

**BOARD OF HEALTH MINUTES
JULY 20, 2009**

Marie O'Rourke, Chair called the meeting to order at 7:30 p.m. Also in attendance were Robert Reader, Vice Chair, Sandra Giroux, Secretary, Fred Kenyon, Daniel Kane, Richard Berube, Director, and Joanne White, Recording Clerk.

ACCEPTANCE OF MINUTES

Mr. Kenyon made a motion to accept the proposed revision to the Meeting Minutes of April 13, 2009 as corrected. Mr. Reader seconded. So voted unanimously.

Mrs. Giroux made a motion to accept the Meeting Minutes of June 1, 2009. Mr. Kenyon seconded. So voted unanimously.

CORRESPONDENCE

Helen Devlin – Substance Abuse Prevention Committee

Mrs. O'Rourke stated the first item under correspondence is Helen Devlin's appointment to the Substance Abuse Prevention Committee. Mrs. O'Rourke asked Mrs. Giroux if she would please read the letter from Mrs. Devlin.

Mrs. Giroux read the letter that Mrs. Devlin sent to the Board thanking them for appointing her to the Substance Abuse Prevention Committee.

Mrs. O'Rourke explained that Bernie and Eleanor Hoar have resigned as the Board of Health's representatives because of other conflicts. Mrs. Devlin has been appointed as the Board representative along with Mrs. Giroux.

BOARD OF HEALTH BUSINESS

Reorganization

Mrs. O'Rourke, Chair stated the first item under Board of Health Business is reorganization of the Board Members.

Mrs. Giroux nominated Mr. Reader as Chairperson.

Mr. Reader declined the nomination.

Mrs. Giroux nominated Mrs. O'Rourke as Chairperson. Mr. Kenyon seconded.

Mr. Giroux stated all in favor of Mrs. O'Rourke being Chairperson of the Board say Aye. So voted unanimously.

Mrs. O'Rourke nominated Mr. Reader as Vice Chairman. Mr. Kenyon seconded.

Mrs. Giroux stated all those in favor say Aye. So voted unanimously.

Mr. Kenyon nominated Mrs. Giroux as Secretary. Mr. Reader seconded.

Mrs. Giroux stated all those in favor say Aye. So voted unanimously.

Mrs. Giroux stated the Board is reorganized.

Mrs. O'Rourke thanked all the Board Members.

School Cafeteria Inspections

Mrs. O'Rourke turned the meeting over to Mr. Berube.

Mr. Berube stated the next item is School Cafeteria Inspections. Mr. Berube explained that there was an article in the Boston Globe regarding lax school cafeteria inspections. I wanted to bring this to the attention of the Board because it is not the case in Billerica. As you know, Health Agent, Angela Braun maintains our food sanitation program and does an excellent job. All our school cafeteria inspections are up to date. In the first paragraph it mentions an elementary school in Billerica that had a problem. I just wanted to inform the Board that this problem was identified and resolved. There are problems throughout the Commonwealth, however that is not the case in Billerica.

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

The Board Members did not have any questions.

Mrs. O'Rourke and Mrs. Giroux commented that Health Agent, Angela Braun does a very good job at maintaining food inspections.

Local Public Health Cuts

Mr. Berube stated the next item on is Local Public Health Cuts. Mr. Berube explained that there was an article in the Boston Globe regarding local public health departments and boards cutting services due to budget restraints. The article mentions that several towns and cities are facing major cuts where health departments are being eliminated or are having lay offs. We need to be prepared and plan for any budget cuts that may occur in Billerica.

Mrs. O'Rourke stated that Amesbury and Salisbury will join in a three-community arrangement, in which they will receive services from Newburyport.

Mr. Berube replied most of the services will be provided by contract services.

Town Counsel Evaluation

Mr. Berube stated the next item is Town Counsel Evaluation. Mr. Berube explained that he received a memo from the Board of Selectmen requesting that all Department Heads, Town Boards and Commissions complete Town Counsel's evaluation by August 14, 2009. Mr. Berube informed the Board that if they could have the evaluation forms completed by the August 3, 2009 Board of Health meeting, he would give them to the Board of Selectmen's office.

Aspen Apartments Comprehensive Permit

Mr. Berube stated the next item is Aspen Apartments Comprehensive Permit. Mr. Berube explained that included in the Board's package is a copy of the Zoning Board of Appeals (ZBA) decision and a copy of the memo that he sent to the ZBA regarding the Board of Health's concerns. I have some concerns with this decision. I have a concern with condition 32 on page 8. The condition states that the development shall comply with the requirements of the Board of Health's letter dated November 24, 2008, which is the letter I have attached. However, if you go to the back of the decision to the waivers that were granted by the ZBA, it grants a waiver from the Board of Health Regulations. That is a conflict. I will discuss our concerns with Town Counsel and proceed from there. A lot of problems could develop with this particular project. I want to make sure the Board of Health has their say.

Mrs. O'Rourke asked wasn't the original project proposed to have 672 units.

Mr. Berube replied yes, however the proposed project will now consist of 384 units.

Mr. Reader asked when is this project scheduled to begin.

Mr. Berube replied it is in the appeal period so I am not sure.

Mrs. O'Rourke asked the Board Members if they had any questions.

The Board Members did not have any questions.

Beaver Control Report

Mr. Berube explained that included in the Board's package is a copy of the Beaver Control Report from Beaver Solutions explaining the recent activity that has taken place in the past several months along with a copy of the Beaver Site Status Update. As you can see a lot of activity has taken place. We are in the process of replacing water level control devices. A lot of trapping has taken place. The Iron Horse Park Middlesex Canal area continues to be a real nuisance. I am trying to work with Mass Bay Commuter Rail and Pan Am Railways to see if they will help out financially in that particular area. The flooding caused by the beaver's affects the rail lines.

Mrs. O'Rourke asked does it cost to get rid of the beavers.

Mr. Berube replied yes.

Mrs. O'Rourke asked how much does it cost.

Mr. Berube replied it is expensive.

Mr. Reader asked what is done with the beavers when they are caught.

Mr. Berube replied the beavers are destroyed. The Health Department issues a permit. Then they are trapped and destroyed.

Mrs. O'Rourke asked if the Board Members had any questions.

The Board Members did not have any questions.

Supreme Judicial Court Decision on Burial Permit Fees

Mr. Berube stated the next item on the agenda is the Supreme Judicial Court Decision on Burial Permit Fees. Mr. Berube explained that several months ago a funeral director challenged the Town of Attleboro's Board of Health's fee for a burial permit. The funeral director won. For a time we suspended charging a fee for burial permits. On June 26, 2009 the Supreme Judicial Court issued its decision that the fee was lawful because they were reasonably designed to compensate the Board of Health for its anticipated related expenses and were not a method for raising general revenue. Since SJC ruled that we could charge a fee, the Board of Health has now resumed charging its fee.

Mr. Kenyon asked how much does the Board of Health charge for a burial permit.

Mr. Berube replied the charge for the burial permit is ten (10) dollars.

Mr. Kane stated ten dollars must meet the SJC definition of a reasonable cost.

Mr. Berube replied we were only charging five (5) dollars. We increased the fee when the fee schedule was reviewed in 2003.

Mrs. O'Rourke asked if the Board Members had any questions.

The Board Members did not have any questions.

Mosquito Control Program Update

Mr. Berube stated the next item is the Mosquito Control Program Update. Mr. Berube explained that the Massachusetts Department of Public Health (MDPH) has recently made changes. Dead birds will no longer be tested for arboviruses. However, MDPH will continue the surveillance program. No West Nile Virus or Eastern Encephalitis Viruses has been confirmed in Massachusetts at this time.

Billerica Mall Update

Mr. Berube stated the last item under Board of Health Business is the Billerica Mall Update. Mr. Berube explained that at the Permitting Department Head Meeting held on Wednesday, July 8, 2009 a representative from RD Management LLC was present and explained what is going on at the mall and what they planned to do. Cranes are being used to replace the roof over the Burlington Coat Factory and the area where the old cinema and Lincoln Liquors used to be located. There is still a good portion of the mall that has not been addressed yet. Mike Kinney, Building Inspector issued a thirty (30) day notice for RD Management to report back with a positive plan to address the issues that were raised concerning the conditions of the mall. The mall is falling apart. There is a great deal of concern regarding mold growth. The Fire Department has some issues with the sprinkler system. The parking lot and the walkway are in poor condition. All these issues were brought to the attention of RD Management at the meeting. We want something done.

Mrs. O'Rourke asked the Board Members if they had any questions.

Mr. Reader asked who would receive the update report in thirty (30) days.

Mr. Berube replied the Building Inspector. Mr. Berube explained that he has kept in touch with RD Management and they are in the process of replacing part of the roof. They have contacted a company to look at the mold issue. They have brought in a structural engineer to look at the roof as well.

Mrs. O'Rourke asked Mr. Berube if he did a walk through of the mall with Steve Glaser.

Mr. Berube replied we walked through the entire mall. I suggested where the roof has been leaking that some interior demolition of the mall may need to be done to remove some of the materials that could contribute to the mold growth. The first step is to get the mall weather tight and then remove all the water-damaged materials. They have already performed some interior demolition down towards the front of the mall where they plan on relocating Papa Gino's, Mall News and Mr. Tux's. They plan on converting the mall to retail storefronts. However, we have not seen any plans as of this date.

Mr. Kane asked when was the last time Papa Gino's and Mall News were inspected. It does not seem like they plan on addressing either of those areas. I am more concerned with Papa Gino's because it is a restaurant. Mr. Kane asked was there any issues the last time Papa Gino's was inspected.

Mr. Berube explained Papa Gino's is not as bad as Lincoln Liquors. However, the place is rundown and we would like to see some capital improvements. If they relocate to another area in the mall, the issues will be addressed. Right now RD Management is in the process of negotiating new leases and once that occurs they will proceed.

Mrs. Giroux asked is the Dollar Tree store moving into Lincoln Liquors.

Mr. Berube replied yes.

Mrs. Giroux asked are they going to fix all the problems that Lincoln Liquors had. The rodent problems, water problems and heat issues.

Mr. Berube replied all those issues will be addressed. The first thing I required RD Management to take care of was the roof before I would sign off on their building permit. The roof had to be replaced. The roof has been taken care of. They are going to spend a significant amount of money to fix up the interior of the store.

Mrs. O'Rourke asked who is doing the work.

Mr. Berube replied Dollar Tree is spending the money to do the interior fit-out.

Mrs. O'Rourke asked are they going to check the ceiling.

Mr. Berube replied RD Management has hired a structural engineer to make sure that there aren't any structural defects.

Mrs. O'Rourke asked what about mold because the tiles are wet all the time.

Mr. Berube replied RD Management has hired an environmental company GZA to investigate the mold and water problem.

Mr. Reader asked are they going to replace the roof in the whole mall or just certain areas.

Mr. Berube replied eventually the entire roof will be replaced.

Mrs. Giroux commented that they have started replacing the roof on the K-Mart side.

7:45 p.m. Environmental Protection Agency (EPA) – Iron Horse Park Superfund Site Update

Mrs. O'Rourke stated the first presentation will be given by the EPA on the Iron Horse Park Superfund Site Update.

Don McElroy, Project Manager for the Iron Horse Park Superfund Site for the Environmental Protection Agency (EPA), identified himself. Don also introduced Stacy Greendlinger, EPA Community Involvement Coordinator. Mr. McElroy stated that if any one would like to be on the EPA mailing list to receive updates regarding Iron Horse Park they could talk to Stacy. Mr. McElroy explained that he was going to give an update on the cleanup operations at Iron Horse Superfund Site. Mr. McElroy also introduced Janet Waldron, Project Manager with MassDEP. Mr. McElroy explained that Janet was his counterpart. He explained that he was not present to discuss the telephone pole issue. Mr. McElroy explained that he was going to update the residents on the Iron Horse Park Superfund Site. Mr. McElroy pointed and explained the Superfund Site areas on the site map. He stated that he would give a brief history of the Superfund Site, what has happened up to now and a look into the future. The Boston and Maine Railroad originally developed the site. EPA became involved at the site in the early 1980's. There are several landfills on the site, including the Shaffer Landfill, B & M Railroad and Johns-Manville Asbestos landfill. A number of properties have been sold off to businesses. The first action taken was to consolidate asbestos to an area that had been leased from the railroad. In 1940 they capped the asbestos. Shortly thereafter the site was listed as a superfund site. At the conclusion of the early studies the findings were surface and groundwater contaminants including organic and inorganic chemicals, asbestos, lead and other metal contaminants. Soil contaminants at the site include PCBS, petrochemicals, and heavy metals. Mr. McElroy explained about the cleanup status. The first area to be cleaned up was the B&M Lagoons. EPA and DEP have excavated and removed contaminated soil and sludge from the lagoons. The second area was the Shaffer Landfill that was capped in 2003 and is being monitored and maintained. Plans are in place to cap seven additional landfills. The third area is the Rest of the Site's that consists of seven different areas of concern. Design work is underway for future capping of contaminants in the Rest of the Site. One site should be completed in fall of 2009 with construction starting in 2010. Other designs will be completed in 2010 with construction to follow. The asbestos lagoons design will be completed this fall and the construction will begin in the spring of 2010. The design of the other areas of concern will be completed by late 2010. In addition, sampling is ongoing to plan for a future cleanup for surface water, groundwater, and sediment. A remedy should be documented in 2010. Mr. McElroy talked about asbestos sampling. We are looking at Iron Horse Park because of the asbestos association. In the past we were looking for deposits. We keep sampling until there is less than 1%. 1% is the action level. We plan to take about 120 to 150 samples from the entire site. The activity-based sampling will take place in September or October. Sampling is done by raking or mowing the grass or bike traffic. Mr. McElroy talked explained the steps that would be taken for the sampling process. Mr. McElroy asked if anyone had any questions.

Mr. Kenyon asked what are the contaminants in the Iron Horse Park area.

Mr. McElroy replied lead is the contaminate that drove the risk to a high level in that area.

Mr. Kenyon asked is the Superfund Site part of EPA's 5-year inspection plan.

Mr. McElroy replied yes, part of the settlement requires periodic monitoring of the surface groundwater.

Mrs. O'Rourke asked is the General Latex Building part of Iron Horse Park.

Mr. McElroy replied it is not part of the site work.

Mrs. O'Rourke asked does General Latex own that building.

Mr. McElroy replied that he did not know.

Mrs. O'Rourke stated that she has driven through the site several times and there is an old house, all kinds of iron, an old bulldozer, a stove, a broken down truck and railroad ties, how long does it take to clean up that stuff.

Mr. McElroy replied the superfund deals with a particular set of issues. The issues you have described are housekeeping issues.

Mrs. O'Rourke asked who is in charge of cleaning up that site.

Mr. McElroy replied he does not know. Superfund deals with past activities.

Mrs. O'Rourke stated there is a brick building on the site with broken windows, who is responsible for the maintaining the property. Who owns the property?

Mr. McElroy replied Pan Am Railways and the MBTA own much of the property. A number of businesses own the property.

Mr. Reader asked are water samples taken from the canal on a regular basis.

Mr. McElroy replied not in that part of Iron Horse Park.

Mr. Reader asked will the buildings be able to operate while the capping is being done by EPA.

Mr. McElroy replied the contaminated soil areas are closer to the Lowell line; it will not be near the buildings.

Mr. Reader asked when the capping process is being done can a request be made to tear down the old buildings.

Mr. McElroy replied no, that is not part of the program unless the building is contaminated. We deal with contaminated risks to soil and water.

Mr. Kenyon asked are the employees involved with OSHA.

Mr. McElroy replied he did not know for sure but would assume they have to be involved with OSHA.

Mrs. Giroux asked while this work is going on is there any health risk to the employees.

Mr. McElroy replied we are not removing anything out of the site so that somewhat minimizes the potential exposure. Dust suppression is an issue from capping materials.

Mrs. Giroux asked what is the risk to the kids riding their ATV's in that area.

Mr. McElroy replied there are many dirt bike tracks in the High Street/Pond Street area. This is an area that has asbestos and it is unknown if there is a risk. We are trying to make an assessment if asbestos is a problem in that area.

Mr. Kane asked when was the last time sampling was done in the contaminated soil areas.

Mr. McElroy replied in early 2000.

Mr. Kane asked was any sampling done before 2000.

Mr. McElroy replied sampling was done in the early 1990's.

Mr. Kane stated that he was looking for a pattern or a trend that would show what the EPA action levels in the 1990 testing was compared to the levels in the 2000 testing and if there was any change or increase in the tests.

Mr. McElroy replied that he would not have that data. Those are questions that I would usually ask about the groundwater and surface water moving and the groundwater discharge. Without some activity you would think there would be a change.

Mr. Kane asked if the activity-based assessments were for asbestos or other organic compounds.

Mr. McElroy replied just for asbestos.

Mrs. O'Rourke asked when selling your home do you have to disclose that you live within a radius of a superfund site.

Mr. McElroy replied that he is unaware of any regulation.

Mrs. O'Rourke stated if anyone in the audience would like to ask a question, please raise your hand and state your name and address.

Lynne Santos, 29 Seven Oaks Road, North Billerica, identified herself. Ms. Santos asked if pentachlorophenol was found in the soil sampling. Are you aware that there is an elementary school close by? Have there been any risks to children that attend that school for six (6) years? How will the asbestos sampling affect the near by residents.

Mr. McElroy replied the intention of the activity-based sampling is to mimic the activities that have already been happening. In earlier samplings asbestos was analyzed. EPA is trying to make a correlation to the level that may be in the ground. We are looking for properties in the Pond Street/High Street area to do the asbestos sampling.

Mr. Berube asked if there are any residents in the area that are willing to participate in the asbestos program, please give your name and address to me after the meeting.

Mr. McElroy stated as for the children attending the school nearby is there any potential exposure or risk. It is unknown right now.

Bob Stanton, 7 Whitegate Road, North Billerica identified himself. Mr. Stanton asked why are MBTA buses stored in the areas that are contaminated. The old buses are just junk buses that would contaminate the soil. The B&M old sludge recycle area is an extension of the McFarland Cascade operations. McFarland Cascade constructed a new sewage facility where they also store more products. Please explain why these companies are allowed to have day to day operations in the areas that are targeted in a superfund site and why these areas are not off limits.

Mr. McElroy replied the old sludge recycle area is still in operation and has been under a different owner since 2001-2002.

Mr. Stanton asked why are the old buses stored in an area that is targeted to be contaminated.

Mr. McElroy explained about the companies that continue to operate and the superfund site risk levels. Mr. McElroy stated that the contamination issues need to be addressed. It is an old industrial park.

Mr. Kenyon explained that there is a web page on Iron Horse Park contamination issues and it states that industry is allowed to operate in the superfund site as long as they do not increase the levels of contamination that already exist.

Mr. Stanton stated that the entrance to this facility is disgusting landscaping should be done. I think the Board should contact the owner and make them cut the grass.

Ken McPhillips, 6 Hickory Lane identified himself. Mr. McPhillips asked if EPA and MassDEP allow dumping on an active landfill as long as the contaminates are not worse than what is already there.

Mr. McElroy explained replied no. When a landfill is closed additional waste is not allowed.

Janet Waldron, Department of Environmental Protection (DEP) identified herself. Ms. Waldron explained there is a policy called Reuse of Contaminates where the soil is tested to make sure it does not exceed specific limits. When the soil is tested the area is covered with clean soil so that it does not get into the environment. DEP has used that policy for a long time.

Mrs. O'Rourke asked Ms. Waldron if she would like to add anything to Don's presentation.

Ms. Waldron explained that she would like to bring everyone up to date regarding the telephone pole issue. DEP is gathering information about the process of the company and the storage of the poles. Two weeks ago soil samples were collected from the area where the poles are stored. All that information is being reviewed by DEP. DEP will determine whether or not any action should be taken.

Mrs. Giroux asked when will the results be available.

Ms. Waldron replied that the results should be available by the middle of August.

Mr. Kenyon asked about air sampling.

Ms. Waldron replied I believe they are looking into air issues.

Mark Sampson, 4 Carmel Drive identified himself. Mr. Sampson asked about the superfund site and the bubbles that are referred to on the map and whether they contain different levels of contamination.

Mr. McElroy replied no. The different bubbles are areas of concern. They bubbles were arrived at from gathering information, site assessment work and historical data.

Mr. Sampson asked in 2003 when the last 5-year report was done there were only two (2) operating units. Now there are five (5) operating units.

Mr. McElroy explained EPA is in the process of gathering additional data for risk assessments.

Mr. Sampson asked about the historical data and the different levels.

Mr. McElroy explained there is usually a footnote at the bottom of the data to explain the different levels. Mr. McElroy explained what the different levels meant.

Melissa Smith, 19 Carriage Road identified herself. Ms. Smith stated that she has a concern with the water that comes into her back yard from the Middlesex Canal. Has the water been checked in Iron Horse Park for pentachlorophenol levels?

Mr. McElroy replied the testing is being tied in with some of the cleanup activities and the requirements for surface water sampling is ongoing. PCP's contamination was found at the former Manville property caused by their drain water system.

Ms. Waldron explained DEP does surface water sampling twice a year related to the Shaffer landfill. The samples are taken at three (3) locations. Ms. Waldron explained the locations where the water samples are collected. We have not seen anything that would cause a concern.

Stacy Greendlinger, EPA Community Coordinator identified herself. Ms. Greendlinger explained that if anyone would like to be on the mailing list to receive updates from EPA about the superfund site they can see her. As Don mentioned in this upcoming year there will be more activity going on at Iron Horse Park. We will be sharing that information with you. We will be happy to come back to the Board at a later date and present any information that we may have on the asbestos program.

Mrs. O'Rourke thanked Don McElroy, Stacy Greendlinger and Janet Waldron for their presentations this evening.

8:15 p.m. McFarland Cascade – Progress Report

Mrs. O'Rourke stated the next item is McFarland Cascade's Progress Report.

Chris Davis, Environmental Lawyer, Goodwin Procter, Boston identified himself. Mr. Davis explained that McFarland Cascade asked him to come before the Board and speak on their behalf and report on the progress that they have made. Steve Glennon, Facility Manager and Gale Hoffnagle, Environmental Consultant for TRC could not be present this evening. McFarland is taking this matter very seriously. In the future we would like to come back when all the representatives can be present and make a full presentation. McFarland has leased the property for a little over a year. McFarland operates a number of similar facilities providing treated utility poles all over the country. They take seriously their responsibility to be a good neighbor. McFarland has spent a lot of time, effort and money addressing the odor concerns. They hired Gale Hoffnagle, an air and odor expert. They installed a weather station to monitor the local conditions ie. wind direction and wind speed to correlate with the odor complaints. They developed and submitted a Plan of Action to the Board in April 2009. Five (5) Monthly progress reports have been sent to the Board explaining what they have done to achieve the requirements of the Plan of Action. McFarland worked with their pole supplier and the railroad to reduce the pole supply substantially. The current inventory is 1,427 poles, which means that they have reduced the inventory by more than 50%. The inventory before this problem started was 3,000 poles with a maximum of 3,300. McFarland has

investigated the mixture that was used to treat the poles as a potential source of the odor problem. Unannounced to them the company that was applying the treatment was using a high sulfur diesel oil carrier to dilute the pentachlorophenol. That contributed to the odor issues. McFarland immediately ordered the supplier to use very little sulfur diesel. McFarland worked closely with KMG Chemical Company to test and implement a new formulation that has substantially ultra low sulfur diesel carrier in future batches of poles. The consumption of poles by the utility customers has been very low which has resulted in fewer deliveries. Normally McFarland would receive two (2) to three (3) rail cars of poles per week. There were only two (2) deliveries in June and none so far in July. Four (4) of the deliveries since April have been treated with the ultra low sulfur diesel carrier and the two (2) deliveries in June have been treated with a PCP solution and the ultra low sulfur diesel. 200 of the poles on site have the new formulation, 270 poles have a different CCA treatment and the remainder of poles, which is about 900 to 1,000 have a combination of low sulfur diesel and the older formulation. We are trying to send out the older poles first which still have the old formulation that led to the odor issue. It will take a little more time to remove all the older poles that are on site. The new poles should not produce any significant odor or cause an issue. McFarland believes the new formulation would prevent the odor problems. To test that prediction it will take sometime to have only the new formula poles with the ultra low sulfur and PCP in the storage yard. Dr. Hoffnagle has analyzed all the odor complaints from June 2009 with the meteorological data from on-site with the wind speed and direction and none of these complaints are consistent with the odors from the pole yard. The smell must be derived from other odor sources. At the request of the Board and DEP, soil sampling was done on July 8, 2009. McFarland hired an independent consultant, GZA Environmental a groundwater firm to be present to collect samples to independently analyze. Those samples were taken at the worst-case locations where there was stained soil. We are expecting those reports by the end of July. McFarland and GZA will be at a future meeting to report on their findings. DEP will also be present to report their findings. McFarland believes that there are other sources of the odors in the Iron Horse Park area. The other sources include the old and new railroad ties along the railroad, the property and surface water conditions along the Middlesex Canal and other potential areas in the park. McFarland has done a great deal to investigate and address this problem. They will continue to address this problem. Iron Horse Park is a good location for this type of operation. McFarland believes that the pole storage does not pose a health risk to local residents. Now that the new pole treatment formulation with low sulfur diesel and PCP has been implemented more time is needed to assess the results of the actions that are being taken. McFarland is requesting the opportunity to come back before the Board with Steve Glennon, Dr. Hoffnagle and a professional representative from GZA Environmental in September and provide some useful information. Mr. Davis stated he would be glad to answer any questions that anyone may have.

Mrs. O'Rourke asked Mr. Berube if he had any questions for Mr. Davis.

Mr. Berube asked if the new formulation comes from KMG Chemical.

Mr. Davis replied yes.

Mr. Berube asked are you aware that there was a similar odor problem in Minnesota and it involved KMG Chemical Company and had to do with their products that they were using to treat the poles.

Mr. Davis replied he was generally aware of the situation but he did not have any of the details. I don't believe that involved the new formulation.

Mr. Berube asked has that aspect been looked at in this investigation.

Mr. Davis replied the company that supplies the utility poles nationally tries to keep aware of KMG's history. What has happened in Minnesota or Upton is a representative of their facilities and not what is going on here.

Mr. Berube stated maybe the product that the plant down south is getting from KMG is contaminated and contributing to this odor issue.

Mr. Davis replied that is why McFarland asked KMG to change the formula and worked closely with them to reformulate the PCP that they were supplying. Pentachlorophenol can cause odor issues and has in various places. McFarland believes this new formulation will be the solution.

Mr. Berube stated what you are saying is that they are looking closely at what they are getting from KMG to make sure that this problem does not reoccur.

Mr. Davis replied yes they are doing everything they can to make sure that does not happen.

Mrs. O'Rourke asked the Board Members if they had any questions.

The Board Members replied they did not have any questions at this time.

Mrs. O'Rourke asked the audience if they had any questions.

Lynne Santos, 29 Seven Oaks Road identified herself. Ms. Santos stated there is no evidence or likely hood that this is getting into the air. Isn't that because you have not done any testing?

Mr. Davis replied soil testing has been done. The results have not come back. There is a difference whether you find reportable or high levels of contaminates in the soil or whether people are exposed to it and could cause a risk.

Mr. Kenyon stated I think what the people are afraid of is that all the new poles are coming in and are supposed to be at lower levels however there is still a possibility that there is contamination in the air from the odor they smell. Can't air samples be taken quickly so that it can be determined if the health of the people are being affected by the present level of the odor that is in their neighborhoods.

Mr. Davis replied air sampling is complicated and expensive. The question is where and when the monitors should be set up. Should the monitors be set up at the residents homes or at the facility?

Mr. Kenyon commented that he could think of 5 houses where the monitors could be setup, 3, 4, 5, Ashdale Road that is where the odors seem to be the worst. I think a detector should be put in that area. We don't know how much contamination these people are breathing in. I would think that McFarland would want to insist that air samples be taken in those areas.

Mr. Davis replied that he would discuss that with Dr. Hoffnagle and McFarland Cascade in terms of what would be involved with air testing and what would be usable. I will then report back to the Board.

Mrs. Giroux asked when will the results of the soil testing be ready.

Mr. Davis replied the soil testing would be ready in mid-August. The samples are at the laboratory.

Mrs. Giroux asked Ms. Waldron when the DEP test results would be available.

Ms. Waldron replied mid-August.

Mrs. Giroux asked what is the scope of your testing.

Ms. Waldron replied soil samples were taken. DEP was at the site taking samples the same day as GZA Environmental.

Mrs. Giroux asked are you doing any air testing, samples or home site visits.

Ms. Waldron replied she is not aware of any plans to do air sampling. DEP has been talking about what kind of samples might be appropriate. The soil is there and the poles are there. More information is needed as to when the poles come in and how often they come and how long are they store before they are shipped out.

Mrs. Giroux asked when the results come back in mid-August and pending the results, could it lead to further sampling.

Ms. Waldron replied yes, depending what the results are.

Mrs. O'Rourke asked do we know how far the closest resident is to the site.

Mr. Davis replied he does not know for sure, I was told it was a quarter of a mile. That could easily be determined.

Mr. McElroy explained Iron Horse Park and the Shaffer landfill are about a quarter of a mile from the poles to the residents home.

John Coyne, 45 Burnham Road identified himself. Mr. Coyne stated his neighborhood is the furthest away and he smells the odor. He smelled the odor on his way to the meeting this evening coming

from Carriage Road. We smell the odor at the furthest corner of Burnham Road. I thought at the last meeting it was discussed that air quality testing was going to be done in the neighborhood. Is that true?

Mrs. O'Rourke replied not that she could recall.

Mr. Coyne stated that he thinks air quality testing should be done. There are enough houses in the neighborhood that smell the strong odor. I do not smell the odor all the time. The odor could be causing many things.

Ken McPhillips, 6 Hickory Lane identified himself. Mr. McPhillips stated he had a question for the Board of Health. Does anyone keep a record of what contaminates come into the town and how they are being used?

Mr. Berube asked Mr. McPhillips if he could explain exactly what you are referring to.

Mr. McPhillips asked do you know if the new formula is going to cause long-term health issues even though the odor has gone away. Do EPA and DEP monitor what chemicals and where they are coming from, who uses them, the amount they are using and how they are disposing of them or is the town doing it? We pay taxes to have someone watch out for our health and whose is monitoring who is using the chemicals, how much they are using and where are they disposing of them..

Mr. Berube replied the Fire Department keeps track of various properties and companies that store hazardous materials.

Mr. McPhillips asked is there a town ordinance that states if a company decides to use new chemicals they have to contact the Fire Department and let them know.

Mr. Berube replied that is a question that should be directed to the Fire Department.

Mrs. O'Rourke asked Mr. Davis if he would like to be put on the September agenda to discuss the results of the testing.

Mr. Davis replied yes.

Mrs. O'Rourke thanked Mr. Davis for his presentation.

8:30 p.m. Mark Sampson – Petition for Action – Relative to the Storage of Utility Poles at Iron Horse Park

Mrs. O'Rourke stated the last item on the agenda is Mark Sampson, Petition for Action relative to the Storage of Utility Poles at Iron Horse Park.

Mark Sampson, 4 Carmel Drive, North Billerica identified himself. Mr. Sampson explained the presentation has been broken up into a couple of different presenters speaking on behalf of many concerned citizens. At the Board of Health meeting January 2009 Tom Ferraro from the Fire Department and Health Agent, Phavy Pheng stated that they identified the smell that was specifically in our neighborhood as the same odor coming from the utility poles. The other presenters that will speak are Richard Karamanian, 4 Ashdale Road, Carole Legro, 5 Ashdale Road and Lynne Santos, 29 Seven Oaks Road. Mr. Sampson thanked the Board of Health for letting him speak on the petition, EPA and DEP for staying to hear what we have to say, the folks from the Board that have come out to the neighborhood and facility to verify the odor, Health Agent, Phavy Pheng for coming out and keeping a log on the odor complaints, Health Agent, Angela Braun and the people from the surrounding communities for attending the meeting this evening. Mr. Sampson explained what is on the agenda and why the petition was put together. The petition was put together six (6) weeks ago. The petition was put together because of the health and safety concerns and the need for air and water testing. Mr. Sampson thanked McFarland Cascade for putting together the 11- step action plan it is a step in the right direction. We think that the Board of Health needs to take a more active approach to this and not a passive approach and not just accept the plans from McFarland Cascade. The odor even with the reduced formula is as bad as ever and it is sixteen (16) months after the first complaint. It still stinks. What we are looking for from the petition is air and water testing and the EPA and DEP limits. We are looking for a fire readiness assessment. The shipping and delivery schedule. We are looking for the Board of Health to verify that the actions have been completed. Mr. Sampson talked about the Town of Upton and its similarities and differences compared to Billerica. The next thing is having the water in Billerica tested for pentachlorophenol. Mr. Sampson requested that in the 2009 water report testing be done for pentachlorophenol. The EPA has over 50 superfund sites that are contaminated with pentachlorophenol. Bonneville Power Administration and Oeser are two of the sites that both have telephone pole storage yards that have contaminated soil from the poles and contaminated groundwater running away from the poles that are stored there. In Billerica, we have a storage yard of poles that are treated with pentachlorophenol. Mr. Sampson explained why he chose those two companies. That is the driving force because I can quote two superfund sites that have pole storage yards and the issues that they have. I think it is very important that we continue to take proactive steps to take care of this situation. Mr. Sampson introduced Richard Karamanian.

Richard Karamanian, 4 Ashdale Road identified himself. Mr. Karamanian showed a map of the location of the Iron Horse Park facility and explained the closest resident is about 2,000 feet away. Mr. Karamanian gave a presentation on pentachlorophenol (CASRN 87-86-5) and its use, the water toxicology of pentachlorophenol and the short and long-term health effects of pentachlorophenol. He explained that the Concord Watershed converges with other bodies of water and is the primary source of water for Billerica and other communities. Mr. Karamanian explained the potency and symptoms of pentachlorophenol. He talked about the new the formulation and the release of volatile organic compounds. Mr. Karamanian quoted several residents and Health Agents, Phavy Pheng and Angela Braun on their comments regarding the smell. Mr. Karamanian stated that the Board of Health has asked the residents to call the office and document the wind direction and weather conditions when they smell the odor so that they can have detailed information for analysis.

Carole Legro, 5 Ashdale Road identified herself. Ms. Legro stated along with being a resident she is also an Advanced Practice Clinician whose role is on the committee of Community Health and Wellness. Ms. Legro explained some of the clinical data and concerns that she has read about in scientific research and medical journals. She talked about the all the chemicals that are in wood preservatives such as PCP and creosote. Ms. Legro also explained there are Non Cancer Disorders that have acute exposure and long-term exposure. Ms. Legro explained the symptoms. Some of the residents have these symptoms. There are also Cancer Disorders that in more recent studies show a strong connection between PCP and liver cancer. Ms. Legro recommended checking the EPA website and reading the toxicological review on PCP. Ms. Legro explained in detail additional facts regarding the use of PCP. Ms. Legro explained that persistent exposure to PCP and its derivatives cause significant decreases in tumor killing natural Tcells, which are crucial to our immune systems defense. Billerica residents are experiencing acute and chronic symptoms of exposure to wood preservatives. Ms. Legro thanked everyone for listening.

Lynne Santos, 29 Seven Oaks Road identified herself. Ms. Santos explained that she is a licensed professional engineer with fifteen (15) years experience in air quality consulting. She stated that she read the minutes of April 13, 2009 Board of Health meeting and wanted to address some of the statements that the McFarland Cascade's Environmental Consultant, Dr. Hoffnagle made. Dr. Hoffnagle is quoted as saying that pentachlorophenol does not evaporate. Ms. Santos explained that 30-80% of the pentachlorophenol may be lost by evaporation within 12 months. She also talked about air quality, testing and its cost. Ms. Santos stated that she spoke to Columbia Analytical and was told that air quality sampling could be done for approximately \$300 per sample. She explained the odor threshold for PCP above health-based standard. Ms. Santos explained if there is 50 tons of PCP on site the facility needs to have an air permit from the Massachusetts Department of Environmental Protection. Ms. Santos talked about the other possible toxins that could be on site. Ms. Santos explained that there are residents that have well water. Water samples cost approximately \$200 per sample. Ms. Santos requested the meteorological data electronically from McFarland Cascade to confirm their dismissals of odor complaints. Bottom line is we need real data analysis and sampling.

Mr. Sampson stated that is our presentation. We have done a lot of research. Mr. Sampson stated he would be glad to answer any questions now or at a later date.

Mrs. O'Rourke asked Carole Legro if she has been tested for pentachlorophenol.

Ms. Legro stated that is in progress. I have documented my symptoms with 2 physicians.

Mrs. O'Rourke asked Mr. McElroy why we don't smell the odor from the utility poles that are being used on the street.

Mr. McElroy replied he did not know.

Jeanette Palermo, 3 Ashdale Road identified herself. Mrs. Palermo stated that she has lived in North Billerica a long time and has had many family parties and enjoyed them. I cannot live here now because of the odor coming from these poles. I think McFarland should move all the poles from Iron

Horse Park to another location.

Mr. Reader asked Mr. McElroy if this chemical is as dangerous as it appears to be how come it is still legal to use it in the United States.

Mr. McElroy replied that is a question beyond my ability to answer.

Mrs. O'Rourke asked if any members of the Board had any questions.

Mr. Berube stated the Board of Health has looked at the issues Mark Sampson and his associates have raised. We have not relied on McFarland Cascade's plan of correction. We continue to investigate this matter and explore what impact PCP could have. I contacted the Department of Public Works Water Division and asked them about testing for PCP. That is in the works. Our water supply comes from the Concord River. You mentioned that this area falls within the Concord Watershed that is not true. It falls in the Shawsheen River Drainage Basin. You mentioned when Mr. McElroy was speaking about groundwater. You asked for some explanations. The latest results show that PCP has not been detected in the last report dated 2006. Certainly that is still worth exploring. Soil testing has been done and we are not ruling out air quality testing or doing further water sampling as well. Unfortunately things are not progressing as quickly as the residents would like. We are not ignoring this problem. Another issue we have been looking at is stormwater runoff. The runoff on the site could cause contamination in the area. We are doing a great amount of work investigating the stormwater runoff. It is going to take time. We are looking for support from EPA and DEP in assisting us with this matter. I would advise the Board to take the petition under advisement. Mr. Sampson and his associates have brought up some very good points. Some of the items we have already investigated however there are some items we should pursue.

Mrs. O'Rourke commented that the report was great.

Mrs. Giroux asked how long does it take to get the air quality results back. Can we do the air quality testing or does a company have to do it?

Mrs. Santos replied she forgot to ask how long it would take. However, the person that she spoke to needs a five-week lead-time to design the samples for testing. The best time to sample is when it is hot because it is more accurate.

Mr. Reader asked how long does the test take.

Ms. Santos replied she wants to sample for twenty-four hours because she is qualified consultant. Normally the test is done for eight hours. However, the standard is based on twenty-four hours.

Mrs. Giroux asked do you have the information for the company that needs the five-week lead-time.

Ms. Santos replied not with me but I can send the information to you.

Mrs. Giroux asked Ms. Legro have you been tested for PCP.

Ms. Legro replied I have the paperwork I have to go for the test.

Mrs. Giroux asked would you be willing to share those results with us.

Ms. Legro replied yes.

Mrs. Giroux asked when do you anticipate getting the results.

Ms. Legro replied they told me that along with my regular blood work the PCP blood work would take approximately 3-4 weeks.

Mrs. Giroux asked Ms. Legro will your insurance cover the cost of the PCP blood work.

Ms. Legro replied no.

Mr. Reader asked Melissa Smith her address.

Ms. Smith replied 19 Carriage Road.

Mrs. O'Rourke asked for a motion.

Mr. Reader made a motion requiring McFarland Cascade to conduct ambient air quality testing to determine the presence of Pentachlorophenol at the following four (4) sites: 3 Ashdale Road, 5 Ashdale Road, 16 Burnham Road and 19 Carriage Road. Furthermore, McFarland Cascade shall be required to appear before the Board of Health at its October 5, 2009 meeting to report on this matter. It is suggested that air sampling be conducted as a combined effort with the involvement of representatives from McFarland Cascade, the petitioners and the Board of Health.

Mrs. Giroux seconded. So voted unanimously.

Mr. Kane asked could on site testing as well as source testing be done.

Ms. Santos replied yes. Ms. Santos stated that more than one twenty-four hour period might be useful. If the company could be ready to go there when the resident smells the odor that would be helpful. That should be included in the requirement.

Mrs. Giroux stated so you would wait for the person to smell the odor and then call for someone to come out and start the test.

Ms. Santos explained or you can schedule a time for the test.

Mr. Reader stated do you think the company that is going to do the testing would be able to respond that quick.

Mr. Kenyon stated how long do you think the smell would last.

Ms. Santos replied her plan was to have the tubes and pump ready so that when the residents could smell the odor they could contact her.

Mr. Reader asked Ms. Santos if she was planning on doing the testing.

Ms. Santos replied if we can raise enough money. Preferable McFarland Cascade would pay for the testing and not be responsible for the test.

Mr. Reader asked wouldn't McFarland want their own company to do the testing.

Ms. Santos replied they could also do an independent analysis as well. Similar to what they did for soil testing. When DEP did their soil testing McFarland was present and did their own testing.

Mr. Kenyon stated why the Board doesn't require McFarland to support the air testing.

Mrs. Giroux stated the motion has been made that requires McFarland to supply funding for these tests and if they chose to do their own independent analysis on top of what the Board is requiring that is their prerogative. If they don't want to use this data they can go out and have their own testing done.

Ms. Santos stated the residents want the testing to be done from an independent lab.

Mr. Berube asked Ms. Santos if she could provide her methodology to doing the air quality testing.

Ms. Santos replied yes, she would send Mr. Berube an e-mail providing him with her methodology. If McFarland and the Board does not want her to do the testing, she could recommend three other companies that could do this sampling. The residents would like to see independent testing done and not have McFarland responsible for the testing.

Mr. Berube asked Janet Waldron when DEP does their air quality testing what methodology do they use.

Ms. Waldron replied I don't do the air quality testing so I don't know. It depends on the situation and the length of the test and what the compounds are.

Mr. Berube asked can we get that information.

Ms. Waldron replied yes.

Mrs. O'Rourke asked for a second on the motion.

Mrs. Giroux seconded. So voted unanimously.

Mrs. O'Rourke thanked everyone for their presentation. She also stated that a lot of work has gone into the presentations that were given tonight and everyone did a great job.

Mr. Kane stated there are a couple of items that could be initiated this evening. Can the Board request the meteorological information from the weather station? That way the Board can review that data and compare it to the complaints. Maybe the Board can review some of the action items that have been taken in addition to what has already been done. Is the information that was gathered by the weather station something that the Board could request?

Mr. Berube replied he would discuss that with McFarland Cascade. At this time all that information is inconclusive because sometimes we do not get the complaints when odor is detected so there is no way that the data can be verified. When the Board of Health office receives the complaints we are not always getting all the information we need. Sometimes the time, date of when they have smelled the odor or the weather conditions are not being given.

Mrs. Giroux asked can we request that the residents be very specific when they call in a complaint.

Mr. Berube replied we have asked the residents to keep a chart of when they smell the odor, what time of day, what the weather conditions are and what the wind direction is only a few residents have followed through with detailed information.

Mr. Sampson stated maybe the weather station could continuously monitor the weather conditions and then we could use that data in correlation with the complaints.

Mrs. O'Rourke asked Ms. Santos if she would be willing to do that.

Ms. Santos replied yes as long as she is able to get that data. Ms. Santos explained that she needs efficient data to work with. She also needs the data to be time stamped.

Mrs. O'Rourke asked Mr. Berube if that was acceptable.

Mr. Berube replied yes and he would work with Ms. Santos.

Mr. Karamanian stated he does not know if that will work because the smell is not always coming from the pole yard. Sometimes the odors are smelled in different areas.

Mr. Berube stated that EPA is going to take some asbestos samples so if anyone is interested in participating please leave your name and address with me and I will be in touch with you.

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

The Board adjourned at 11: 00 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording Clerk