

**BOARD OF HEALTH MINUTES
AUGUST 10, 2009**

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

ACCEPTANCE OF MINUTES

The Meeting Minutes of July 20, 2009 are not available.

BOARD OF HEALTH BUSINESS

Aspen Apartments Comprehensive Permit

Mrs. O'Rourke stated the first item under Board of Health Business is Aspen Apartments Comprehensive Permit.

Mr. Berube explained that he brought the Aspen Apartments Comprehensive Permit matter up at the last meeting. In the Zoning Board of Appeals (ZBA) decision one of the conditions that was imposed was that the development had to comply with the requirements of the Board of Health letter dated November 24, 2008. One of the conditions in our letter stated that the applicant had to comply with the all Board of Health Regulations. However, if you look at the waivers that were granted by the ZBA, they granted waivers of the Board of Health's Regulations pertaining to stormwater and drainage. Mr. Berube commented that is in conflict. I do not know how we can administer a review of this project. One of our suggestions to the ZBA was that they use one of the Town's joint consultants. However, they went ahead and got a consultant on their own. I do not know if their consultant is going to be available for us to use. I have discussed this matter with Peter Kennedy, Director of Planning and Markus Pinney, Conservation Commission and they have indicated that they are not in favor of this project. They have many issues with it. We discussed writing a joint letter of opposition of this project. I am asking if the Board is willing to make that motion to join together with the Planning Board and the Conservation Commission in sending a joint letter to the ZBA regarding the Aspen Apartments project.

Mrs. O'Rourke stated since you have talked to the Planning Board and the Conservation Commission why haven't you spoken to Doris Pearson, Chairman of the ZBA and asked her about complying with the Board of Health Regulations.

Mr. Berube replied that he has not spoken to Doris Pearson.

Mrs. O'Rourke asked shouldn't you talk to Doris Pearson first.

Mr. Berube replied the ZBA has already made a decision. Two appeals have already been filed. I think a letter of opposition from the Board of Health, the Planning Board and the Conservation Commission will help. Mr. Berube stated that he did not think the development that has been proposed is going to benefit the Town.

Mrs. O'Rourke stated the project has been downsized.

Mr. Berube stated the question I have is why hasn't the ZBA required the applicant to re-file so that we can look at the changes that have been made to the plans.

Mrs. O'Rourke asked who would be responsible for them to re-file.

Mr. Berube commented that it seems like the ZBA was in a hurry to make a decision. After months of reviewing the project the applicant made a change in the number of units and then the ZBA approved the project and decided that it was all set. I don't think anyone has considered the impact it would have on the Town.

Mrs. O'Rourke stated that she thinks that Mr. Berube should talk to Doris Pearson, ZBA Chairman and find out what is going on. I don't understand how a letter of opposition could be written without talking to the ZBA first.

Mr. Berube stated unfortunately the ZBA seems to operate in a vacuum.

Mrs. O'Rourke asked the Board Members for their thoughts.

Mr. Kenyon asked if this project is being appealed does that stop the project from proceeding. Has the Board reviewed this project?

Mr. Berube stated the way this decision is written I don't know how it is going to be handled. Our hands are tied. We cannot use their consulting engineer. They have asked for waivers from our administrative procedures.

Mrs. O'Rourke asked is the ZBA saying that the Board of Health does not have any jurisdiction.

Mr. Berube replied on one hand the ZBA is saying the applicant must comply with the Board of Health Regulations and on the other hand the ZBA has given the applicant a waiver of the Board of Health Regulations.

Mrs. O'Rourke asked why would the ZBA waive a Board of Health Regulation.

Mr. Berube replied he did not know. This decision is poorly written.

Mrs. Giroux asked Mr. Berube if he could ask the ZBA what their reason is for waiving the Board of Health Regulations. If we do not agree with the rationale then we can join the other boards and send a letter in opposition. We need more information regarding what the ZBA is referring to about waiving the Board of Health Regulations.

Mrs. O'Rourke stated the town boards should be working together. Mrs. O'Rourke stated that she is not in favor of sending a letter of opposition to the ZBA until we find out why the Board of Health Regulations is waived.

Mr. Kane stated that Mr. Berube needs to bring it to the ZBA's attention that the decision contradicts itself. It is in conflict. Mr. Kane stated that Mr. Berube needs to find out what the ZBA's intent is so that the petitioner and the Board of Health understand.

Mr. Berube stated that he would send a memo to the ZBA regarding the waiver and see what their response is.

Billerica Mall Update

Mrs. O'Rourke stated the next item is the Billerica Mall Update.

Mr. Berube stated that he was expecting a written report from Steve Glaser of RD Management this week. Milton Kinney, the Inspector of Buildings and I have met with him a few times to check out the progress that has been made at the mall. They are ahead of schedule on the replacement of the roof. The roof has been replaced at Burlington Coat Factory and the section between Burlington Coat Factory and Market Basket. They have also obtained a demolition permit from the Building Department for the interior demolition of the old cinema. One of our recommendations is that they gut the interior and remove all the mold that has been growing since the water has been leaking through the roof. They are also cleaning out some of the vacant stores in the middle section of the mall between Burlington Coat Factory and Papa Gino's. They plan on sealing off that section of the mall. On July 23, 2009 a problem arose when there was a heavy rainstorm. The next day it looked like a river was flowing across 18 Tower Farm Road. Apparently the runoff from the mall is not getting to the drainpipe that is further down on Tower Farm Road where it crosses at Frost Street. I will be meeting with the engineer this week to look at this problem. It is hard to determine what is going on because the area behind the mall is so overgrown with weeds.

Mrs. O'Rourke asked is the Dollar Tree Store going in the Lincoln Liquor Store location.

Mr. Berube replied yes, the interior is being demolished. Dollar Tree is beginning construction and interior renovations.

Mrs. O'Rourke asked are they removing the ceiling tiles in the Dollar Tree.

Mr. Berube replied yes. RD Management will also be replacing the ceiling tiles throughout the mall. As soon as I receive the report I will forward it to the Board Members.

Mrs. O'Rourke asked about the mold study that was supposed to be done throughout the mall.

Mr. Berube replied GZA Environmental is continuing their study. RD Management is following some of the recommendations that have been made by GZA and myself. The plan is to demolish the interior of the mall so that they can get a better look at what is going on.

Mrs. O'Rourke asked is there going to be any changes made to the outside of the mall.

Mr. Berube replied no.

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

The Board Members did not have any questions.

McFarland Cascade Progress Report

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

Mr. Berube explained that included in the Board's package is a brief report from Attorney Robert Fitzgerald, Goodwin Procter, regarding the activities that have taken place since the July 20, 2009 Board of Health meeting. The utility poles inventory has been significantly reduced. McFarland is awaiting the results of DEP's soil analysis for comparison against GZA's analysis. McFarland Cascade has received two (2) deliveries of new poles since early July.

Mr. Kenyon asked have any plans been made to do air quality testing.

Mr. Berube replied McFarland has the order from the last meeting and I am sure they will be contacting me for guidance on how to proceed with the air sampling process.

Mrs. Giroux asked has there been many new complaints.

Mr. Berube replied there haven't been too many new complaints.

Mrs. Giroux asked have there been any new complaints or none at all.

Mr. Berube replied there have been very few new complaints.

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

The Board Members did not have any questions.

Tobacco Control Program

Mrs. O'Rourke stated the last item under Board of Health Business is the Tobacco Control Program.

Mr. Berube explained that the Billerica Board of Health has been part of the Metro West Collaborative Tobacco Control Program. Because of budget constraints the program will not be funded any longer. The Health Department will decide what kind of program will be maintained in Billerica.

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

Mrs. Giroux asked Mr. Berube if he had any suggestions on what kind of a program would be needed.

Mr. Berube replied the program will be very minimal. Mr. Berube stated that he would like to make sure compliance checks are done so that tobacco products are not sold to minors.

Mrs. Giroux asked do you need assistance. Could you use volunteers?

Mr. Berube replied in the past we have used teenage volunteers, I do not think we will have any problem making those arrangements.

7:45 p.m. Allan Arakelian – Arakelian Farms – Request an extension of Variance #07-21-5-2-027

Mrs. O'Rourke stated the first item on the agenda is Allan Arakelian, Arakelian Farms requesting an extension of Variance #07-21-5-2-027.

Attorney James Dangora, Sr., Shea, Dangora and Nelson identified himself. Attorney Dangora explained that he was representing the applicant. The applicant is looking for an extension of Variance #07-21-5-2-027 that this Board granted in September 2007. The Planning Board's Site Plan Review Special Permit to construct the townhouses was appealed to the Superior Court. The lawsuit is pending and we cannot go forward with the development until it is resolved.

Mrs. O'Rourke asked if an extension of this variance has been granted before.

Attorney Dangora replied no this is the applicant's first request for an extension.

Mrs. O'Rourke asked Mr. Berube for his comments.

Mr. Berube explained because of the lawsuit they can not do any work at this time. The site is stable and an erosion controls have been put in place. Mr. Berube stated he did not see any problem with granting the extension.

Mrs. O'Rourke asked if the Board Members had any questions they would like to ask Attorney Dangora.

The Board Members did not have any questions.

Mrs. Giroux made a motion to grant a two (2) year extension to September 10, 2011 for Variance #07-21-5-2-027 for Arakelian Farms.

Mr. Kenyon seconded. So voted unanimously.

7:50 p.m. Town of Billerica – Rogers Street Pump Station Upgrade Project - Request Waiver of Regulations for work within 25 feet of Flood Plain

Mrs. O'Rourke stated the next item on the agenda is Town of Billerica, Rogers Street Pump Station Upgrade Project requesting a Waiver of Regulations for work within 25 feet of the Flood Plain.

Justin deMello, Woodard & Curran representing the Town of Billerica, Department of Public Works identified himself. Mr. deMello explained that the proposal is to upgrade the Rogers Street Pump Station. 95% of the upgrade will consist of interior work including new pumps, piping, sluice gates, valves, control panels and electrical panels. There is a small portion of the project near the Flood Plain. The Flood Plain elevation is 118. We are also proposing to add an 8 ft x 13 ft concrete pad for an odor control unit to the facility something that is not currently at the pump station. We looked at some other locations further away from the Green Engineering Flood Plain line but we did not want to cover the effluent line in case of an emergency.

Mrs. O'Rourke asked where on Rogers Street is the pump station located.

Mr. deMello explained the pump station is located at the north end of Rogers Street close to Letchworth Avenue. Mr. deMello asked the Board Members if they had any questions.

Mrs. O'Rourke asked Mr. Berube for his comments.

Mr. Berube explained the pump station upgrade is necessary. All the work will be outside the Flood Plain. There will be no loss of flood storage as a result of the proposed work. Mr. Berube stated that he did not see any problem granting the waiver.

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

The Board Members did not have any questions.

Mr. Kenyon made a motion to grant a Waiver of Billerica Health Regulations, Chapter 5, Section 5.5.005 (1) (2) to allow the construction of upgrades to the Rogers Street wastewater pumping station located in or within one hundred (100) feet of the Flood Plain based upon the following findings of fact and subject to the following conditions:

FINDINGS OF FACT

- 1) The work described in the applicant's request, and as per plan submitted by the Billerica Department of Public Works, is within an area subject to protection under the Board of Health's Rules and Regulations, Chapter 5, Section 5.5.005(1)(2).
- 2) The applicant proposes to construct upgrades to the pumping facility including new pumps, piping, sluice gates, valves, control panels, electrical panels and outdoor odor control unit. Proposed site work will include the construction of a concrete pad for the odor control unit. The project will occur within twenty-five (25) of the Green Engineering Flood Plain (GEFP) elevation 118.
- 3) The Pump Station Upgrade Project is critical to the maintenance of the municipal sewer system in North Billerica. There will be no loss of flood storage as a result of the proposed work.
- 4) 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 number 2, 4, 5, 6, 10, 11, 12, 13, 14, 15, and 18 in accordance with the Board of Health regulations and Special Conditions:

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Woodard & Curran, dated July 2009 and stamped by David T. Daltorio, RPE#45255.
- B) Erosion and sediment control measures shall be implemented and maintained in all areas disturbed by construction activity including but not limited to construction and waste material storage areas. Erosion and sediment control structures shall be installed prior to beginning construction.

Mr. Kane seconded. So voted unanimously.

8:00 p.m. Kentucky Fried Chicken/Taco Bell – 485 Boston Road – Appeal Hearing for Order For Correction

Mrs. O'Rourke stated the next item on the agenda is Kentucky Fried Chicken/Taco Bell, 485 Boston Road, Appeal Hearing for Order for Correction.

Kevin Murphy, One Courthouse Lane, Chelmsford, MA representing Kentucky Fried Chicken/Taco Bell, Boston Road, Billerica identified himself. Mr. Murphy introduced Gerald Foley, Engineer Consultant from Watermark and franchise owners, Fred Gallant and Tim Willette. Mr. Murphy explained that we have been operating this franchise in Billerica since 1981 and have had no incidents with the Board of Health or any other town agencies. Nine or ten years ago the facility was renovated for KFC/Taco Bell. We did it in compliance with the state sanitary code and recommendations from the Town of Billerica. We installed two grease traps one inside the facility and the other one outside the premises. My clients consistently monitor the grease traps. My clients have a contract with a person that comes in every three months to pump out and monitor the grease traps. We have complied with the efforts to make sure that the grease is not building up in the lines. My clients are currently using a new shortening that does not coagulate.

Mr. Gallant explained the new shortening is a soybean product that has 0 trans fat and is in liquid form.

Mr. Murphy explained my clients have made sure that they are operating the establishment to prevent any type of problem from happening. We don't think we are the only ones that are contributing to this problem. There maybe other establishments that have contributed to this problem. There is another restaurant near this facility. We do not know if they have any grease traps or if they have a maintenance plan. There is also a large housing development that has been recently constructed in the area that could have contributed to this condition. We do not think we are the only ones that have contributed to this grease backup. We are in the due diligence process now. Mr. Berube was with our engineer, Gerry Foley on Monday, August 10, 2009 when the system was pumped out. We hired a plumber. They can see the mainline but they can't see the line that goes into the building is that correct?

Mr. Berube asked Mr. Murphy what he was referring to.

Mr. Murphy replied there were no cameras that went from the main line into the building.

Mr. Berube stated do you mean between the exterior grease trap and the building.

Mr. Murphy stated yes, so we have hired somebody to run a camera into the grease traps.

Mr. Foley explained we want to run a camera from the grease trap out to the lateral where it meets the roadway to see what condition it is in. We want to see if there is a constriction and as a result there would be a slow flow or see if there is a flat pitch to the pipe that would cause a slow flow.

If there is a slow flow, there would not be any self-cleaning velocity and that would cause a buildup. It would cause a backup behind the tank, which would allow the level to go up. The tee appears to be in good shape even though there was some residue on top. That is something that we want to confirm.

Mr. Berube asked have you scheduled that to be done.

Mr. Foley replied yes Milltown Plumbing is going to be doing the work.

Mr. Berube stated that he would like to have a representative present from either the Board of Health or the DPW Wastewater Division to see what is going on.

Mr. Murphy stated that could be arranged.

Mr. Foley replied if they find a problem they can jet the pipe out.

Mr. Berube stated before you jet the pipe out, you need to discuss that with the Wastewater Division on how they want that performed because they may have certain requirements.

Mr. Murphy stated they have engaged the services of Milltown Plumbing. We are trying to do due diligence to find out what has caused this backup. Since 1981 there have not been any issues. We have changed to a shortening that would alleviate this type of backup. The grease traps are pumped on a regular basis.

Mr. Berube asked if they have any information on the soybean shortening. Mr. Berube stated he would like to see if any studies have been done on what happens to soybean shortening when it goes to the wastestream.

Mr. Foley replied that he would e-mail the information tomorrow. The other shortening comes solidified and when you add heat it melts down and then solidifies again. The new shortening comes in a liquid form.

Mr. Kane asked at what temperature does it solidify.

Mr. Gallant replied you can put ice in the shortening and it will not solidify maybe just around the edge.

Mrs. O'Rourke stated in 1981 when you came to Billerica you did not have Taco Bell at that time Does Taco Bell generate more grease?

Mr. Gallant replied we did not have an in-ground grease trap at that time. When we remodeled we installed an in ground grease trap.

Mr. Willette explained we used to pump up over the hill. We were mandated to put in a new

pump station and spent \$50,000 on a new pump station across the street. Then when we tore down the old building and built the new one we tied into this grease line. Taco Bell has only one fry-o-later which is very minimal for that process. Everything else is pretty much non-fried. We use a thermolizer method that uses boiling water. That is how most of the process is done.

Mrs. O'Rourke asked how would Strombolis interfere with the KFC grease trap.

Mr. Berube replied that Lorraine Sander and George Gullage from Department of Public Works (DPW) Wastewater Division are present to explain what transpired from the time they received the complaint, what was discovered, when the complaint was investigated and how we got to this point. This type of buildup did not happen overnight, it has been going on for years.

Mrs. O'Rourke asked when the grease trap is cleaned out does the Board of Health receive a report.

Mr. Berube replied yes it is a requirement that all pumping activity is sent to the Board of Health. The exterior grease trap is pumped quarterly. In the order, we recommended that the grease traps are pumped out monthly. We have had similar problems with the Ninety-Nine, (on the Middlesex Turnpike) and several other food establishments in town. One of the requirements is that the system is pumped on a monthly basis. This is not the first time a problem like this has happened.

Mr. Murphy stated that it costs \$300 a month to pump out the grease traps. We agree that we would do that for the next three months while we are investigating the situation.

George Gullage, Billerica Sewer Department identified himself. Mr. Gullage explained that his employees were called out one night regarding a manhole that was overflowing at the corner of Tufts Lane across from Kentucky Fried Chicken. They brought the jet truck out there and found a large amount of grease. The grease blockage was partially cleared to relieve the sewer overflow. They followed the grease down the street. It took three (3) tanks of water to blow a hole through the grease. The next day we started to check out the manholes in the area and found there was so much grease that we could not get the camera truck in there to take pictures. We followed the line down Boston Road to Glad Valley Drive and all the way down to Ed Hayes Way before we found a manhole that was clear so that we could start jetting and vacuuming out the grease. We then followed the line back down Glad Valley, took a left on 3A and went up the hill. We finally were able to get a camera into the manhole at the corner of Tufts Lane. We shot a picture upstream towards Strombolis but did not find anything but a trace of grease. We faced the camera down towards Kentucky Fried Chicken and found that the pipe and manhole was completely blocked with grease. Some of the pictures are included in the Boards package. It took us ten (10) days to clean out the pipes and manholes.

Mrs. O'Rourke asked when did the problem start.

Ms. Sander replied the evening of May 11, 2009. I have enclosed copies of the logbook in the Boards package.

Mrs. O'Rourke asked prior to May 11, 2009 when was the grease trap cleaned.

Mr. Gullage stated in the past years there were blockages out there but we did not have a camera truck to investigate the area. There has been grease in that line in the past years. We punched a hole and got the flow through in that section. This time we were fortunate to have the camera and that is when we found this mess.

Mrs. O'Rourke asked prior to May 11, 2009 when were the grease traps were cleaned.

Mr. Berube replied the interior and exterior grease traps were cleaned on March 24, 2009.

Mrs. O'Rourke asked how could that much grease accumulate from March 24, 2009 to May 11, 2009.

Mr. Gullage replied this grease has been in the line for years. We just got our camera truck up and running a year ago. That is how we could investigate and see how much grease was in the lines. We did not realize that there was that much grease in the lines because the line was always flowing and we never had a problem. When this blockage occurred we had the camera truck go in there to see what was going on. Before this massive blockage we would just maintain the line. We would use the jet truck and flush out the line to clear the blockage.

Mrs. O'Rourke stated so what you are saying is the grease has been there for years. Could it be coming from other establishments?

Mr. Gullage replied there are not too many other food establishments near KFC that would be generating grease. The only other food establishment in that area is Strombolis.

Mr. Berube stated KFC may need to pump the grease traps more often because the discharge of grease is so great that it is by-passing the grease trap and getting into the sewer system. Mr. Berube showed some pictures that were taken when the grease trap was pumped on Monday, August 10, 2009. There was some residue on top of the tees as Mr. Foley mentioned. That indicates that the tank has surcharged in the past and has overflowed. I don't know how many times it may have occurred. Maybe the grease trap was not working optimally. The grease trap needs to be pumped out more often and closely monitored so that we can determine if it is now under control. In the past it wasn't under control because all that grease built up in the sewer line.

Mr. Gallant asked if there was a blockage in the main line when we had the backup wouldn't that have caused the grease trap to overflow and back up into the main line.

Mr. Gullage explained it was clean upstream from the manhole. We have pictures of that. I don't think it backed up into their system because the manhole overflowed.

Mr. Berube explained we are not saying that the grease backed up into the main line when this incident occurred.

Mr. Gullage explained we came to this conclusion when we were chasing the grease with the camera.

Mr. Kane asked what the capacity of the grease trap is.

Mr. Berube replied this grease trap is 1,500 gallons.

Mrs. O'Rourke asked is it sufficient for that establishment.

Mr. Berube replied it is the standard size that is based on the number of seating.

Mr. Kane asked how many gallons of soybean oil do you use a day.

Mr. Gallant replied 40 pounds a day. The product you cook absorbs the grease, it does not go down the drain. It does not go into the grease trap.

Mr. Willette explained the waste oil we produce is used for firing fuel. The rendering company that we use pays us to remove it.

Mr. Gallant stated the oil is put into a rendering barrel and the company buys it from us. It does not go down the drain. Anything that goes into the grease trap comes from the sink when we wash the dishes and pans. Our standard operating procedure is to scrape the debris from the dishes and pans into the trashcans before they are washed.

Mr. Kenyon asked has that line ever been cleaned out in the past.

Mr. Gullage explained that we have never thoroughly cleaned the line out. We have had blockages in the past and would use the jet truck to clear them out.

Mr. Kenyon commented so over time the grease could have been building up.

Mr. Gullage explained that grease clings to the walls and starts building up.

Mr. Willette asked is it possible that the grease has been in the line previous to the remodeling that was done in 1999 when we did not have a grease trap.

Mr. Gullage replied that he thinks that line was put in under Contract 25 in the early 1990's. Mr. Gullage stated that he could find out for sure.

Mr. Willette asked does that line go all the way down the hill into Glad Valley Drive.

Mr. Gallant stated I thought we were tied into the pumping station up the hill near Friendly's.

Mr. Gullage replied no, he explained how the gravity system works.

Mr. Gallant stated when the building was being constructed the sewer department hooked us up to the grease trap in the street.

Mr. Gullage stated the sewer department does not tie in food establishments to grease traps..

Mr. Gallant stated it is in the Town's contract. We had to pay to have that done.

Mr. Gullage replied it is not in our contract. We just supply a list of licensed drain installers to the establishments. The drain installers need a license to prove that they have insurance and are bonded to work in Billerica.

Mr. Willette asked how can we determine the pitch from the pipe to the grease trap.

Mr. Gullage replied it should be on the contract. It should be 2%.

Mr. Gallant asked is there a record of the pitch.

Mr. Gullage replied not of the pitch, just a site drawing.

Mr. Gallant asked does the Town perform an inspection.

Mr. Gullage replied yes, the Town conducts an inspection. The pitch should be 2%

Mr. Gallant asked if the pitch is less than 2% could that cause a problem.

Mr. Berube requested that the owners come forward so that everyone can hear what they are talking about.

Mr. Murphy explained that Mr. Gullage and Mr. Gallant were talking about the pitch of the pipe. Mr. Murphy showed the record plan dated October 1986 when the as-built was done.

Mr. Gullage explained a 6-inch service connection should have a 2% pitch.

Mr. Murphy stated that we are asking the Board to give us some time to do our due diligence. We would be using a camera on the line that goes from the main sewerage line to the building to determine what is happening. We are not saying that we are without sin. In this economy \$9,009.15 is a lot of money. We have not received an itemized bill of how the costs were incurred.

Mr. Berube replied that he would provide them with a breakdown.

Mr. Murphy stated we have not seen the breakdown. What we would like to do is determine how we have contributed to this problem if at all.

Mrs. O'Rourke asked Mr. Berube if they had a copy of the breakdown.

Mr. Berube stated the DPW Wastewater Division provided this bill to the Board of Health.

Mrs. O'Rourke asked Mr. Berube for his comments.

Mr. Berube explained we have dealt with grease in the sewer system in the past. This is a serious issue. George or Lorraine can explain how serious this issue is and if this line was completely blocked what would have happened.

Mr. Gullage explained if the line was completely blocked we would have moved people out of their homes.

Mrs. O'Rourke asked was there a problem with any of the residents on Glad Valley Drive.

Mr. Gullage replied no, fortunately it overflowed on Boston Road and our crew got there as soon as we received the call from the Police Department. They punched a hole in the line and kept the flow going. We spent ten days jetting, pulling the grease out and vacuuming.

Mrs. O'Rourke asked Mr. Gullage how this incident first occurred.

Mr. Gullage explained we received a call that there was a blockage on Boston Road that a manhole had overflowed.

Ms. Sander explained we would clean out those problem spots on a regular basis, however we only have one jet truck and do not have enough staffing. We lost two positions in this budget. We use the jet truck to take care of many problems. We would like to have a regular maintenance program to keep the lines clean but we do not have the staffing and equipment that we need.

Mr. Gullage explained that we did not know that this line was that bad until we used the camera.

Mr. Kenyon stated so there could be other parts of town that have a similar problem.

Mr. Gullage replied that he was sure there are other parts of town that may have a similar problem.

Ms. Sander stated that Boston Road requires a lot of planning and we cannot go out there without a police detail.

Mrs. O'Rourke asked where on Boston Road did the overflow occur.

Mr. Gullage replied that he did not know.

Mrs. Giroux commented that she thought it was right before the Bear Hill Condos.

Ms. Sander stated we received a call that there was a blockage at 556 Boston Road.

Mr. Gullage explained that he shot the camera up towards Stromboli's manhole and Stromboli's line had a normal flow. We shot the camera down towards KFC and could not get a good shot because there was so much grease. That is where we had to start jetting and working our way up.

Mr. Berube stated this isn't a case of blaming Kentucky Fried Chicken/Taco Bell. They thought they were doing the right thing. They were providing routine maintenance of the grease traps. Maintenance of the grease traps is based on usage. They were pumping the exterior grease trap every three (3) months as required. Maybe they should be pumping more often. That is the reason why we have issued this order for the interior and exterior grease traps to be pumped on a monthly basis for the next six (6) months so that we can see what is going on especially since they have switched to the soybean shortening. Maybe down the road KFC can pump every two (2) months. The drain lines must also be inspected on a regular basis. We need to check the integrity of the lines to make sure that there isn't any problems. Maybe six months down the road the Board of Health can revisit this and make some adjustments. I strongly urge the Board to sustain the order.

Mrs. O'Rourke asked when a grease trap is full or blocked does an alarm go off.

Mr. Willette asked when the grease trap is full wouldn't it back up into the sewer. We have never had a backup. Would it be possible for the Board to assess the other residents and establishments in the area that is on that line to pay their share?

Mr. Gullage explained the apartment building has only been tied in for less than two years. They are tied in at the lower end of Glad Valley Drive. We chased the heavy grease up Boston Road to the manhole near Kentucky Fried Chicken. If the apartment building did contribute to the grease it would only be minimal.

Mr. Berube asked how many houses do you think there is.

Mr. Gullage replied approximately 6 houses on Boston Road and whatever is on Glad Valley Drive. Mr. Gullage stated we traced the heavy grease back to the manhole by Kentucky Fried Chicken.

Mrs. O'Rourke asked if Friendly's could contribute to the buildup.

Mr. Gullage replied Friendly's does not go down that far.

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

Mr. Kane asked if the grease trap is full does an alarm go off or does it overflow into the building.

Mr. Berube replied there is no fail safe or alarm.

Mrs. Giroux made a motion to sustain the order of the Board of Health and request and require both interior and exterior grease traps be pumped out monthly for the next six (6) months. Then both interior and exterior grease traps be pumped out every two (2) months with a periodic review of the maintenance schedule. The Board is also requesting payment of the \$9, 009.15 bill be paid promptly. Based upon the evidence presented at the hearing, the Board of Health determined the following findings of fact and issued the following order.

FINDINGS OF FACT

1. The Notice of Violation and Order for Correction issued June 25, 2009 by the Health Department relative to the food service establishment located at 485 Boston Road is a valid order.
2. Willant Inc. operates the Kentucky Fried Chicken/Taco Bell food service establishment at 485 Boston Road which requires a permit from the Board of Health pursuant to 105CMR590.012 of the Massachusetts State Sanitary Code, Chapter X.
3. On May 11, 2009, the Department of Public Works (DPW) Wastewater Division responded to a complaint and discovered the sewer line on Boston Road in proximity to KFC/Taco Bell to be completely blocked with grease. The grease blockage was partially cleared to relieve the sewer overflow.
4. Subsequent investigation identified two (2) food service establishments (KFC/Taco Bell and Stromboli's) that discharge to the sewer line. Camera inspection revealed that the service connection from KFC/Taco Bell and the manhole were full of grease. The sewer line upstream to Stromboli's showed no signs of grease.
5. The cleanup of the grease blockage was completed on June 5, 2009. This cleanup included the removal of grease from the sewer lines running from Boston Road to Glad Valley Drive and the disposal of the grease.
6. The Board reviewed pictures of the sewer lines taken during the cleanup. The pictures gave an indication of the severity of the grease blockage.
7. The Board acknowledged that the grease traps are routinely pumped. However, the exterior grease trap may not be pumped often enough to prevent an excessive discharge of grease to the sewer line. Pumping frequency is a function of use. The grease level in the exterior grease trap needs to be closely monitored.

8. The Board determined that failure to properly maintain the exterior grease trap caused the grease blockage in the sewer line.

ORDER

Therefore, the Board of Health hereby sustains in its entirety, the Order for Correction issued June 25, 2009 by the Health Department with the following further modifications:

- a) The interior and exterior grease traps shall be pumped on a monthly basis for the next six (6) months during which, the Board of Health and the DPW Wastewater Division will inspect and monitor maintenance activities. A pumping schedule shall be provided to the Board of Health and DPW Wastewater Division. After six (6) months, the Board of Health and DPW, Wastewater Division will review inspection and pumping records and adjust the pumping frequency accordingly.
- b) The cost recovery charge of \$9,009.15 pursuant to Board of Health Rules and Regulations, Chapter 1, Section 1.1.008 (2) and the Town of Billerica's Sanitary Sewer Rules and Regulations Article XI, Section 5 shall be paid promptly.

Mr. Kenyon seconded. So voted unanimously.

Mr. Murphy requested a copy of the itemized bill.

8:15 p.m. Joshua Lindner – 14 Dudley Road – Request Variance for work within the Flood Plain

Mrs. O'Rourke stated the next item on the agenda is Joshua Lindner, 14 Dudley Road requesting a variance for work within the Flood Plain.

Joshua Lindner, 14 Dudley Road identified himself. Mr. Lindner explained that he was requesting a variance to construct a second deck attached to the rear of the garage to enclose a hot tub. I am also planning to tear down and replace an existing shed with a smaller structure. The shed is on the boundary of the wetlands. The Conservation Commission has already been notified. Mr. Berube informed me that being next to the Green Engineering Flood Plain requires a variance. As I stated in the letter the elevation of the deck will be about 153 relative to the plan and the floor of the shed will be above the Green Engineering Flood Plain elevation 149. It would take a substantial flood to get to that level. The shed on the side of the garage as it exists has a dirt floor. The side facing the wetlands would be open consisting of eight 4 x 4's supporting the roof and a 42" railing. The side facing the road would be framed to enclose a garage style door. The proposed deck surface would be supported by 4 concrete sona-tubes to a height of more than 2 feet above the surrounding ground. If the water did come up that high the water it would be able to recede right out.

Mr. Kenyon asked has the river ever come up that far.

Mr. Lindner replied that he has lived there for five (5) years and there is a rock wall out back. After the rock wall there is a drop. The water comes up to the bottom of the rock wall every year. The water is very shallow.

Mr. Berube explained that Mill Brook flows by Mr. Lindner's house.

Mrs. O'Rourke asked if he was going to keep the deck that is coming off the house.

Mr. Lindner replied yes.

Mr. Berube explained that he has visited the property and went over the plans with Joshua. I don't see any issues with this project. The shed that is on the side of the garage is open on all sides. Joshua is only looking to put on a roof and a floor. The water can flow right in and flow right out. There will not be any loss of flood storage.

Mrs. O'Rourke asked if any abutters were present. No abutters were present.

Mr. Kane made motion to grant a variance of Board of Health Rules and Regulations, Chapter 5, Section 5.5.005 (1) in order to construct a deck and replace an attached shed within the Flood Plain 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 Board of Health's Rules and Regulations, Chapter 5, Section 5.5.005 (1).
- 2) The applicant proposes to construct a deck within twenty-five (25) feet of the Green Engineering Flood Plain. In addition, the applicant proposes to replace an existing shed that is attached to the garage, which falls within the Green Engineering Flood Plain. The proposed structures do not fall within the FEMA Flood Plain.
- 3) The proposed structures will be supported by piers. The floor of the shed will be above the Green Engineering Flood Plain elevation 149. Any loss of flood storage will be negligible.
- 4) 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 number 1, 2, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, and 18 in accordance with the Board of Health regulations and Special Conditions:

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Stamski and McNary, Inc. dated June 25, 2009, revised July 17, 2009 and stamped by William F. McNary P.L.S. #30753.

Mr. Kenyon seconded. So voted unanimously.

8:25 p.m. Town of Billerica Recreation Department – Request for Re-issuance of Project Approval for the Lampson Recreation Complex

Mrs. O'Rourke stated the last item on the agenda is the Town of Billerica Recreation Department requesting a Re-issuance of Project Approval for the Lampson Recreation Complex.

Peggy Hannon-Rizza, Director of Recreation for the Town of Billerica identified herself. Ms. Hannon-Rizza explained that the Board of Health originally issued a Letter of Approval for a multi-phased project at the Lampson Recreational Complex. Phase I of the project was completed. Phase I included all of the drainage work, the basketball courts, the skate park and some of the parking area. Funds were approved at Town Meeting to install the tennis courts. Because the entire project is dependent on municipal funding or grants, this has been a long process. Our original Letter of Approval for Phase I was issued in 2006.

Mr. Berube explained that the actual construction for Phase I started in 2006. This project has been before the Boards and Commissions of the Town since 2003.

Ms. Hannon-Rizza explained the plan is for the tennis courts that will be in the back section between French Street and the existing parking lot. Originally when we did the drainage work we took into consideration all the potential parking and the tennis courts and any future work that was going to be done on the site. One of the things we did up front was all the drainage work and stormwater management based on the criteria at that time. Flood plain compensation was done on the site. Two (2) detention ponds were installed. The culvert on French Street was reconstructed. All that work was done up front so that when funding became available we could move forward. The reason I am before the Board tonight is because the Letter of Approval that was originally granted by the Board of Health is only good for two (2) years. It was an oversight on our part not to have submitted a letter to extend the project approval.

Mr. Berube explained that the project approval has expired so they are looking to have the approval re-issued. The Board granted an extension March 7, 2005. This project has dragged on for a number of years because of funding.

Ms. Hannon-Rizza explained that they filed a Notice of Intent with the Conservation Commission and that was approved.

Mr. Berube stated that Ms. Hannon-Rizza is looking for a re-issuance of the original project approval.

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

The Board Members did not have any questions.

Mrs. Giroux made a motion to reissue the approval for the Lampson Recreation Complex project based upon the following findings of fact and subject 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, Sections 5.2.010, 5.2.011 and 5.5 005 (1) (2).
- 2) The project was reviewed by Jeff Rider, the Board of Health's Consulting Engineer, for potential impacts to the Flood Plain as well as compliance with applicable drainage regulations.
- 3) Previously, the Board of Health conducted a public hearing on February 3, 2003 and voted to approve the project. A Letter of Approval and an Order of Conditions was issued February 5, 2003.
- 4) The Board of Health at its meeting of March 7, 2005 voted to grant a two (2) year extension of the project approval. Construction of the project had been delayed due to a lack of sufficient funding.
- 5) Final written plan approval from the Director of Public Health was issued February 7, 2006. All comments by Jeff Rider, the Board of Health's Consulting Engineer, in his review letter dated February 3, 2003 were satisfactorily addressed.
- 6) The project was broken into three (3) construction phases due to funding constraints. Phase I construction was completed in 2007. Phase I included the construction of basketball courts, a skate park, the stormwater drainage system and a compensatory flood storage area.
- 7) Based upon the current status of the project and the information provided to the Board at its meeting of August 10, 2009, the Board of Health has determined that the actions taken by the applicant to protect public health and the environment complies with the intent of the Board of Health Rules and Regulations. Further, re-issuance of the project approval for the remaining construction phases will not be detrimental to public health and the environment.

CONDITIONS

Standard conditions number 2, 3, 4, 6, 10, 11, 12, 13, 14, 15, and 18 in accordance with the Board of Health regulations and Special Conditions:

- A) All construction must be in accordance with plans submitted for review and approval, prepared by Weston & Sampson Engineers Inc., dated January 4, 2006 and stamped by Michael J. Scipione RPE#42541.
- B) The western parking area by the proposed tennis courts shall not be paved with asphalt or any other impervious material.

Mr. Kane seconded. So voted unanimously.

Mr. Berube asked how long the Board would like to approve the project for.

Mrs. O'Rourke asked how long the Board can approve the project for.

Mr. Berube replied as long as you want.

Ms. Hannon-Rizza explained this is going to be a long process because of funding constraints.

Mrs. Giroux made the motion for five years because it is going to be a long process.

Ms. Hannon-Rizza explained the tennis courts are next and then the children's playground and then the fieldwork will be done. Part of that will include a building with restrooms and a snack bar.

Mrs. O'Rourke asked that the motion be restated.

Mrs. Giroux made a motion to reissue the approval for the Lampson Recreation Complex project for five years going forward.

Mr. Kane seconded. So voted unanimously.

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

The Board adjourned at 8:50 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording Clerk