof. It happens everywhere, people feel they are entitled to bring their animals with them. Mrs. Bennett stated that she can provide some information to the Board Members regarding what questions can be asked.

Mr. Grady asked can we fine an establishment for allowing pets in an establishment.

Mrs. Bennett replied we can fine the establishments but it would be difficult to prove because it would be after the fact.

Mr. Grady asked the Board Members if they had any questions regarding Shelagh's report.

The Board Members did not have any questions.

Mr. Grady asked about a report from the Public Health Nurse, Christine West.

Mrs. Bennett explained that Christine is out on a family emergency.

Mrs. Giroux asked for an update on the Coronavirus.

Ms. Bennett stated that she would provide an update after the Stormwater Management update.

Mr. Grady asked if the Board Members had any other questions.

FY19 Annual Report

Mr. Grady stated the next item is the FY19 Annual Report.

Mr. Reader commented on the amount of Building Permits that were issued.

Mr. Grady asked is that an increase from last year.

Ms. White replied that the building permits increased by three (300) hundred.

Mrs. Giroux asked who are the four (4) funeral directors.

Ms. White replied that Burns Funeral Home has 1 director and Sweeney's Funeral Home has three (3) funeral directors.

Mr. Grady asked the Board Members if they had any questions.

The Board Members did not have any questions.

Update for Emergency Ban on Vaping Products

Mr. Grady stated the next item is an Update for Emergency Ban on Vaping Products.

Mrs. Bennett stated that on November 27, 2019 Governor Baker signed An Act Modernizing Tobacco Control into a law. On December 11, 2019 the Massachusetts Department of Public Health (MDPH) promulgated an emergency regulation 105CMR 665.000 Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems. The emergency ban on tobacco and vape products was no longer in effect. The Health Department sent a notice to the tobacco retailers and adult only stores explaining all the changes. Mrs. Bennett explained the new regulation. Beginning on June 1, 2020 flavored cigarettes and other tobacco products including menthol cigarettes and flavored chewing tobacco will be restricted to licensed smoking bars where they may be sold for on-site consumption. Billerica does not have any smoking bars. There will be a 75% excise tax on the wholesale price of nicotine vaping products in addition to the 6.75% sales tax. On December 19, 2019 the Health Department sent a notice to all tobacco retailers regarding the new regulation. Mrs. Bennett explained that she delivered a separate notice to the two the adult only retail establishments explaining the regulation and the signage requirements. On Wednesday, February 5, 2020 Ron Beauregard will provide training at the Town Hall for Billerica, Chelmsford and Tewksbury retailers that sell tobacco and vaping products.

Mr. Grady asked the Board Members if they had any questions.

Mrs. O'Rourke asked if the Board Members could attend the training.

Mrs. Bennett replied yes. She would also provide the Board Members the information where additional training would be available.

Stormwater Management Discussion

Mr. Grady stated the last item is Stormwater Management Discussion.

Mrs. Bennett explained that when she was hired, the Town Manager, John Curran suggested that the Engineering Department take the lead on stormwater management projects. I have met with the Engineering Department and Conservation Commission to discuss this change. Mr. Curran thinks that this will relieve some of the burden on the Health Department. I agree with this change.

Stormwater Management is new to me. Engineering will take the lead on the stormwater management projects. However, it will remain a Board of Health regulation. The Board of Health will continue to issue permits. Projects will still be coming before this Board for review and approval. The projects will be reviewed by a peer consultant and conditions on the permit will be in place for the peer consultant to conduct inspections during the project. There will be some small changes in the regulation coming in the near future. The only change right now will be who is managing the project and overseeing it. I think it is the right move.

7:15 p.m. Smoking Complaint – Elks Lodge – 14 Webb Brook Road

Mr. Grady stated the first hearing is the Smoking Complaint at the Elks Lodge, 14 Webb Brook Road.

Mrs. Bennett explained that November 2019, the Board of Health received a complaint from Ray Gondola, a member of the Billerica Elks, regarding smoking in the Elks. Mr. Gondola asked if the Board of Health could do anything about smoking in private clubs. I did some research and talked to Ron Beauregard about this situation. There are other communities that prohibit smoking in private clubs. In 2004, the Town of Athol, Board of Health enacted a health regulation that banned smoking in “membership associations” (private clubs). I have provided the Board Members with the Town of Athol Regulation and case law along with a list of communities that prohibit smoking in private clubs. If the Board would like, a public hearing can be scheduled in the near future to discuss and make a determination to restrict smoking in private clubs. Currently, Billerica does not have a mechanism to address this complaint.

Mrs. O’Rourke suggested that the Board of Health hold a public hearing.

Mrs. Bennett stated that we would need to have a public hearing to change the regulation.

The Board discussed the private clubs that currently exist and allow smoking.

Mrs. Giroux commented that she thought private clubs were grandfathered in unless they turned in their smoking permit.

Mrs. Bennett explained that Boards of Health try to stay away from smoking in private clubs because it is controversial. It can become political.

Mr. Reader stated in fairness to Mr. Gondola it is a health issue.

Mr. Grady stated that in his opinion the members need to address this issue.

Mrs. O’Rourke agreed with Mr. Grady.

Mrs. Giroux suggested that the Elks install a system to diffuse the smoke.

Mr. Reader stated that the Elks installed a system and it does not work properly. When it was brand new it never worked properly. Mr. Reader stated that smoking is a health issue.

Michael Canfield, 16 Springwell Road, Billerica, Chairman of the Board of Directors, identified himself. Mr. Canfield explained that some Elks Clubs have the no smoking regulation. It is a case by case situation. Smoking was voted down once. Then the smokers wanted to vote again and it got voted back in. The Billerica Elks Club has 1300 members. The ventilation system cost the Elks \$24,000. It does work, it just depends how many people are smoking. We do not allow vaping in the club.

Robert Nelson, Nashua New Hampshire, Exalted Ruler for the Billerica Elks, identified himself. Mr. Nelson explained that the smoking issue was brought up before. We tried to improve the ventilation by installing new windows to help with the ventilation. A lot of functions are held at the Elks. When you apply to become a member you are told that it is a smoking club. It takes 1-3 months to become a member. We do not force people to join. If it is a health hazard you do not have to join.

Mr. Reader stated the smoke is a hazard to people's health.

Ray Gondola, 350 Kendall Road, Tewksbury identified himself. Mr. Gondola stated that when he leaves the Elks he goes home and puts his clothes in the washing machine. The system does not work properly.

Mr. Grady asked if anyone else would like to comment.

Mr. Reader made a motion to hold a public hearing for smoking in private clubs.

Mrs. O'Rourke seconded. So voted unanimously.

Mr. Reader asked Mrs. Bennett to find out if he has to abstain because he is a member of the Elks.

Mrs. Giroux asked if she has to abstain because she is an auxiliary member of the VFW.

Mrs. Bennett asked is this hearing to just get input from the public or will the Board make a decision at the hearing to change the regulation.

Mrs. Giroux replied a decision will be made at the hearing.

7:20 p.m. Blackbird Tattoo – 131 Boston Road – Request to perform Micro-blading

Mr. Grady stated the last hearing is Blackbird Tattoo, 131 Boston Road request to perform Micro-blading.

Mrs. Bennett explained that Rhiannon Connor, owner of Blackbird Tattoo came to me requesting to perform micro-blading at her facility. Under the current Board of Health Regulation micro-blading is prohibited. Rhiannon is present tonight to discuss her request.

Rhiannon Connor, 16 Woodbine Street, Chelmsford identified herself. Ms. Connor explained that micro-blading is just a different form of the tattoo procedure. The towns that do allow

micro-blading require licensed tattoo artist to have passed a certified course on disease transmission, blood borne pathogens, anatomy and physiology or an equivalent skin course, and a certified CPR course. Billerica's Body Art Regulation currently requires those courses. Our facility already meets all the requirements for tattooing. Micro-blading is just a different type of tattooing. We have a high demand for this type of tattooing.

Mr. Reader asked what is the difference?

Ms. Connor explained that instead of a tattoo machine, it is a hand held tool that has little needles. Ms. Connor explained the process used with the hand held tool. We can this do procedure with a tattoo machine but it would not be called micro-blading. It is less invasive than a tattoo machine. It fades in about a year. It is the same cleanup, the same procedure and everything is disposable. We have a bio-hazard service. It is not a lot different than what we do now. We would be using a different tool.

Mr. Reader asked Mrs. Bennett why is micro-blading not allowed.

Mrs. Bennett explained that she had a discussion with Health Agent, Phavy Pheng and Joanne White regarding Billerica's Body Art Regulations and why micro-blading is not allowed. I also had a discussion with Richard Berube, the previous director. Mr. Berube stated that he did not want to allow micro-blading because the procedure is being done so close to the eyes he did not want that liability. The Town of Watertown allows micro-blading and cosmetic tattooing. It worked well as long as the proper standards are being complied with. Ms. Connor stated that her licensed facility is properly equipment and she follows the proper procedures. Micro-blading is similar to permanent tattooing. Micro-blading is a semi-permanent procedure. The color only reaches the epidermal layer of the skin. It fades over time.

Mr. Reader asked what do you mean when you say the tattoo fades.

Ms. Connor explained the tattoo does not fade completely however it lightens up significantly. A touch up is needed anywhere between 12 months and 3 years depending on skin care routines.

Mrs. Bennett stated that if the Board should vote to have a public hearing and make a change to the regulations allowing micro-blading and cosmetic tattooing then micro-blading could only be done with a pen. No scalpels or cutting blades would be allowed. The practitioner should have a license from the Board of Cosmetology and meet the requirements of a tattoo practitioner. I can understand Richard's concern about being so close to the eyes.

Mr. Reader commented that the town would not be liable for anything that happens.

Mr. Grady asked how would the Board of Health enforce the regulation.

Ryan Connor, Rhiannon's husband identified himself. Mr. Connor explained that if the Board of Health does not allow a safe legal option people will go and have it done at someone's house or somewhere that is not legal.

Ms. Connor stated that one of the issues now is that licensed Cosmetologists are not supposed to do micro-blading. However, towns are allowed to make their own individual rules. On a state level you are supposed to be a licensed tattoo artist because we have the blood borne pathogens and skin training that is required to be a tattoo artist.

Mr. Grady commented that there is a gray area. Who would be enforcing the policy?

Mrs. Bennett explained that this is similar to tobacco control. Each Board of Health had their own tobacco control law and then recently the Department of Public Health voted on the new state laws. The State has provided guidance to each Board of Health as to the development of body art regulations and cosmetic tattooing that can be included or not included. The Billerica Board of Health Regulations do not include cosmetic tattooing.

Mr. Grady stated there should be another license and another fee for anyone that is going to do cosmetic tattooing in Billerica. How do we train the inspectors so that they know what to look for when conducting inspections?

Mrs. Bennett replied that she spoke with Phavy and explained that the establishment would need to have a licensed practitioner. They need to have the proper equipment specifically for micro-blading and cosmetic tattooing. They would need two licenses one for tattooing and one for cosmetic tattooing. They would only be allowed to use a single use pen.

Mrs. Giroux stated that she thought the acceptable tool in micro-blading is a scalpel.

Ms. Connor explained no, it looks similar but it does not have a blade. It has a different configuration. Ms. Connor explained the tools used in micro-blading.

Mr. Grady asked the Board Members if they had any questions.

Dr. Villar stated if you want to get a tattoo on your face then I don't see a problem.

Mr. Reader asked how many tattoo parlors are there in Billerica.

Ms. Connor replied Blackbird Tattooing is the only establishment.

Mrs. Giroux stated she has a problem with it being so close to the eyes anything can happen. I am very concerned. I would need to learn more about the procedure.

Dr. Villar suggested that another option would be to have a consent waiver signed by the person getting the tattoo that outlines the additional risks associated with tattoos in certain areas of the body.

Mrs. Giroux stated that she is very skeptical about anything that so close to the eye.

Mrs. O'Rourke stated that her concern is who is going to check on the establishment and enforce the regulation. We are not equipped to do that.

Mrs. Bennett explained that in Watertown she enforced the regulation with the Public Health Nurse. In Watertown some beauty salons applied for permits for micro-blading. They complied with the regulations. They did complete the body art training requirements. They need to have at least 2 years of training that is documented. I would suggest also having a license from the Board of Cosmetology because it is specific to the face especially around the eyes.

Mrs. O'Rourke commented that she is not prepared to vote for micro-blading at this meeting.

Ms. Connor stated that I do not know how realistic it would be to get a license from the Board of Cosmetology because that requires going to school. The Board of Cosmetology does have accredited courses that they recommend specifically for micro-blading. The courses cost about \$5,000. That is what is required for micro-blading in Boston. Instead of getting a license from the Board of Cosmetology we would take an accredited course that covers micro-blading.

Mrs. Giroux asked Ms. Connor if she had that license.

Ms. Connor replied that she has not taken that course yet because it will cost \$5,000 and I don't want to take it if I cannot use it. If we can do micro-blading I will take the course. We want to do the procedure as safely as possible.

Dr. Villar suggested that a condition be included that in order to do micro-blading they have to attend educational classes to keep updated with the technology.

Mr. Grady asked are there any other local competitor's doing micro-blading now.

Ms. Connor replied that she knows of a couple of places in Nashua, New Hampshire and there are spas in Andover that offer micro-blading. I think Tewksbury does not allow micro-blading.

Mr. Grady asked Mrs. Bennett if she could find out more about micro-blading from other communities in our area and also provide the Board with the wording that is used in Watertown. The Board needs to have an idea what we would be dealing with.

Ms. Connor stated that a lot of our customers ask us for eyebrow tattoos. I can do it with the tattoo machine however it is not the best way to do it. We want to do it the right way. We have a lot of the requirements with our tattoo license and would do the same thing for micro-blading.

Mrs. Giroux made a motion to continue the hearing until the next Board of Health Meeting so that the Board Members could learn more about micro-blading.

Mr. Reader seconded. So voted unanimously.

The Board thanked Ms. Connor for the presentation regarding micro-blading.

Miscellaneous Update

Mrs. Bennett explained there is one positive case of the Coronavirus in Boston. The Massachusetts Department of Public Health (MDPH) held a conference call on the Coronavirus. The risk level is low. MDPH is working closely with the Center for Disease Control (CDC). The

case has been quarantined and family members have been isolated. CDC approved MDPH to check out the four (4) rows surrounding that area of the plane. There is a lot of information available.

Dr. Villar stated that the regular flu has already killed 8,000 people in the U.S. alone and has a higher mortality rate vs the Coronavirus. People are blowing this out of proportion. The mortality rate for the Coronavirus is less than 10%. It is far less than the current estimate for the regular flu.

Mrs. Bennett explained that the State emphasizes if you are sick stay home, wash your hands frequently and use alcohol based hand sanitizer. The State will be holding more frequent conference calls to update the Boards of Health.

Mrs. Bennett stated that at the next meeting 2 Beaconcrest Court will be coming before the Board of Health for a variance for work within 25 feet of the Green Engineering Flood Plain.

Mrs. Bennett explained that Town Manager, John Curran has requested that a Social Worker be included in the Board of Health Budget. I have also included a part time Community Service Coordinator for the Fiscal Year 2021 Budget to be available to other departments in the town.

Mrs. O'Rourke asked isn't there a Social Worker at the Council On Aging.

Mrs. Bennett replied they have a case worker. The case worker does not address mental health needs. People who do not have a Social Worker in town can contact the Board of Health for assistance. I am including a part-time Community Service Coordinator in the FY21 Budget Request. I have also requested to add a Public Health Consultant who would be qualified as a professional food consultant, a hoarding consultant or be able to review complex or alternative septic systems. Mrs. Bennett explained the changes she has submitted to the Town Manager for the Fiscal Year 2021 Budget. The reason to request a Public Health Consultant, specifically a Food Consultant is to help out the staff. Shelagh has been in the Health Department for almost a year and has received some training from Gary but needs some additional assistance to handle complex food safety regulatory issues. Phavy has also expressed interest in conducting food inspections. The Public Health Consultant will help with some training for staff and gap fill any inspection the Health Department is behind on.

Mrs. O'Rourke suggested that Mrs. Bennett look into more training for Shelagh.

Mrs. Bennett explained that she has reached out to some of her colleagues and Shelagh will be shadowing them to see how they conduct food inspections. I have taken her out with me on a few inspections. Sometimes when a complex problem arises she struggles with the steps for enforcement. I am working on addressing this, to get her properly trained. The plan is to cross train Phavy and Shelagh. A Public Health Consultant can be beneficial in the training for both of them.

Mr. Reader made a motion to adjourn. Mrs. Giroux seconded.

The Board adjourned at 8:30 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording Clerk